GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2016 REGULAR SESSION

SENATE BILL NO. 238

AS ENACTED

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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY K. Adler

1 AN ACT relating to child support orders.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 205.7685 is amended to read as follows:

4 (1) The cabinet shall request information from a certified consumer reporting agency
5 only when a full credit report is needed for the purpose of establishing ***a parent's***[~~an~~
6 ~~individual's~~] capacity to make child support payments***, determining the appropriate***
7 ***levels of child support payments, or enforcing a child support order, award,***
8 ***agreement, or judgment***[~~ or to determine the obligation amount, and paternity has~~
9 ~~been established or acknowledged~~].

10 (2) [~~The cabinet shall provide at least ten (10) days' prior notice by certified mail to the~~
11 ~~obligor whose report shall be requested from a certified consumer reporting agency~~
12 ~~and inform the obligor of the methods available to contest the accuracy of the~~
13 ~~information in compliance with due process of law, and 15 U.S.C. sec. 1681(i).~~

14 ~~(a)~~]The report will be kept confidential and be used solely for the purpose of
15 establishing an individual's capacity to make child support payments or determining
16 the appropriate level of the payments.[~~; and~~]

17 *(3)*[~~(b)~~] The report will not be used in connection with any other civil, administrative,
18 or criminal proceeding or for any other purpose.

19 [~~(3) Methods by which an obligor may contest the accuracy of the information shall be~~
20 ~~set forth by administrative regulations promulgated by the cabinet.~~]

21 ➔Section 2. KRS 407.5101 is amended to read as follows:

22 As used in KRS 407.5101 to 407.5902:

23 (1) "Child" means an individual, whether over or under the age of majority, who is or is
24 alleged to be owed a duty of support by the individual's parent or who is or is
25 alleged to be the beneficiary of a support order directed to the parent;

26 (2) "Child support order" means a support order for a child, including a child who has
27 attained the age of majority under the law of the issuing state or foreign country;

1 (3) "Convention" means the Convention on the International Recovery of Child
2 Support and Other Forms of Family Maintenance, concluded at The Hague on
3 November 23, 2007;
4 (4) "Duty of support" means an obligation imposed or imposable by law to provide
5 support for a child, spouse, or former spouse, including an unsatisfied obligation to
6 provide support;
7 (5) "Foreign country" means a country, including a political subdivision thereof, other
8 than the United States, that authorizes the issuance of support orders and:
9 (a) Which has been declared under the law of the United States to be a foreign
10 reciprocating country;
11 (b) Which has established a reciprocal arrangement for child support with this
12 state as provided in KRS 407.5308;
13 (c) Which has enacted a law or established procedures for the issuance and
14 enforcement of support orders which are substantially similar to the
15 procedures under KRS 407.5101 to 407.5902; or
16 (d) In which the Convention is in force with respect to the United States;
17 (6) "Foreign support order" means a support order of a foreign tribunal;
18 (7) "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a
19 foreign country which is authorized to establish, enforce, or modify support orders
20 or to determine parentage of a child. The term includes a competent authority under
21 the Convention;
22 (8) "Home state" means the state or foreign country in which a child lived with a parent
23 or a person acting as parent for at least six (6) consecutive months immediately
24 preceding the time of filing of a petition or comparable pleading for support and, if
25 a child is less than six (6) months old, the state or foreign country in which the child
26 lived from birth with any of them. A period of temporary absence of any of them is
27 counted as part of the six (6) month or other period;

1 (9) "Income" includes earnings or other periodic entitlements to money from any source
2 and any other property subject to withholding for support under the law of this state;
3 (10) "Income-withholding order" means an order or other legal process directed to an
4 obligor's employer as defined in KRS 205.710 or other debtor to withhold support
5 from the income of the obligor;
6 (11) "Initiating tribunal" means the tribunal of a state or foreign country from which a
7 petition or comparable pleading is forwarded or in which a petition or comparable
8 pleading is filed for forwarding to another state or foreign country;
9 (12) "Issuing foreign country" means the foreign country in which a tribunal issues a
10 support order or a judgment determining parentage of a child;
11 (13) "Issuing state" means the state in which a tribunal issues a support order or a
12 judgment determining parentage of a child;
13 (14) "Issuing tribunal" means the tribunal of a state or foreign country that issues a
14 support order or a judgment determining parentage of a child;
15 (15) "Law" includes decisional and statutory law and rules and regulations having the
16 force of law;
17 (16) "Obligee" means:
18 (a) An individual to whom a duty of support is or is alleged to be owed or in
19 whose favor a support order or a judgment determining parentage of a child
20 has been issued;
21 (b) A foreign country, state, or political subdivision of a state to which the rights
22 under a duty of support or support order have been assigned or which has
23 independent claims based on financial assistance provided to an individual
24 obligee in place of child support;
25 (c) An individual seeking a judgment determining parentage of the individual's
26 child; or
27 (d) A person that is a creditor in a proceeding under Article 7 of this chapter;

