

Chapter 110

1985 REPLACEMENT PART

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Reciprocal Enforcement of Support

GENERAL PROVISIONS

- 110.005 Short title
- 110.006 Uniformity of interpretation
- 110.011 Purposes
- 110.022 Definitions
- 110.031 Remedies additional to other remedies
- 110.041 Extent of duties of support of obligors who are present in this state
- 110.045 Effect of participation on jurisdiction

CRIMINAL ENFORCEMENT

- 110.052 Extradition of persons charged criminally with failing to provide support
- 110.062 Extradition procedure; exemptions

CIVIL ENFORCEMENT

- 110.071 What duties of support are applicable
- 110.082 Reimbursement of public entity furnishing support
- 110.092 Enforcement; immunity of obligor; jurisdiction
- 110.102 Content and filing of petition
- 110.121 Petition for minor
- 110.132 Duty of initiating court
- 110.142 Fees and costs to be collected from obligor; priority of costs or fees
- 110.152 Arrest and release of obligor
- 110.162 Attorney General as state information agency; duties
- 110.165 Powers of Support Enforcement Division
- 110.172 Duties of responding court, district attorney and Attorney General
- 110.176 Modification of order when child in another state subject to uniform Act
- 110.182 Duties when unable to obtain jurisdiction
- 110.185 Responding court duty when action pending or taken in another state
- 110.201 Order of support
- 110.212 Responding court to send copies of orders to initiating court
- 110.222 Additional powers of responding court
- 110.226 Duty of district attorney when order of responding court cannot be enforced
- 110.232 Duties of responding court which may be delegated
- 110.242 Duty of initiating court if payments received
- 110.251 Testimony of husband and wife
- 110.272 Effect of support order on prior orders; credit for amount paid

FOREIGN SUPPORT ORDERS

- 110.275 Additional remedies for foreign support order
- 110.277 Registration of foreign support order
- 110.281 Effect of registration

SEVERABILITY

- 110.291 Severability

CROSS REFERENCES

- Admissibility of Department of Human Resources computer printout reflecting payment of public assistance, 25.220
- Custodian of children receiving child support, duties, 107.415
- District attorney, priority to administration of laws relating to reciprocal enforcement of support, 8.675
- Inapplicability of judgment satisfaction procedure, 18.400
- Interstate Compact on the Placement of Children, default of performance thereunder, 417.210
- Interstate withholding of income of support obligor, 25.410 to 25.530
- Jurisdiction of circuit court, 3.250 to 3.280
- Powers of Support Enforcement Division with respect to enforcement of support, 180.320 to 180.370
- Proceedings to obtain support for child receiving public assistance, 109.015
- Support enforcement fees, 180.165
- Support enforcement, Support Enforcement Division to represent obligee, 25.080
- Support payment to Department of Human Resources, 25.020, 25.320
- Support payments, Ch. 25
- Unemployment compensation, withholding for payment of child support obligations, 657.780, 657.855

110.071

- Amount of monthly contributions for support, 416.061
- Duties of support imposed by law
 - Child within jurisdiction of juvenile court, 419.476, 419.513, 419.519
 - Decree for dissolution or annulment of marriage, or separation, provisions for support, 107.105
 - Enforcement of duty to support of wife and child, 108.110
 - Expenses of Juvenile Compact Administrator, 417.060
 - Mentally ill and mentally deficient in state institutions, Ch. 179
 - Mutual duties of support between parent and child, 109.010
- Parental liability for family expenses and education of children, 108.040

DOMESTIC RELATIONS

Public officials to supply information to aid in enforcement of parental liability to support child receiving public assistance, 418 135

GENERAL PROVISIONS

110.005 Short title. This chapter may be cited as the Revised Uniform Reciprocal Enforcement of Support Act (1968). [1953 c 427 §27, 1979 c 484 §1]

110.006 Uniformity of interpretation. This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it. [1953 c 427 §26, 1979 c 484 §2]

110.010 [Repealed by 1953 c.427 §29]

110.011 Purposes. The purposes of this chapter are to improve and extend by reciprocal legislation the enforcement of duties of support. [1953 c 427 §1; 1979 c 484 §3]

110.020 [Repealed by 1953 c.427 §29]

110.021 [1953 c 427 §2; subsection (4) enacted as part of subsection (3), subsection (10) enacted as part of subsection (9) by 1969 c 417 §1; 1973 c 280 §1, repealed by 1979 c.484 §4 (110 022 enacted in lieu of 110.021)]

110.022 Definitions. (1) "Court" means the circuit court of this state and when the context requires means the court of any other state as defined in a substantially similar reciprocal law.

