

No. 340

AN ACT

Amending the act of May 10, 1951 (P. L. 279), entitled "An act to improve and extend by reciprocal legislation the enforcement of duties of support and to make uniform the law with respect thereto," changing and clarifying provisions relating to fees, procedures and enforcement; permitting intrastate use of the act; providing for the registration and enforcement of foreign support orders; conferring powers and imposing duties upon the Governor, the Secretary and Department of Public Welfare, district attorneys, courts and clerks of courts; and making editorial changes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Uniform reciprocal enforcement of support law.

Section 1. Section 2, act of May 10, 1951 (P. L. 279), entitled "An act to improve and extend by reciprocal legislation the enforcement of duties of support and to make uniform the law with respect thereto," amended August 19, 1953 (P. L. 1201), is amended by amending clause (8) and adding six new clauses to read:

Section 2, act of May 10, 1951, P. L. 279, amended August 19, 1953, P. L. 1201, further amended as to clause (8) and adding six new clauses (9), (10), (11), (12), (13) and (14).

Section 2. Definitions.—As used in this act, unless the context requires otherwise,

* * * * *

(8) "Obligee" means any person to whom a duty of support is owed, *and a state or political subdivision thereof.*

(9) "Governor" *includes any person performing the functions of Governor or the executive authority of any territory covered by the provisions of this act.*

(10) "Support order" means any judgment, decree or order of support, whether temporary or final, whether subject to modification, revocation or remission regardless of the kind of action in which it is entered.

(11) "Rendering state" means any state in which a support order is originally entered.

(12) "Registering court" means any court of this State in which the support order of the rendering state is registered.

(13) "Register" means to record in the Registry of Foreign Support Orders as required by the court.

(14) "Certification" shall be in accordance with the laws of the certifying state.

Section 2. Sections 6 and 9 of the act, amended August 19, 1953 (P. L. 1201), are amended to read:

Sections 6 and 9 of the act, amended August 19, 1953, P. L. 1201, further amended.

Section 6. [Relief From the Above Provision.—Any obligor contemplated by section 5 who submits to the jurisdiction of the court of such other state and complies with the court's order of support shall be relieved

of extradition for desertion or non-support entered in the courts of this State during the period of such compliance.] *Conditions of Interstate Rendition.*—(a) *Before making the demand on the Governor of any other state for the surrender of a person charged in this State with the crime of failing to provide for the support of any person, the Governor of this State may require any district attorney of this State to satisfy him that, at least sixty days prior thereto, the obligee brought an action for the support under this act, or that the bringing of an action would be of no avail.*

(b) *When under this or a substantially similar act, a demand is made upon the Governor of this State by the Governor of another state for the surrender of a person charged in the other state with the crime of failing to provide support, the Governor may call upon any district attorney to investigate or assist in investigating the demand and to report to him whether any action for support has been brought under this act or would be effective.*

(c) *If an action for the support would be effective and no action has been brought, the Governor may delay honoring the demand for a reasonable time to permit prosecution of an action for support.*

(d) *If an action for support has been brought and the person demanded has prevailed in that action, the Governor may decline to honor the demand.*

(e) *If an action for support has been brought and, pursuant thereto, the person demanded is subject to a support order, the Governor may decline to honor the demand so long as the person demanded is complying with the support order.*

Section 9. *How Duties of Support are Enforced.*—All duties of support, including arrearages, are enforceable by action (complaint), irrespective of relationship between the obligor and obligee. [Jurisdiction of all proceedings hereunder shall be vested in the courts designated in section 2, subsection (4).]

Act of May 10, 1951, P. L. 279, amended by adding a new section 10.

Section 3. The act is amended by adding a new section to read:

Section 10. Jurisdiction.—*Jurisdiction of all proceedings hereunder is vested in the courts designated in section 2, subsection (4).*

Sections 10, 11, 12, 13, 14 and 15 of the act, amended August 19, 1953, P. L. 1201, further amended.