1 (17) "Obligor" means an individual, or the estate of a decedent that:
2 (a) Owes or is alleged to owe a duty of support;
3 (b) Is alleged but has not been adjudicated to be a parent of a child;
4 (c) Is liable under a support order; or
5 (d) Is a debtor in a proceeding under Article 7 of this chapter;
6 (18) "Outside this state" means a location in another state or a country other than the
7 United States, whether or not the country is a foreign country;
8 (19) "Person" means an individual, corporation, business trust, estate, trust, partnership,
9 limited liability company, association, joint venture, public corporation, government
10 or governmental subdivision, agency, or instrumentality, or any other legal or
11 commercial entity;
12 (20) "Record" means information that is inscribed on a tangible medium or that is stored
13 in an electronic or other medium and is retrievable in perceivable form;
14 (21) "Register" means to file ***in a tribunal of this state,*** a support order or judgment
15 determining parentage of a child issued in another state or foreign country~~[with the~~
16 ~~Cabinet for Health and Family Services]~~;
17 (22) "Registering tribunal" means a tribunal in which a support order or judgment
18 determining parentage of a child is registered;
19 (23) "Responding state" means a state in which a petition or comparable pleading for
20 support or to determine parentage of a child is filed or to which a petition or
21 comparable pleading is forwarded for filing from another state or foreign country;
22 (24) "Responding tribunal" means the authorized tribunal in a responding state or foreign
23 country;
24 (25) "Spousal-support order" means a support order for a spouse or former spouse of the
25 obligor;
26 (26) "State" means a state of the United States, the District of Columbia, Puerto Rico,
27 the United States Virgin Islands, or any territory or insular possession under the

1 jurisdiction of the United States. The term includes an Indian ***nation or*** tribe;
2 (27) "Support enforcement agency" means a public official, governmental entity, or
3 private agency authorized to:
4 (a) Seek enforcement of support orders or laws relating to the duty of support;
5 (b) Seek establishment or modification of child support;
6 (c) Request determination of parentage;
7 (d) Attempt to locate obligors or their assets; or
8 (e) Request determination of the controlling child support order;
9 (28) "Support order" means a judgment, decree, decision, directive, or order, whether
10 temporary, final, or subject to modification, issued in a state or foreign country for
11 the benefit of a child, a spouse, or a former spouse, which provides for monetary
12 support, health care, arrearages, retroactive support, or reimbursement for financial
13 assistance provided to an individual obligee in place of child support. The term may
14 include related costs and fees, interest, income withholding, automatic adjustment,
15 reasonable attorney's fees, and other relief; and
16 (29) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized
17 to establish, enforce, or modify support orders or to determine parentage of a child.
18 ➔Section 3. KRS 407.5102 is amended to read as follows:
19 The Circuit Court, District Court,~~[and]~~ family courts***, and the Department for Income***
20 ***Support, Child Support Enforcement, within the Cabinet for Health and Family***
21 ***Services*** shall be the~~[state]~~ tribunals ***of this state.***~~[for judicial proceedings, and the~~
22 ~~Cabinet for Health and Family Services and]~~ The Department for Income Support, Child
23 Support Enforcement, ***within the Cabinet for Health and Family Services*** shall be the
24 ***support enforcement agency of this state***~~[state tribunals for administrative proceedings]~~.
25 ➔Section 4. KRS 407.5103 is amended to read as follows:
26 (1) Remedies provided by KRS 407.5101 to 407.5902 are cumulative and do not affect
27 the availability of remedies under other law or the recognition of a foreign support