(2) "District attorney" means the public official in the appropriate place who has the duty to enforce criminal laws relating to the failure to provide for the support of any person.

(3) "Duty of support" means a duty of support whether imposed or imposable by law or by order, decree, or judgment of any court, whether interlocutory or final or whether incidental to a proceeding for dissolution, separation, separate maintenance, or otherwise and includes, but is not limited to, the duty to pay arrearages of support past due and unpaid and the duty to pay support for a "child attending school" as defined in ORS 107.108 (4) where the other jurisdiction imposes the same or substantially similar duty of support.

(4) "Governor" includes any person performing the functions of Governor or the executive authority of any state covered by this chapter.

(5) "Initiating state" means a state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced. "Initiating court" means the court in which a proceeding is commenced.

(6) "Law" includes both common and statutory law.

(7) "Obligee" means a person including a state or political subdivision to whom a duty of support

is owed or a person including a state or political subdivision that has commenced a proceeding for enforcement of an alleged duty of support or for registration of a support order. It is immaterial if the person to whom a duty of support is owed is a recipient of public assistance.

(8) "Obligor" means any person owing a duty of support or against whom a proceeding for the enforcement of a duty of support or registration of a support order is commenced.

(9) "Registering court" means any court of this state in which a support order of a rendering state is registered.

(10) "Rendering state" means a state in which the court has issued a support order for which registration is sought or granted in the court of another state.

(11) "Responding state" means a state in which any responsive proceeding pursuant to the proceeding in the initiating state is commenced. "Responding court" means the court in which the responsive proceeding is commenced.

(12) "State" includes a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any foreign jurisdiction in which this or a substantially similar reciprocal law is in effect.

(13) "Support order" means any judgment, decree, or order of support in favor of an obligee whether temporary or final, or subject to modification, revocation, or remission, regardless of the kind of action or proceeding in which it is entered. [1979 c 484 §5 (enacted in lieu of 110 021)]

110.030 [Repealed by 1953 c.427 §29]

110.031 Remedies additional to other remedies. The remedies herein provided are in addition to and not in substitution for any other remedies. [1953 c.427 §3]

110.040 [Repealed by 1953 c.427 §29]

110.041 Extent of duties of support of obligors who are present in this state. Duties of support arising under the law of this state, when applicable under ORS 110.071, bind the obligor, present in this state, regardless of the presence or residence of the obligee. [1953 c 427 §4]

110.045 Effect of participation on jurisdiction. Participation in any proceeding under this chapter does not confer jurisdiction upon any court over any of the parties thereto in any other proceeding. [1979 c 484 §42]

110.050 [Repealed by 1953 c.427 §29]

CRIMINAL ENFORCEMENT

110.051 [1953 c.427 §5, repealed by 1979 c 484 §6 (110.052 enacted in lieu of 110.051)]

110.052 Extradition of persons charged criminally with failing to provide support. The Governor of this state may:

(1) Demand of the Governor of another state the surrender of a person found in that state who is charged criminally in this state with failing to provide for the support of any person; or

(2) Surrender on demand by the Governor of another state a person found in this state who is charged criminally in that state with failing to provide for the support of any person. Provisions for extradition of criminals not inconsistent with this chapter apply to the demand even if the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and has not fled therefrom. The demand, the oath and any proceedings for extradition pursuant to this section need not state or show that the person whose surrender is demanded has fled from justice or at the time of the commission of the crime was in the demanding state. [1979 c 484 §7 (enacted in lieu of 110 051)]

110.060 [Repealed by 1953 c 427 §29]

110.061 [1953 c 427 §6, repealed by 1979 c.484 §8 (110 062 enacted in lieu of 110.061)]

110.062 Extradition procedure; exemptions. (1) Before making the demand upon the Governor of another state for the surrender of a person charged criminally in this state with failing to provide for the support of a person, the Governor of this state may require any district attorney of this state to satisfy the Governor that at least 60 days prior thereto the obligee initiated proceedings for support under this chapter or that any proceeding would be of no avail.