Section 4. Sections 10, 11, 12, 13, 14 and 15 of the act, amended August 19, 1953 (P. L. 1201), are amended to read:

Section [10] 11. *Contents of Complaint for Support.*—The complaint shall be verified; and shall state the name and, so far as known to the plaintiff, the address

and circumstances of the defendant, his dependents for whom support is sought, and all other pertinent information. The plaintiff may include in or attach to the complaint any information which may help in locating or identifying the defendant, including, but without limitation, by enumeration, a photograph of the defendant, a description of any distinguishing marks of his person, other names and aliases by which he has been or is known, the name of his employer, his finger prints, or social security number.

Section [11] 12. District Attorney to Represent Plaintiff.—The District Attorney, upon the request of the court or a state or local public welfare official, shall represent the plaintiff in any proceeding under this act.

Section [12] 13. Complaint for a Minor.—A complaint on behalf of a minor obligee may be brought by a person having legal custody of the minor without appointment as guardian ad litem.

Section [13] 14. Duty of Court of This State as Initiating State.—If the court of this State, acting as an initiating state, finds that the complaint sets forth facts from which it may be determined that the defendant owes a duty of support and that a court of the responding state may obtain jurisdiction of the defendant or his property, it shall so certify; and shall cause three copies of (1) the complaint, (2) its certificate, and (3) this act to be transmitted to the court in the responding state. If the name and address of such court is unknown, and the responding state has an information agency comparable to that established in the initiating state, it shall cause such copies to be transmitted to the state information agency or other proper official of the responding state, with a request that it forward them to the proper court, and that the court of the responding state acknowledge their receipt to the court of the initiating state.

Section [14] 15. Costs and Fees.—[A] *There shall be no filing fee or other costs taxable to the obligee, but a court of this State, acting either as an initiating or responding state, may, in its discretion, direct that any part of or all fees and costs incurred in this State, including, without limitation, by enumeration, fees for filing service of process, seizure of property, and stenographic service, of both plaintiff and defendant, or either, shall be paid by the obligor or the county. Where the action is brought by or through the State or an agency thereof, there shall be no filing fee.*

Section [15] 16. Jurisdiction by Arrest.—When the court of this State, acting either as an initiating or re-

sponding state, has reason to believe that the defendant may flee the jurisdiction, it may, (a) as an initiating state, request in its certificate that the court of the responding state obtain the body of the defendant by appropriate process, if that be permissible under the law of the responding state, or (b) as a responding state, obtain the body of the defendant by appropriate process.

Section 15.1 of
the act, amended
July 3, 1957,
P. L. 448,
further amended.

Section 5. Section 15.1 of the act, amended July 3, 1957 (P. L. 448), is amended to read:

Section [15.1] 16.1. Compelling Attendance.—(a) At all stages of proceedings provided under this act, the court may compel the attendance, by attachment process directed to the sheriff or other proper officer of the county, directing and commanding that the obligor be brought before the court at such time as the court may direct, at which time the court may adjudge such person in contempt of court, and, in its discretion, may commit such person to the county jail or house of correction for a period not exceeding six (6) months. Whenever an attachment is issued in counties of the first class, the obligor shall be brought before the court forthwith, but in any event within forty-eight (48) hours or two court working days, whichever is the longer from the time the obligor is taken in custody of law pursuant to the attachment; at which time, if the court shall find, after hearing, that the obligor has wilfully neglected or refused to comply with any order of the court, the court may adjudge such person in contempt of court and, in its discretion, may commit such person to the county jail or house of correction until compliance with said order, but in no case for a period exceeding six (6) months, and the court in its order shall state the condition upon which fulfillment will result in the release of the obligor.

(b) At any stage of the proceedings under this act, upon affidavit of obligee that the obligor is about to leave the jurisdiction, an attachment may be issued, directed to the sheriff or other proper officer of the county, directing that the person named be brought before the court at such time as the court may direct, at which time the court may direct that the person named give security, by one or more sureties, to appear when directed by the court, or to comply with any order of the court.

Whenever an attachment is issued in counties of the first class, the obligor shall be brought before the court forthwith, but in any event within forty-eight (48) hours or two court working days, whichever is the longer from the time the obligor is taken in custody of the law pursuant to the attachment; at which time, if the court shall find, after hearing, that the obligor is about to leave the jurisdiction, the court may direct that he give

security, by one or more sureties, to appear when directed by the court, or to comply with any order of court.