1 order on the basis of comity.
2 (2) The provisions of KRS 407.5101 to 407.5902 do not:
3 (a) Provide the exclusive method of establishing or enforcing a support order
4 under the law of this state; or
5 (b) Grant a tribunal of this state jurisdiction to render judgment or issue an order
6 relating to child custody or visitation ***in a proceeding governed under the***
7 ***Uniform Interstate Family Support Act as provided in KRS 407.5101 to***
8 ***407.5902***.
9 ➔Section 5. KRS 407.5203 is amended to read as follows:
10 Under KRS 407.5101 to 407.5902, a tribunal of this state may serve as an initiating
11 tribunal to forward proceedings to ***a tribunal of*** another state and as a responding tribunal
12 for proceedings initiated in another state or a foreign country.
13 ➔Section 6. KRS 407.5205 is amended to read as follows:
14 (1) A tribunal of this state that has issued a child support order consistent with the law
15 of this state has and shall exercise continuing, exclusive jurisdiction to modify its
16 child support order if the order is the controlling order and:
17 (a) At the time of the filing of a request for modification this state is the residence
18 of the obligor, the individual obligee, or the child for whose benefit the
19 support order is issued; or
20 (b) Even if this state is not the residence of the obligor, the individual obligee, or
21 the child for whose benefit the support order is issued, the parties consent in a
22 record or in open court that the tribunal of this state may continue to exercise
23 jurisdiction to modify its order.
24 (2) A tribunal of this state that has issued a child support order consistent with the law
25 of this state may not exercise continuing, exclusive jurisdiction to modify the order
26 if:
27 (a) All of the parties who are individuals file consent in a record with the tribunal

1 of this state that a tribunal of another state that has jurisdiction over at least
2 one (1) of the parties who is an individual or that is located in the state of
3 residence of the child may modify the order and assume continuing, exclusive
4 jurisdiction; or
5 (b) Its order is not the controlling order.
6 (3) If a tribunal of another state has issued a child support order pursuant to ***the***
7 ***provisions of the Uniform Interstate Family Support Act as provided in*** KRS
8 407.5101 to 407.5902 or a law substantially similar to KRS 407.5101 to 407.5902
9 which modifies a child support order of a tribunal of this state, tribunals of this state
10 shall recognize the continuing, exclusive jurisdiction of the tribunal of the other
11 state.
12 (4) A tribunal of this state that lacks continuing, exclusive jurisdiction to modify a child
13 support order may serve as an initiating tribunal to request a tribunal of another
14 state to modify a support order issued in that state.
15 (5) A temporary support order issued ex parte or pending resolution of a jurisdictional
16 conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.
17 ➔Section 7. KRS 407.5206 is amended to read as follows:
18 (1) A tribunal of this state that has issued a child support order consistent with the law
19 of this state may serve as an initiating tribunal to request a tribunal of another state
20 to enforce:
21 (a) The order if the order is the controlling order and has not been modified by a
22 tribunal of another state that assumed jurisdiction pursuant to ***the Uniform***
23 ***Interstate Family Support Act as provided in*** KRS 407.5101 to 407.5902; or
24 (b) A money judgment for arrears of support and interest on the order accrued
25 before a determination that an order of a tribunal of another state is the
26 controlling order.
27 (2) A tribunal of this state having continuing jurisdiction over a support order may act

1 as a responding tribunal to enforce the order.
2 ➔Section 8. KRS 407.5207 is amended to read as follows:
3 (1) If a proceeding is brought under this chapter and only one (1) tribunal has issued a
4 child support order, the order of that tribunal controls and shall be recognized.
5 (2) If a proceeding is brought under KRS 407.5101 to 407.5902 and two (2) or more
6 child support orders have been issued by tribunals of this state or another state or
7 foreign country with regard to the same obligor and same child, a tribunal of this
8 state having personal jurisdiction over both the obligor and the individual obligee
9 shall apply the following rules and by order shall determine which order controls
10 and shall be recognized:
11 (a) If only one (1) of the tribunals would have continuing, exclusive jurisdiction
12 under KRS 407.5101 to 407.5902, the order of that tribunal controls.
13 (b) If more than one (1) of the tribunals would have continuing, exclusive
14 jurisdiction under KRS 407.5101 to 407.5902:
15 1. An order issued by a tribunal in the current home state of the child
16 controls; or
17 2. If an order has not been issued in the current home state of the child, the
18 order most recently issued controls.
19 (c) If none of the tribunals would have continuing, exclusive jurisdiction under
20 KRS 407.5101 to 407.5902, the tribunal of this state shall issue a child
21 support order, which controls.
22 (3) If two (2) or more child support orders have been issued for the same obligor and
23 same child, upon request of a party who is an individual or that is a support
24 enforcement agency, a tribunal of this state having personal jurisdiction over both
25 the obligor and the obligee who is an individual shall determine which order
26 controls under subsection (2) of this section. The request may be filed with a
27 registration for enforcement or registration for modification pursuant to Article 6 of