(2) If, under a substantially similar chapter, the Governor of another state makes a demand upon the Governor of this state for the surrender of a person charged criminally in that state with failure to provide for the support of a person, the Governor may require any district attorney to investigate the demand and to report to the Governor whether proceedings for support have been initiated or would be effective. If it appears to the Governor that a proceeding would be effective but has not been initiated, the Governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(3) If proceedings have been initiated and the person demanded has prevailed therein, the Governor may decline to honor the demand. If the obligee prevailed and the person demanded is subject to a support order, the Governor may decline to honor the demand if the person demanded is complying with the support order. [1979 c 484 §9 (enacted in lieu of 110 061)]

CIVIL ENFORCEMENT

110.071 What duties of support are applicable. Except as provided in ORS 110.022 (3), duties of support applicable under this chapter are those imposed under the laws of any state where the obligor was present for the period during which support is sought. The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown. [1953 c 427 §7, 1979 c 484 §10]

110.081 [1953 c 427 §8, repealed by 1979 c 484 §11 (110 082 enacted in lieu of 110 081)]

110.082 Reimbursement of public entity furnishing support. If a state or a political subdivision furnishes support to an individual obligee, it has the same right to initiate a proceeding under this chapter as the individual obligee for the purpose of securing reimbursement for support furnished and of obtaining continuing support. [1979 c 484 §12 (enacted in lieu of 110 081)]

110.091 [1953 c 427 §9, repealed by 1979 c 484 §13 (110 092 enacted in lieu of 110 091)]

110.092 Enforcement; immunity of obligor; jurisdiction. All duties of support, including the duty to pay arrearages, are enforceable by a proceeding under this chapter including a proceeding for civil contempt. The defense that the parties are immune to suit because of their relationship as husband and wife or parent and child is not available to the obligor. Jurisdiction of any proceeding under this chapter is vested in the circuit court of each county. [1979 c 484 §14 (enacted in lieu of 110 091)]

110.101 [1953 c 427 §10, repealed by 1979 c 484 §15 (110 102 enacted in lieu of 110 101)]

110.102 Content and filing of petition. (1) The petition shall be verified and shall state the name and, so far as known to the obligee, the address and circumstances of the obligor and the persons for whom support is sought, and all other pertinent information. However, upon a showing to the court of a reasonable anticipation of serious emotional or bodily injury, the court may order that the address of the persons for whom support is sought be omitted from the petition. The obligee may include in or attach to the petition any information which may help in locating or identifying the obligor including a photograph of the obligor, a description of any distinguishing marks on the person, other names and aliases by which the obligor has been or is known, the name of the obligor's employer, the obligor's fingerprints, and the obligor's social security number.

(2) The petition may be filed in the appropriate court of any state in which the obligee resides. The court shall not decline or refuse to accept and forward the petition on the ground that it should be filed with some other court of this or any other state where there is pending another action for divorce, separation, annulment, dissolution, support order, habeas corpus, adoption or custody between the same parties or where another court has already issued a support order in some other proceeding and has retained jurisdiction for its enforcement. [1979 c 484 §16 (enacted in lieu of 110 101)]

110.110 [Repealed by 1953 c.427 §29]

110.111 [1953 c.427 §11; repealed by 1975 c 458 §18]

110.120 [Repealed by 1953 c 427 §29]

110.121 Petition for minor. A petition on behalf of a minor obligee may be executed and filed by a person having legal custody of the minor without appointment as guardian ad litem. [1953 c 427 §12; 1979 c.484 §17]

110.130 [Repealed by 1953 c.427 §29]

110.131 [1953 c.427 §13; repealed by 1979 c 484 §18 (110 132 enacted in lieu of 110 131)]

110.132 Duty of initiating court. If the initiating court finds that the petition sets forth facts from which it may be determined that the obligor owes a duty of support and that a court of the responding state may obtain jurisdiction of the obligor or the obligor's property, it shall so certify and cause three copies of the petition and its certificate and one copy of this chapter to be sent to the responding court. Certification shall be in accordance with the requirements of the initiating state. If the name and address of the responding court is unknown and the responding state has an information agency comparable to that established in the initiating state, it shall cause the copies to be sent to the state information agency or other proper official of the responding state, with a request that the agency or official forward them to the proper court and that the court of the responding state acknowledge their receipt to the initiating court. [1979 c 484 §19 (enacted in lieu of 110.131)]

110.140 [Repealed by 1953 c.427 §29]

110.141 [1953 c.427 §14, 1957 c.468 §1; 1959 c 587 §1; repealed by 1969 c 417 §2 (110.142 enacted in lieu of 110 141)]

110.142 Fees and costs to be collected from obligor; priority of costs or fees. (1) An initiating court shall not require payment of either a filing fee or other costs from the obligee but may request the responding court to collect fees and costs from the obligor. A responding court shall not require payment of a filing fee or other costs from the obligee but it may direct that

all fees and costs requested by the initiating court and incurred in this state when acting as a responding state, including fees for filing of pleadings, service of process, seizure of property, stenographic or duplication service, or other service supplied to the obligor, be paid in whole or in part by the obligor.

(2) These costs or fees do not have priority over amounts due to the obligee. [1969 c.417 §3 (enacted in lieu of 110.141)]

110.150 [Repealed by 1953 c.427 §29]

110.151 [1953 c.427 §15, repealed by 1979 c.484 §20 (110 152 enacted in lieu of 110.151)]

110.152 Arrest and release of obligor. If the court of this state believes that the obligor may flee, it may:

(1) As an initiating court, request in its certificate that the responding court obtain the body of the obligor by appropriate process; or

(2) As a responding court, obtain the body of the obligor by appropriate process. Thereupon it may release the obligor upon the obligor's own recognizance or upon the obligor's giving a bond in an amount set by the court to assure the obligor's appearance at the hearing. [1979 c.484 §21 (enacted in lieu of 110 151)]

110.160 [Repealed by 1953 c 427 §29]

110.161 [1953 c 427 §16; repealed by 1979 c.484 §22 (110 162 enacted in lieu of 110.161)]

110.162 Attorney General as state information agency; duties. (1) The Attorney General's office is designated as the state information agency under this chapter. It shall:

(a) Compile a list of the courts and their addresses in this state having jurisdiction under this chapter and transmit it to the state information agency of every other state which has adopted this or a substantially similar chapter;

(b) Maintain a register of lists of courts received from other states and transmit copies thereof promptly to every court in this state having jurisdiction under this chapter; and

(c) Forward to the court in this state which has jurisdiction over the obligor or the obligor's property petitions, certificates and copies of this chapter it receives from courts or information agencies of other states.

(2) If the state information agency does not know the location of the obligor or the obligor's property in the state and no state location service is available, it shall use all means at its disposal to obtain this information, including the examination of official records in the state and other sources such as telephone directories, real prop-

erty records, vital statistics records, police records, requests for the name and address from employers who are able or willing to cooperate, records of motor vehicle license offices, requests made to the tax offices both state and federal where such offices are able to cooperate, and requests made to the Social Security Administration as permitted by the Social Security Act as amended. [1979 c 484 §23 (enacted in lieu of 110 161)]

110.165 Powers of Support Enforcement Division. Subject to the provisions of ORS 25.080, the Support Enforcement Division, when appropriate, shall have the same powers, duties and functions as the district attorney under this chapter. [1979 c.484 §40]

110.170 [Repealed by 1953 c 427 §29]

110.171 [1953 c.427 §14; 1957 c.468 §2, 1979 c 90 §4; repealed by 1979 c.484 §24 (110.172 enacted in lieu of 110.171)]

110.172 Duties of responding court, district attorney and Attorney General. (1) After the responding court receives copies of the petition, certificate and this chapter from the initiating court, the clerk of the court shall file the case and notify the district attorney or Support Enforcement Division, as appropriate, of the action.

(2) The district attorney or Support Enforcement Division shall prosecute the case diligently. They shall take all action necessary in accordance with the laws of this state to enable the court to obtain jurisdiction over the obligor or the obligor's property and shall request the court to set a time and place for a hearing and give notice thereof to the obligor in accordance with law.