(c) The court in the responding state shall have the authority to issue a bench warrant for the immediate arrest of the obligor. The obligor shall have the right to post bail in an amount set by the court for the subsequent hearing. In counties of the first class, the obligor shall have a hearing before the court forthwith, but in any event within forty-eight (48) hours or two court working days, whichever is the longer from the obligor's arrest; at which time, the obligor shall have a right to post bail in an amount set by the court for the subsequent hearing. In counties of the first class, if the obligor is unable to post bail in the amount set by the court for the subsequent hearing, said hearing shall be held as soon thereafter as is feasible, but in no case later than thirty (30) days subsequent to the obligor's arrest, except that, if the obligor on being informed of the right hereunder requests of the court a continuance, a continuance for thirty (30) days may be granted.

Section 6. Sections 16, 17 and 18 of the act, amended August 19, 1953 (P. L. 1201), are amended to read :

Sections 16, 17
and 18 of the
act, amended
August 19, 1953,
P. L. 1201,
further amended.

Section [16] 17. State Information Agency.—The Department of [Public Assistance] *Public Welfare* is hereby designated as the State Information Agency under this act, and it shall be the duty of the Secretary of [Public Assistance] *Public Welfare*:

(1) To compile a list of the courts and their addresses in this State having jurisdiction under this act and transmit the same to the State Information Agency of every other state which has adopted this or a substantially similar act.

(2) To maintain a register of such lists received from other states and to transmit copies thereof as soon as possible after receipt to every court in this State having jurisdiction under this act.

Section [17] 18. Duty of the Court and Officials of This State as Responding State.—[When] (a) *After* the court of this State, acting as a responding state, [receives] *has received* from the court of an initiating state the aforesaid copies, [it] *the clerk of the court* shall [(1)] docket the cause [; (2)] *and* notify the district attorney [; (3)] set a time and place for a hearing; and (4) take such action as is necessary, in accordance with the laws of this State to obtain jurisdiction] *of this action.*

(b) *It shall be the duty of the district attorney, diligently, to prosecute the case. He shall take all action necessary in accordance with the laws of this State to*

give the court jurisdiction of the defendant or his property and shall request the court to set a time and place for a hearing.

Section [18. Further Duty of Responding Court.—If a court of this State, acting as a responding state, is unable to obtain jurisdiction of the defendant or his property, due to inaccuracies or inadequacies in the complaint, or otherwise, the court shall communicate this fact to the court in the initiating state, shall on its own initiative use all means at its disposal to trace the defendant or his property, and shall hold the case pending the receipt of more accurate information or an amended complaint from the court in the initiating state.]

19. *Further Duties of Court and Officials in the Responding State.*—(a) *The district attorney shall, on his own initiative, use all means at his disposal to trace the defendant or his property, and if due to inaccuracies of the complaint or otherwise the court cannot obtain jurisdiction, the district attorney shall inform the court of what he has done, and request the court to continue the case pending receipt of more accurate information or an amended complaint from the court in the initiating state.*

(b) *If the defendant or his property is not found in the county and the district attorney discovers by any means that the defendant or his property may be found in another county of this State or in another state, he shall so inform the court and, thereupon, the clerk of the court shall forward the documents received from the court in the initiating state to a court in the other county or to a court in the other state or to the information agency or other proper official of the other state with a request that it forward the documents to the proper court. Thereupon, both the court of the other county and any court of this State receiving the documents, and the district attorney, have the same powers and duties under this act as if the documents had been originally addressed to them. When the clerk of a court of this State retransmits documents to another court, he shall notify forthwith the court from which the documents came.*

(c) *If the district attorney has no information as to the whereabouts of the obligor or his property, he shall so inform the initiating court.*

Act of May 10,
1951, P. L. 279,
amended by add-
ing two new
sections 20 and
21.

Section 7. The act is amended by adding two new sections to read:

Section 20. Hearing and Determination.—*If the plaintiff is absent from the responding state and the defendant presents evidence which constitutes a defense, the court shall continue the case for further hearing and the submission of evidence by both parties.*

Section 21. Evidence of Husband and Wife.—Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this act. Husband and wife are competent witnesses to testify to any relevant matter including marriage and parentage.

Section 8. Sections 19 and 20 of the act, amended August 19, 1953 (P. L. 1201), are amended to read:

Sections 19 and 20 of the act, amended August 19, 1953, P. L. 1201, further amended.