1 this chapter, or may be filed as a separate proceeding.
2 (4) A request to determine which is the controlling order shall be accompanied by a
3 copy of every child support order in effect and the applicable record of payments.
4 The requesting party shall give notice of the request to each party whose rights may
5 be affected by the determination.
6 (5) The tribunal that issued the controlling order under subsection (1), (2), or (3) of this
7 section has continuing jurisdiction to the extent provided in KRS 407.5205 and
8 407.5206.
9 (6) A tribunal of this state that determines by order which is the controlling order under
10 subsection (2)(a)***,*** ~~[or]~~(2)(b)***, or (3)*** of this section or that issues a new controlling
11 order under subsection (2)(c) of this section shall state in that order:
12 (a) The basis upon which the tribunal made its determination;
13 (b) The amount of prospective support, if any; and
14 (c) The total amount of consolidated arrears and accrued interest, if any, under all
15 of the orders after all payments made are credited as provided in KRS
16 407.5209.
17 (7) Within thirty (30) days after issuance of an order determining which is the
18 controlling order, the party obtaining the order shall file a certified copy of it in each
19 tribunal that issued or registered an earlier order of child support. A party or support
20 enforcement agency obtaining the order that fails to file a certified copy is subject to
21 appropriate sanctions by a tribunal in which the issue of failure to file arises. The
22 failure to file does not affect the validity or enforceability of the controlling order.
23 (8) An order that has been determined to be the controlling order, or a judgment for
24 consolidated arrears of support and interest, if any, made pursuant to this section
25 shall be recognized in proceedings under KRS 407.5101 to 407.5902.
26 ➔Section 9. KRS 407.5307 is amended to read as follows:
27 (1) A support enforcement agency of this state, upon request, shall provide services to a

1 petitioner in a proceeding under this chapter.

2 (2) A support enforcement agency of this state that is providing services to the
3 petitioner shall:

4 (a) Take all steps necessary to enable an appropriate tribunal of this state, another
5 state, or a foreign country to obtain jurisdiction over the respondent;

6 (b) Request an appropriate tribunal to set a date, time, and place for a hearing;

7 (c) Make a reasonable effort to obtain all relevant information, including
8 information as to income and property of the parties;

9 (d) Within two (2) days, exclusive of Saturdays, Sundays, and legal holidays, after
10 receipt of notice in a record from initiating, responding, or registering tribunal,
11 send a copy of the notice to the petitioner;

12 (e) Within two (2) days, exclusive of Saturdays, Sundays, and legal holidays, after
13 receipt of ***a communication***[~~notice~~] in a record from the respondent or the
14 respondent's attorney, send a copy of the communication to the petitioner; and

15 (f) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

16 (3) A support enforcement agency of this state that requests registration of a child
17 support order in this state for enforcement or for modification shall make reasonable
18 efforts:

19 (a) To ensure that the order to be registered is the controlling order; or

20 (b) If two (2) or more child support orders exist and the identity of the controlling
21 order has not been determined, to ensure that a request for such a
22 determination is made in a tribunal having jurisdiction to do so.

23 (4) A support enforcement agency of this state that requests registration and
24 enforcement of a support order, arrears, or judgment stated in a foreign currency
25 shall convert the amounts stated in the foreign currency into the equivalent amounts
26 in dollars under the applicable official or market exchange rate as publicly reported.

27 (5) A support enforcement agency of this state shall issue or request a tribunal of this

1 state to issue a child support order and an income-withholding order that redirect
2 payment of current support, arrears, and interest if requested to do so by a support
3 enforcement agency of another state pursuant to KRS 407.5319.
4 (6) KRS 407.5101 to 407.5902 does not create or negate a relationship of attorney and
5 client or other fiduciary relationship between a support enforcement agency or the
6 attorney for the agency and the individual being assisted by the agency.
7 ➔Section 10. KRS 407.5502 is amended to read as follows:
8 (1) Upon receipt of an income-withholding order, the ***obligor's***[~~obligator's~~] employer
9 shall immediately provide a copy of an order to the obligor.
10 (2) The employer shall treat an income-withholding order that has been issued in
11 another state and that appears regular on its face as if it had been issued by a
12 tribunal of this state.
13 (3) Except as otherwise provided in subsection (4) of this section and KRS 407.5503,
14 the employer shall withhold and distribute the funds as directed in the withholding
15 order by complying with terms of the order terms that specify:
16 (a) The duration and amount of periodic payments of current child support, stated
17 as a sum certain;
18 (b) The person designated to receive payments and the address to which the
19 payments are to be forwarded;
20 (c) Medical support, whether in the form of periodic cash payment, stated as a
21 sum certain, or ordering the obligor to provide health insurance coverage for
22 the child under a policy available through the obligor's employment;
23 (d) The amount of periodic payments of fees and costs for a support enforcement
24 agency, the issuing tribunal, and the obligee's attorney, stated as sums certain;
25 and
26 (e) The amount of periodic payments of arrearages and interest on arrearages,
27 stated as sums certain.