(3) If the district attorney neglects or refuses to represent the obligee, the Attorney General may undertake the representation. [1979 c 484 §25 (enacted in lieu of 110 171)]

110.174 [1983 c 692 §5, repealed by 1985 c.610 §17]

110.175 [1975 c 628 §4, repealed by 1979 c.484 §47 (110 176 enacted in lieu of 110.175)]

110.176 Modification of order when child in another state subject to uniform Act. ORS 107.431 shall not apply to a proceeding under this chapter when the child to whom a duty of support is owed is in another state which has enacted the Uniform Child Custody Jurisdiction Act and a court in that state would have subject matter and personal jurisdiction under that Act to determine custody and visitation rights. [1979 c 484 §48 (enacted in lieu of 110 175)]

110.180 [Repealed by 1953 c.427 §29]

110.181 [1953 c 427 §17; 1961 c 630 §1; repealed by 1979 c 484 §26 (110 182 enacted in lieu of 110.181)]

110.182 Duties when unable to obtain jurisdiction. (1) The district attorney or the Support Enforcement Division shall use all means at their disposal to locate the obligor or the obligor's property, and if because of inaccuracies in the petition or otherwise the court cannot obtain jurisdiction, the district attorney or Support Enforcement Division shall inform the court of what has been done and request the court to continue the case pending receipt of more accurate information or an amended petition from the initiating court.

(2) If the obligor or the obligor's property is not found in the county, and the district attorney or Support Enforcement Division discovers that the obligor or the obligor's property may be found in another county of this state or in another state, they shall so inform the court. Upon request, the clerk of the court shall forward the documents received from the court in the initiating state and, if applicable, a certified copy of the court's file to a court in the other county of this state. All powers and duties provided by this chapter apply to the recipient of the documents so forwarded. If the clerk of a court of this state forwards documents to another court, the clerk shall forthwith notify the initiating court.

(3) If the district attorney or Support Enforcement Division has no information as to the location of the obligor or the obligor's property, they shall so inform the initiating court. [1979 c.484 §27 (enacted in lieu of 110 181)]

110.185 Responding court duty when action pending or taken in another state. A responding court shall not stay the proceeding or refuse a hearing under this chapter because of any pending or prior action or proceeding for divorce, separation, annulment, dissolution, support order, habeas corpus, adoption, or custody in this or any other state. The court shall hold a hearing and may issue a support order pendente lite. In aid thereof it may require the obligor to give a bond for the prompt prosecution of the pending proceeding. If the other action or proceeding is concluded before the hearing in the instant proceeding and the judgment therein provides for the support demanded in the petition being heard, the court must conform its support order to the amount allowed in the other action or proceeding. Thereafter the court shall not stay enforcement of its support order because of the retention of jurisdiction for enforcement purposes by the court in the other action or proceeding. [1979 c.484 §41]

110.190 [Repealed by 1953 c.427 §29]

110.200 [Repealed by 1953 c 427 §29]

110.201 Order of support. If the responding court finds a duty of support, it may order the obligor to furnish support or reimbursement therefor and subject the property of the obligor to such order. [1953 c.427 §18, 1979 c.484 §28]

110.210 [Repealed by 1953 c.427 §29]

110.211 [1953 c.427 §19; repealed by 1979 c.484 §29 (110 212 enacted in lieu of 110 211)]

110.212 Responding court to send copies of orders to initiating court. The responding court shall cause a copy of all support orders to be sent to the initiating court. [1979 c.484 §30 (enacted in lieu of 110 211)]

110.220 [Repealed by 1953 c.427 §29]

110.221 [1953 c 427 §20; repealed by 1979 c.484 §31 (110.222 enacted in lieu of 110.221)]

110.222 Additional powers of responding court. In addition to the foregoing powers a responding court may subject the obligor to any terms and conditions proper to assure compliance with its orders and in particular to:

(1) Require the obligor to furnish a cash deposit or a bond of a character and amount to assure payment of any amount due;

(2) Require the obligor to report personally and to make payments at specified intervals to the clerk of the court or the Department of Human Resources, as appropriate; and

(3) Punish under the power of contempt the obligor who violates any order of the court. [1979 c.484 §32 (enacted in lieu of 110 221)]

110.226 Duty of district attorney when order of responding court cannot be enforced. If enforcement of the court's order of support is impossible or cannot be completed by the court where the order was issued, the district attorney of that county shall transmit a certified copy of the order to the district attorney of any county in this state where it appears that procedures to enforce payment of the amount due would be effective. The district attorney to whom the certified copy of the order is forwarded shall proceed with enforcement and report the results of the proceedings to the court first issuing the order. [1961 c 630 §3]

110.230 [Repealed by 1953 c 427 §29]

110.231 [1953 c.427 §21, repealed by 1979 c.484 §33 (110 232 enacted in lieu of 110 231)]

110.232 Duties of responding court which may be delegated. A responding court has the following duties which may be carried out through the clerk of the court or the Department of Human Resources, as appropriate:

(1) To transmit to the initiating court any payment made by the obligor pursuant to any order of the court or otherwise; and

(2) To furnish to the initiating court upon request a certified statement of all payments made by the obligor. [1979 c.484 §34 (enacted in lieu of 110.231)]

110.240 [Repealed by 1953 c 427 §29]

110.241 [1953 c 427 §22; repealed by 1979 c.484 §35 (110.242 enacted in lieu of 110 241)]

110.242 Duty of initiating court if payments received. An initiating court shall receive and disburse forthwith all payments made by the obligor or sent by the responding court. This duty may be carried out through the clerk of the court or the Department of Human Resources, as appropriate. [1979 c.484 §36 (enacted in lieu of 110 241)]

110.250 [Repealed by 1953 c.427 §29]

110.251 Testimony of husband and wife. Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this chapter. Husband and wife are competent witnesses and may be compelled to testify to any relevant matter, including marriage and parentage. [1953 c.427 §23]

110.260 [Repealed by 1953 c 427 §29]

110.270 [Repealed by 1953 c 427 §29]

110.271 [1953 c.427 §24; repealed by 1979 c.484 §37 (110.272 enacted in lieu of 110 271)]

110.272 Effect of support order on prior orders; credit for amount paid. A support order made by a court of this state pursuant to this chapter does not nullify and is not nullified by a support order made by a court of this state pursuant to any other law or by a support order made by a court of any other state pursuant to a substantially similar act or any other law, regardless of priority of issuance, unless otherwise specifically provided by the court. Amounts paid for a particular period pursuant to any support order made by the court of another state shall be credited against the amounts accruing or accrued for the same period under any support order made by the court of this state. [1979 c 484 §38 (enacted in lieu of 110 271)]

FOREIGN SUPPORT ORDERS

110.275 Additional remedies for foreign support order. If the duty of support is based on a foreign support order, the obligee has the additional remedies provided in ORS 110.277 and 110.281. [1979 c.484 §43]

110.277 Registration of foreign support order. (1) The obligee may register the foreign support order in a court of this state in the manner, with the effect, and for the purposes provided in this chapter.

(2) An obligee seeking to register a foreign support order in a court of this state shall transmit to the clerk of the court:

(a) Three certified copies of the order with all modifications thereof;

(b) One copy of the reciprocal enforcement of support act of the state in which the order was made; and

(c) A statement verified and signed by the obligee, showing the post-office address of the obligee, the last-known place of residence and post-office address of the obligor, the amount of support remaining unpaid, a description and the location of any property of the obligor available upon execution, and a list of the states in which the order is registered. Upon receipt of these documents the clerk of the court, without payment of a filing fee or other cost to the obligee, shall file them and the order shall be docketed in the judgment docket. The filing and docketing constitutes registration under this chapter.

(3) Promptly upon registration the clerk of the court shall notify the district attorney of the Support Enforcement Division, as appropriate, of the action. The appropriate prosecuting agent shall send promptly by certified or registered mail to the obligor at the address given a notice of the registration with a copy of the registered support order and the post-office address of the obligee. The appropriate prosecuting agent shall proceed diligently to enforce the order. [1979 c 484 §§44, 45]

110.281 Effect of registration. (1) Upon registration the registered foreign support order shall be treated in the same manner as a support

order issued by a court of this state. It has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a support order of this state and may be enforced and satisfied in like manner.

(2) The obligor has 20 days after the mailing of notice of the registration in which to petition the court to vacate the registration or for other relief. If the obligor does not so petition, the registered support order is confirmed.

(3) At the hearing to enforce the registered support order the obligor may present only matters that would be available to the obligor as defenses in an action to enforce a foreign money judgment. If the obligor shows to the court that an appeal from the order is pending or will be taken or that a stay of execution has been granted, the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the obligor has furnished security for payment of the support ordered as required by the rendering state. If the obligor shows to the court any ground upon which enforcement of a support order of this state may be stayed, the court shall stay enforcement of the order for an appropriate period if the obligor furnishes the same security for payment of the support ordered that is required for a support order of this state. [1979 c 484 §46]

SEVERABILITY

110.291 Severability. If any provision hereof or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable. [1953 c 427 §25]