Section [19] 22. Order of Support.—*If the court of the responding state finds a duty of support, it may order the defendant to furnish support or reimbursement therefor, and subject the property of the defendant to such order. *The court and district attorney of any county where the obligor is present or has property have the same powers and duties to enforce the order as have those of the county where it was first issued. If enforcement is impossible or cannot be completed in the county where the order was issued, the district attorney shall transmit a certified copy of the order to the district attorney of any county 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.*

Section [20] **23. Responding State to Transmit Copies to Initiating State.—The court of this State, when acting as a responding state, shall cause to be transmitted to the court of the initiating state, a copy of all orders of support or for reimbursement therefor.

Section 9. Section 21 ***of the act, amended July 3, 1957 (P. L. 448), is amended to read:

Section 21 of the act, amended July 3, 1957, P. L. 448, further amended.

Section [21] 24. Additional Powers of Court.—In addition to the foregoing powers, the court of this State, when acting as the responding state, has the power to subject the defendant to such terms and conditions as the court may deem proper to assure compliance with its orders, and in particular—

(a) To require the defendant to furnish recognizance in the form of a cash deposit or bond of such character and in such amount as the court may deem proper to assure payment of any amount required to be paid by the defendant.

(b) To require the defendant to make payments at specified intervals to the clerk of the court or other officers designated by the court, [or the obligee,] and to

* "It" in original.
 ** "25" in original.
 *** "of the act" omitted in original.

report personally to such clerk or other officer designated by the court at such times as may be deemed necessary.

(c) To punish the defendant who shall violate any order of the court, to the same extent as is provided by law for contempt of the court in any other suit or proceeding cognizable by the court, but in counties of the first class, no such punishment shall be administered until the court shall find, after hearing, that the violation was wilful.

Sections 22, 23 and 24 of the act, amended August 19, 1953, P. L. 1201, further amended.

Section 10. Sections 22, 23 and 24 of the act, amended August 19, 1953 (P. L. 1201), are amended to read:

Section [22] 25. Additional Duties of the Court of This State When Acting as a Responding State.—The court of this State, when acting as a responding state, shall have the following duties, which may be carried out through the clerk of the court or other officer designated by the court:

(a) Upon the receipt of a payment made by the defendant pursuant to any order of the court or otherwise, to transmit the same forthwith to the court of the initiating state; and,

(b) Upon request, to furnish to the court of the initiating state, a certified statement of all payments made by the defendant.

Section [23] 26. Additional Duty of the Court of This State When Acting as an Initiating State.—The court of this State, when acting as an initiating state, shall have the duty, which may be carried out through the clerk of the court or other officer designated by the court, to receive and disburse forthwith all payments made by the defendant or transmitted by the court of the responding state.

[Section 24. Evidence of Husband and Wife.—Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this act. Husband and wife are competent witnesses to testify to any relevant matter, including marriage and parentage.]

Act of May 10, 1951, P. L. 279, amended by adding a new section 27.

Section 11. The act is amended by adding a new section to read:

Section 27. Proceedings Not to be Stayed.—No proceeding under this act shall be stayed because of the existence of a pending action for divorce, separation, annulment, dissolution, habeas corpus or custody proceeding.

Section 12. Sections 25 and 26 of the act, amended August 19, 1953 (P. L. 1201), are amended to read:

Sections 25 and 26 of the act, amended August 19, 1953, P. L. 1201, further amended.

Section [25] 28. Application of Payments.—[Any] No order of support issued by a court of this State, when acting as a responding state, shall [not] supersede any [previous] other order of support [issued in a divorce or separate maintenance action], but the amounts for a particular period paid pursuant to either order shall be credited against amounts accruing or accrued for the same period under both.

Section [26] 29. Effect of Participation in Proceeding.—Participation in any proceedings under this act shall not confer upon any court jurisdiction of any of the parties thereto in any other proceeding.

Section 13. The act is amended by adding a new section to read:

Act of May 10, 1951, P. L. 279, amended by adding a new section 30.