1 (4) An employer shall comply with the law of the state of the obligor's principal place
2 of employment for withholding from income with respect to:
3 (a) The employer's fee for processing an income-withholding order;
4 (b) The maximum amount permitted to be withheld from the obligor's income;
5 and
6 (c) The times within which the employer must implement the withholding order
7 and forward the child support payment.
8 ➔Section 11. KRS 407.5601 is amended to read as follows:
9 A support order or an income-withholding order issued~~[by a tribunal]~~ in another state or
10 a foreign support order may be registered in this state for enforcement.
11 ➔Section 12. KRS 407.5603 is amended to read as follows:
12 (1) A support order or income-withholding order issued in another state or a foreign
13 support order is registered when the order is filed in the registering tribunal of this
14 state.
15 (2) A registered support order issued in another state or foreign country is enforceable
16 in the same manner and is subject to the same procedures as an order issued by a
17 tribunal of this state.
18 (3) Except as otherwise provided in ***KRS 407.5101 to 407.5902***~~[Article 6]~~ of this
19 chapter, a tribunal of this state shall recognize and enforce, but may not modify, a
20 registered support order if the issuing tribunal had jurisdiction.
21 ➔Section 13. KRS 407.5605 is amended to read as follows:
22 (1) When a support order or income-withholding order issued in another state or a
23 foreign support order is registered, the registering tribunal of this state shall notify
24 the nonregistering party. The notice shall be accompanied by a copy of the
25 registered order and the documents and relevant information accompanying the
26 order.
27 (2) A notice shall inform the nonregistering party:

1 (a) That a registered support order is enforceable as of the date of registration in
2 the same manner as an order issued by a tribunal of this state;
3 (b) That a hearing to contest the validity or enforcement of the registered order
4 shall be requested within twenty (20) days of the notice unless the registered
5 order is under KRS 407.5707;
6 (c) That failure to contest the validity or enforcement of the registered order in a
7 timely manner will result in confirmation of the order and enforcement of the
8 order and the alleged arrearages; and
9 (d) Of the amount of any alleged arrearages.
10 (3) If the registering party asserts that two (2) or more orders are in effect, a notice shall
11 also:
12 (a) Identify the two (2) or more orders and the order alleged by the registering
13 party to be the controlling order and the consolidated arrears, if any;
14 (b) Notify the nonregistering party of the right to a determination of which is the
15 controlling order;
16 (c) State that the procedures provided in subsection (2) of this section apply to the
17 determination of which is the controlling order; and
18 (d) State that failure to contest the validity or enforcement of the order alleged to
19 be the controlling order in a timely manner may result in confirmation that the
20 order is the controlling order.
21 (4) Upon registration of an income-withholding order for enforcement, the support
22 enforcement agency ***or***[~~of~~] the registering tribunal shall notify the obligor's
23 employer pursuant to KRS 403.215 or KRS 405.465.
24 ➔Section 14. KRS 407.5610 is amended to read as follows:
25 A tribunal of this state may enforce a child support order of another state registered for
26 purposes of modification, in the same manner as if the order had been issued by a tribunal
27 of this state, but the registered support order may be modified only if the requirements of

1 KRS 407.5611 ***or KRS 407.5613*** have been met.

2 ➔Section 15. KRS 407.5612 is amended to read as follows:

3 If a child support order issued by a tribunal of this state is modified by a tribunal of
4 another state which assumed jurisdiction pursuant to ***the Uniform Interstate Family***
5 ***Support Act as provided in KRS 407.5101 to 407.5902***[~~a law substantially similar to~~
6 ~~KRS 407.5101 to 407.5902~~], a tribunal of this state:

7 (1) May enforce its order that was modified only as to arrears and interest accruing
8 before the modification;

9 (2) May provide appropriate relief for violations of its order which occurred before the
10 effective date of the modification; and

11 (3) Shall recognize the modifying order of the other state, upon registration, for the
12 purpose of enforcement.

President of Senate

Speaker-House of Representatives

Attest: Chief Clerk of Senate

Approved Governor

Date 9 APRIL 2016