Section 30. Inter-County Application.—This act is applicable when both the plaintiff and the defendant are in this State but in different counties. If the court of the county in which this petition is filed finds that the petition sets forth facts from which it may be determined that the defendant owes a duty of support and finds that a court of another county in this State may obtain jurisdiction of the defendant or his property, the clerk of the court shall send three copies of the complaint and a certification of the findings to the court of the county in which the defendant or his property is found. The clerk of the court of the county receiving these copies shall notify the district attorney of their receipt. The district attorney and the court in the county to which the copies are forwarded shall then have duties corresponding to those imposed upon them when acting for the state as a responding state.

Section 14. The act is amended by adding a new article and six new sections to read:

Act of May 10, 1951, P. L. 279, amended by adding a new article IV. and six new sections 31, 32, 33, 34, 35 and 36.

Article IV.

Registration of Foreign Support Orders

Section 31. Additional Remedies.—*If the duty of support is based on a foreign support order, the obligee has the additional remedies provided in the following sections:*

Section 32. Registration.—*The obligee may register the foreign support order in a court of this State in the manner with the effect and for the purposes herein provided.*

Section 33. Registry of Foreign Support Orders.—*The clerk of the court shall maintain a Registry of*

Foreign Support Orders in which he shall record foreign support orders.

Section 34. Petition for Registration.—The petition for registration shall be verified, and shall set forth the amount remaining unpaid, and a list of any other states in which the support order is registered, and shall have attached to it a certified copy of the support order with all modifications thereof. The foreign support order is registered upon the filing of the complaint subject only to subsequent order of confirmation.

Section 35. Jurisdiction and Procedure.—The procedure to obtain jurisdiction of the person or property of the obligor shall be as provided in civil cases. The obligor may assert any defense available to a defendant in an action on a foreign judgment. If the obligor defaults, the court shall enter an order confirming the registered support order and determining the amounts remaining unpaid. If the obligor appears and a hearing is held, the court shall adjudicate the issues including the amounts remaining unpaid.

Section 36. Effect and Enforcement.—The support order, as confirmed, shall have the same effect and may be enforced as if originally entered in the court of this State. The procedures for the enforcement thereof shall be as in civil cases, including the power to punish the defendant for contempt as in the case of other orders for payment of alimony, maintenance or support entered in this State.

Section 27 of the act, amended August 19, 1953, P. L. 1201, further amended.

Section 15. Section 27 of the act, amended August 19, 1953 (P. L. 1201), is amended to read:

Section [27] 37. Severability.—If any provision hereof, or the application thereof, to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Act of May 10, 1951, P. L. 279, amended by adding two new sections 38 and 39

Section 16. The act is amended by adding two new sections to read:

Section 38. Uniformity of Interpretation.—This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Section 39. Short Title.—This act may be cited as the "Uniform Reciprocal Enforcement of Support Act."

Section 17. Section 28 of the act, amended August 19, 1953 (P. L. 1201), is amended to read:

Section 28 of the act, amended August 19, 1953, P. L. 1201, further amended.
Effective date.

Section [28] 40. Effective Date.—The provisions of this act shall become effective immediately upon final enactment.

Section 18. The provisions of this amending act shall become effective immediately upon final enactment.

APPROVED—The 9th day of September, A. D. 1959.

DAVID L. LAWRENCE

No. 341

AN ACT

Amending the act of March 10, 1949 (P. L. 30), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," providing Commonwealth reimbursement to school districts on account of migratory children attending their schools.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Public School Code of 1949.

Section 1. The act of March 10, 1949 (P. L. 30), known as the "Public School Code of 1949," is amended by adding, after section 2502.1, a new section to read:

Act of March 10, 1949, P. L. 30, amended by adding a new section 2502.2.

Section 2502.2. Payments on Account of Migratory Children.—Every school district regardless of classification shall be paid by the Commonwealth for the school term 1958-1959 and for every school term thereafter in addition to other reimbursement by the Commonwealth, the sum of one dollar (\$1) per day not exceeding forty days during any school term for each migratory child attending any of its public schools. "Migratory child" is defined as any child domiciled temporarily in any school district for the purpose of seasonal agricultural employment but not acquiring residence therein, and any child accompanying his parents or guardian who is so domiciled.

APPROVED—The 9th day of September, A. D. 1959.

DAVID L. LAWRENCE

No. 342

AN ACT

Amending the act of March 10, 1949 (P. L. 30), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending,