

COUNTRY PROFILE TEMPLATE

Prepared for the Administrative Cooperation Working Group

Essential Section

A. Contacts

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| A1. Central Authority in your country including: | |
| Name | Crown Counsel, Family Law Branch Manitoba Justice |
| Address | 705-405 Broadway, Winnipeg, Manitoba, Canada R3C 3L6 |
| Telephone | 204-945-0268 or 204-945-5471 |
| Fax | 204-948-2004 |
| Electronic mail address | ISOQuestions@gov.mb.ca |
| Website | English: http://www.gov.mb.ca/justice/family/familyindex.html French: http://www.gov.mb.ca/justice/family/familyindex.fr.html |
| Contact person(s) | Tracy Morrow, Crown Counsel Ingrid Pflug, Crown Counsel |
| A2. Transmitting Authority in your country including (if different)*: *For Recognition/Registration & Enforcement | |
| Name | Maintenance Enforcement Program |
| Address | 225-405 Broadway, Winnipeg, Manitoba Canada R3C 3L6 |
| Telephone | 204-945-7133 |
| Fax | 204-945-5449 |
| Electronic mail address | Not at this time |
| Website | English: http://www.gov.mb.ca/justice/family/familyindex.html French: http://www.gov.mb.ca/justice/family/familyindex.fr.html |
| Contact person(s) | Darlene Baker, Director |
| A3. Receiving Authority in your country including (if different): | |
| Name | |
| Address | |
| Telephone | |
| Fax | |
| Electronic mail address | |
| Website | |
| Contact person(s) | |
| A4. Payment Address (Where should payments be sent?) | |
| Name | Maintenance Enforcement Program |
| Address | 225-405 Broadway, Winnipeg, Manitoba Canada R3C 3L6 |

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| Telephone | 204-945-7133 |
| Fax | 204-945-5449 |
| Electronic mail address | Not at this time |
| Website | English: http://www.gov.mb.ca/justice/family/familyindex.html French: http://www.gov.mb.ca/justice/family/familyindex.fr.html |
| Contact person(s) | Darlene Baker, Director |
| A5. Which languages do personnel in your authority use and accept? | English and French are accepted English is the predominant working language |
| A6. Key terms that are used in your country (see Hague website for definitions of terms [http://www.hcch.net/e/workprog/maint.html]. Examples: | |
| Custodial Parent. (e.g. 'resident parent', 'obligee', 'payee' etc), | Payee, creditor, claimant |
| Non-Custodial Parent. (e.g. 'non-resident parent', 'obligor', 'payer' etc), | Payor, debtor, respondent |
| Administrative Authority or Judicial Authority (e.g. 'tribunal') | "Designated Authority" administratively registers and enforces foreign maintenance orders "Courts" make maintenance orders |
| No longer subject to ordinary forms of review | final |
| Provisional Order | Manitoba is familiar with provisional orders and can receive and send them if this is the regime in place in the foreign country. Manitoba no longer requires a provisional order from a foreign country in order to establish a support obligation at the request of a foreign claimant. |
| Notary Public | Manitoba uses this term |
| Certified Copy | Manitoba uses this term |
| A7. Other key terms (Please specify any unique terms or terms that you are aware have a specific meaning in your country compared to another country | "Support Order" includes an agreement if that agreement is enforceable in the jurisdiction in which it was made as if it was an order of the court. It also includes an order made by an administrative authority. "Designated Authority" is the statutory term equivalent to central authority. "Reciprocating jurisdiction" means a jurisdiction which has entered into a bilateral arrangement with Manitoba. "Designated Officer" is the statutory term for the persons employed within the Maintenance Enforcement Program with responsibility for enforcing registered support obligations. |
| A8. Please provide a short overview of the process that occurs when a case is received in your country. Please indicate which agency receives the case, where the case is sent for processing, and the steps that occur in initiating action on the case. The purpose of this question is to provide the caseworker in the transmitting country a general understanding of the steps that will take place in working the case. | |
| 1. Cases received for registration & enforcement: Forwarded to the Maintenance Enforcement Program where the registration officer files the order with the court and issues a notice of registration to the respondent payor. The payor has 30 days to apply to set aside the registration of the foreign order, but within this time an | |

enforcement file is opened and collection may begin. If an application is not made to set aside registration or is made but is unsuccessful, the support obligation is then enforced by the Maintenance Enforcement Program (administratively) in the same way as if it was an order of the Manitoba court. If registration is set aside, the case is referred for establishment of a Manitoba order and the process noted below then applies.

2. **Cases received for establishment (or variation):** Once reviewed for completeness, the application is filed with the court and a hearing date is set. A notice of hearing and the application are served on the Manitoba respondent. Crown Counsel from Manitoba Justice handles the case until completion. Once an order is made, it is forwarded to the Maintenance Enforcement Program for enforcement.

A9. On average, how long will it take before the transmitting country is notified of the action(s) taken on a case? This should link to the Timeframes subcommittee (perhaps a hyperlink?)

30 days

B. General

OVERVIEW OF YOUR COUNTRY'S INTERNATIONAL MAINTENANCE ARRANGEMENTS – Indicate if the maintenance arrangements are different if the (a) applicant or (b) respondent live abroad.

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| B1. Please specify when a child maintenance decision would normally end. | |
| What is the age of majority? | 18 years |
| Specify if child maintenance ends prior to the age of majority and the circumstances. | If the child is no longer dependent before reaching 18 years, the maintenance obligation may end before the age of majority, but this must be determined by the authority making the support order |
| Specify if child maintenance can extend beyond the age of majority and the circumstances. | Yes, if the child continues to be a dependent because of illness, disability, or attendance at post-secondary education (as determined by the authority making the support order) |
| B2. What are the details of the procedures in your country to vary or modify a maintenance decision? | The party seeking the variation must submit an application in accordance with the inter-jurisdictional support laws applicable to the particular case. In most cases, where the applicant lives abroad, he or she may submit an application on the Manitoba forms or on documents that reasonably correspond to the Manitoba forms. In most cases, where the respondent lives abroad, the Manitoba applicant may submit variation application documents to be transmitted to the respondent's jurisdiction for consideration. |
| B3. Can the variation or modification be made retrospective or prospectively or both? Please specify any limitations and the basis. | Variations can be retrospective, prospective, or both. There are no statutory limitations. Courts make these determinations on the facts. |
| B4. Do you have any statute of limitations for: | |
| Establishing paternity? | NO |
| Establishing a maintenance obligation? | NO |
| Enforcement of maintenance debt? | NO |
| If yes please specify. | |

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| B5. Are you able to obtain maintenance for any prior period? If so please specify any limitations. | Yes. No statutory limitations, but courts will not often impose an obligation for a period prior to commencement of the application. |
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C. Acting As Receiving State

REQUIREMENTS

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| C1. When acting as a Receiving State, do you recognize (a) a “decision” of maintenance made in the country of origin or (b) an application to initiate or (c) accept both? | Both |
| C2. Are there any restrictions on the basis of the maintenance decision (please specify) – for example administrative, judicial or provisions? | Administrative & judicial decisions can be recognized. Agreements between the parties can also be registered and enforced if they are enforceable in the jurisdiction in which they were made as if they were an order of the court. |
| C3. For both (a) and (b) above, what information do you require including: | |
| What information do you require about the Custodial Parent? (e.g. name , date of birth, address, income information, assets and liabilities, photograph, identification number such as Social Security Number) | Name Address (if payments or correspondence are to be sent directly to the Custodial Parent); Income information may be required for an establishment or modification case |
| What information do you require about the Non-Custodial Parent? (e.g. name , date of birth, address, income information, assets and liabilities, photograph, identification number such as Social Security Number) | Name and date of birth, but if date of birth is not known, must know approximate age If known, provide: address, income information (source or name of employer), Canadian Social Insurance Number; known assets located in Manitoba; photograph |
| What information do you require about the Children? (e.g. name , date of birth, address, care arrangements, photograph) | Name, date of birth, address, care arrangements (i.e., if the child is in the care of the creditor and if not, why the support obligation is still in effect?) |
| What information do you require about the liability – e.g. the basis of the decision and history of the case? | Basis of jurisdiction and proof of service are necessary only if the respondent in Manitoba applies to set aside registration of a foreign decision |
| What details do you require about the parents’ relationship? (e.g. dates and details of cohabitation / marriage / separation / divorce etc) | This information is only required in an application to establish support. |
| Do you require proof of the relationship? (e.g. affidavits from the custodial parent, marriage certificates, joint bank statements, divorce decrees etc) | An application to establish support should include evidence of the basis for the obligation, therefore whatever documentation is relevant to this |

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| C4. Will you accept an application to initiate maintenance or recognize maintenance decision for a prior period only? Please specify any limitations. (i.e. no ongoing/prospective support) | Yes |
| C5. What documentation do you require – specify which documentation must be original. | |
| Do you make use of standard forms? If so please supply copies. Link to Forms subcommittee. | Yes, Manitoba uses Canadian standard forms which can be obtained at http://www.gov.mb.ca/justice/family/iso/isoindex.html Manitoba also accepts forms from other jurisdictions as long as they contain the basic information required for the action requested. |
| Do you require any documents to be certified? Please specify. | Yes. The order or agreement received for registration & enforcement; any formal public documents (e.g. birth certificates) |

OTHER SERVICES

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| C6. Please specify if you provide the following services and the requirements for providing those services: | |
| ▪ Service of notice | Not for proceedings taking place outside Manitoba |
| ▪ What information is required to initiate a client location request? Is a form required? | A form is not required but is helpful. Name and date of birth are essential. |
| ▪ Obtaining income details | Not for proceedings taking place outside Manitoba |
| ▪ Assistance with determining parentage | Within the context of an application to establish support received or sent by the Manitoba Central Authority |
| ▪ Assistance with parents disputing parentage for example arranging for DNA testing. | Within the context of an application to establish support received or sent by the Manitoba Central Authority |
| ▪ Case status inquiry (enforcement update, including regularity, link to Timelines subcommittee) | Yes. Upon request and periodically |
| ▪ Other – please specify | |

FORMS OF REVIEW

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| C7. What forms of review are available to either parent when seeking to change a maintenance liability that you have recognized? | |
| What are the circumstances under which a review will be conducted?? | Either parent may submit a support variation application and claim a change of circumstances |
| Which authority is responsible for this decision? | If the payor residing in Manitoba requests the change, the request will be forwarded to the payee's jurisdiction for decision, unless the payee agrees to the determination being made by the Manitoba court If the payee living outside Manitoba requests the change, the Manitoba court will make the decision, unless the payor living in Manitoba agrees to the determination being made by the authority in the payee's jurisdiction |

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| What is the process and are there any standard forms required? | Standard forms can be used http://www.gov.mb.ca/justice/family/iso/isoindex.html Manitoba also accepts forms and documents from other jurisdictions if they include the necessary information |
| Are there requirements for non resident for giving notice of proceeding or participating in the proceedings? Please specify. | Non-resident party will receive notice in accordance with the applicable procedure. |
| C8. Can the variation or modification be made retrospective or prospectively or both? Please specify any limitations and the basis. | Both. No statutory limitations. |
| C9. Do you recognize changes that are made to the original decision in the transmitting state? If no, please specify what the limitations are and outline the key steps or requirements. | Changes made to the original decision in the transmitting state will generally be recognized if the party residing in Manitoba had proper notice and a reasonable opportunity to be heard, or consented to the determination being made by the authority in the transmitting state. |

PAYMENTS AND FINANCIAL INFORMATION

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| C10. What are your arrangements for sending payments that you have collected from a liable parent to the transmitting authority? Please specify the following: | |
| ▪ Typical costs associated with this process. | Mailing costs |
| ▪ Whether the transmitting agency or the creditor are the preferred recipient | Prefer to send payments to the transmitting agency, but will send directly to the creditor if requested |
| ▪ Whether you are able or prefer electronic funds transfer | Not able to transfer funds electronically at this time |
| ▪ Any other special requirements | |

D. Acting As Transmitting State

TRANSMITTING REQUIREMENTS

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| D1. Do you specify the conversion of the maintenance liability to the currency of the receiving State? If so, what is the basis for the conversion? | If the receiving State requests this. The conversion is done as of the date of the maintenance decision. |
| D2. Do you make use of standard forms? If so please provide copies. | A standard transmittal form is used. For establishment and modification requests, the Canadian inter-jurisdictional support forms are used unless the receiving state requires use of its own forms. The Canadian forms are located at http://www.gov.mb.ca/justice/family/iso/isoindex.html |
| D3. Do you send only maintenance decisions made in your jurisdiction or do you send applications to initiate or both? Please specify the circumstances if both. | Both. If a maintenance decision is in effect in Manitoba, the decision will be sent. If there is no maintenance decision in effect or it is known that the |

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| | <p>maintenance decision will not be recognized in the receiving State, an application to establish support will be sent.</p> |
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REASSESSMENT/ADJUSTMENT/MODIFICATION

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| <p>D4. Are maintenance decisions subject to periodic adjustment to reflect changes, for example changes in the standard of living, cost of living, financial circumstances of the parties? If so, please specify.</p> | <p>No, changes can only be made at this time by a court application</p> |
| <p>D5. In what circumstances may a maintenance decision made by you be varied or modified after transmission to another state by (a) the resident creditor or (b) the non resident debtor? Is this determined through an administrative or judicial process?</p> | <p>A maintenance decision may be varied after transmission to another state if the circumstances of either party or the child has changed.</p> <p>a) In most cases, the resident creditor will submit an application to vary through the central authority to be transmitted to the central authority where the debtor resides. In some cases, for example, where the original decision was made pursuant to the Divorce Act of Canada, the resident creditor will serve notice on the non-resident debtor of a Manitoba court application to vary.</p> <p>b) The non-resident debtor may submit an application to vary through the central authority and a Manitoba court hearing will be held to determine that application. If the original decision was made pursuant to the Divorce Act of Canada, a variation application must be filed with the Manitoba court--this will normally require the non-resident debtor to retain a Manitoba lawyer.</p> |
| <p>D6. Do you recognize the right of the receiving state to modify or vary your state's maintenance decision and/or arrears? If not, please specify why.</p> | <p>Under certain circumstances: If the request to vary was initiated by the Manitoba resident (creditor or debtor) we recognize the right of the other party's jurisdiction to made a decision based on that request. We do not recognize that right if the party residing in the receiving state commences the application unless the Manitoba resident consents to the proceeding in the receiving state. However, the Manitoba party cannot consent to this if the maintenance decision was made pursuant to the Divorce Act of Canada as only a Canadian court can vary such an order.</p> |

PAYMENTS

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| <p>D7. In what form would you like to receive payments, i.e. check, cash, EFT, collected on your behalf by an overseas authority?</p> | <p>Cheque or money order</p> |
| <p>D8. Do you require payments to be paid directly to the transmitting authority? Or directly to the custodial parent?</p> | <p>Preferably the cheque or money order should be stated as payable to the custodial parent but sent to the transmitting authority (Maintenance Enforcement Program) to be recorded and then forwarded to the custodial</p> |

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| | parent |
| D9. Are you capable of receiving electronic funds transfer? If so, what details do you require? | NO |
| D10. Do you have any special requirements for receiving payments? | NO |

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Optional Section

E. General

OVERVIEW OF YOUR COUNTRY'S INTERNATIONAL MAINTENANCE ARRANGEMENTS – Indicate if the maintenance arrangements are different if the (a) applicant or (b) respondent live abroad.

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| <p>E1. Details of the relevant legislation. Include a website reference if available.</p> | <p><i>The Inter-jurisdictional Support Orders Act</i> http://web2.gov.mb.ca/laws/statutes/ccsm/i060e.php</p> <p><i>The Family Maintenance Act</i> http://web2.gov.mb.ca/laws/statutes/ccsm/f020e.php</p> <p>Manitoba Child Support Guidelines Table http://canada.justice.gc.ca/en/ps/sup/grl/tbl1_4/man_b.pdf</p> |
| <p>E2. Details of eligibility including:</p> | |
| <p>Who is eligible to benefit from a maintenance decision? (e.g. child – are legitimate children and children out of wedlock treated equally? Spouse or other family members? Please specify.)</p> | <p>Children: Biological, adopted, step, regardless of marital status of parents Spouse or other dependent partner</p> |
| <p>Who is included as a dependent child?</p> | <p>A child dependent if under the age of 18 years and has not withdrawn from the charge of his parents or is 18 years or older and unable to withdraw from the charge of his parents or to obtain the necessities of life because of illness, disability or other cause. "Other cause" often includes attendance at a post-secondary educational institute</p> |
| <p>E3. Details of the procedures for the initial assessment including:</p> | |
| <p>Is maintenance determined through an administrative or judicial process?</p> | <p>Judicial</p> |
| <p>If administrative, what are the principal elements involved in making the assessment. (e.g. By formula, % of income, judicial or administrative discretion.)</p> | |
| <p>E4. Who is the creditor in child support matters? (e.g. the parent or the child)</p> | <p>parent</p> |
| <p>E5. Is there a ranking of obliges? (e.g. if there are several children out of different relation-ships, a current and an ex-spouse etc.)?</p> | <p>Child support comes before support for a spouse or ex-spouse.</p> |
| <p>E6. What kind of support is owed (cash or other support) and by whom?</p> | <p>Cash By the non-custodial parent</p> |
| <p>E7. What happens if the obligor owes/has been ordered to pay more than he can afford? (e.g. do all obligees get a proportional share or is it "first come, first serve"?)</p> | <p>At the time of establishment, the child support guidelines take into account the number of children for whom support is payable. If additional obligations are imposed after establishment, at the enforcement stage the support collected is shared proportionally.</p> |
| <p>E8. Does your country have a protected earnings rate (or other deductibles)?</p> | <p>There is a threshold amount of income that a paying parent must earn before he will be</p> |

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| | required to pay child support in accordance with the child support guidelines. |
| E9. What happens with the support claim under your country's insolvency law? (e.g.. Does it make a difference whether there is an order for child support or not)? | There is a priority claim for arrears which accrued over the period 1 year prior to the assignment. The balance of arrears survive the bankruptcy. The ongoing support obligation is to be taken into account during the bankruptcy as part of the necessary expenses of the bankrupt. |
| E10. Do social welfare payments or other child-related payments influence the support claim? If so please specify. | Not usually, as the child support guidelines presumes that the income of the paying parent and the number of children will determine the amount of child support. |
| E11. Does it matter whether such payments are made by an authority or by a private third party? Please specify any requirements / legislation for the authority seeking reimbursement from the non-custodial parent (NCP) or if the authority assumes this maintenance responsibility. | Where the creditor resides in Manitoba and receives social assistance, a maintenance entitlement pursuant to a decision may be assigned to the social assistance authority. Once the maintenance has been assigned, the social assistance authority receives the support payments and "stands in the shoes" of the creditor. Where a foreign creditor receives social welfare payments, the foreign social welfare authority may request services relating to establishment or enforcement of a maintenance decision through the same process as is available to the foreign creditor. |
| E12. What can be included in a maintenance decision? Please specify. (e.g. attorney's fees, other court costs, medical costs etc.) | Manitoba's Maintenance Enforcement Program can only enforce maintenance payments and arrears. A maintenance decision made in Manitoba pursuant to the child support guidelines will usually include the basic "table" amount (based on the paying parent's income and the number of children) and <u>may</u> include additional amounts for allowable special expenses such as: daycare; health-related expenses not covered by insurance; extraordinary educational expenses that meet the child's particular needs; expenses for post-secondary education; extraordinary expenses for extracurricular activities. |
| E13. Under which conditions is interest or late payment penalty owed? | |
| Are there any conditions in your country to collect interest on arrears? | At this time, interest on arrears is not collected in Manitoba |
| Are these amounts forwarded to the obligee? | |
| E14. When assessing the support amount, how is the non-custodial parent's child support capacity determined? The paying parent's total annual income is determined based on income tax returns, pay statements, and any other relevant information. The child support guidelines contains tables which indicate the amount payable based on the paying parent's income and the number of children. | |
| What kind of expenses can he/she deduct from his/her earnings? | The child support guidelines are based on the paying parent's income before statutory deductions (such as income tax). |
| Do tables for levels of maintenance exist? Are they binding or just a guide? | Yes, tables exist. They are binding but can be departed from if the court determines that |

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| | specified circumstances exist, such as evidence to show that either party would suffer undue hardship if the table amount was ordered. |
| Are any other person's income considered? (e.g. current spouse, child) | Not for the determination of the table amount of child support for a minor child. However, if one party makes an "undue hardship" claim, the court must take into account all of the income for each household. Also, if support is sought for a child over the age of majority, the court may take into account any income the child may have. |
| E15. Is there an automatic increase of the amount and if so, under which conditions? Cost of living adjustment? | no |
| E16. If the obligor pays a monthly amount that does not cover the current support as well as arrears, how is it determined which debt the money is paid on and who makes such a decision? Is there legislation that gives a certain sequence by law? | There are no legislative provisions addressing this issue, but the practice of Manitoba's Maintenance Enforcement Program is to apply such amounts to the current support obligation. |
| E17. Do you require a document stating that this judgment is final and no longer subject to ordinary forms of review? | No. |

JURISDICTION AND APPLICABLE LAW

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| E18. Please specify any applicable legislation and requirements in relation to jurisdiction both for initial decisions and for modifications of decisions made within your jurisdiction and also outside your jurisdiction. | <p><i>The Inter-jurisdictional Support Orders Act</i> http://web2.gov.mb.ca/laws/statutes/ccsm/i060e.php contains applicable law provisions concerning</p> <ol style="list-style-type: none"> 1. applications to establish (section 12); 2. applications to vary (sections 31 and 35) <p>Section 19 sets out the grounds upon which a Manitoba resident can seek to have registration of a foreign order set aside, including that the foreign court did not have jurisdiction to make the order.</p> <p>There is no applicable Manitoba legislation specifying when the Manitoba court has jurisdiction to make a support order against a non-resident, however, the court will do so where the non-resident accepts the jurisdiction of the Manitoba court. Where support is sought corollary to a divorce proceeding, the Divorce Act of Canada states that a court in a province has jurisdiction to hear and determine a corollary support application if either former spouse is ordinarily resident in the province at the commencement of the proceeding or where both former spouses accept the jurisdiction of the court.</p> |
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F. Acting As Receiving State

POWERS OF ENFORCEMENT

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| F1. What are the procedures for enforcing maintenance decisions which you have recognized? | Once a foreign maintenance decision has been registered (a straightforward procedure in which the decision is simply filed with the court), it is automatically enforced by the Maintenance Enforcement Program in the same way as if it was an order of the Manitoba court. |
| F2. Please list the methods available for the enforcement of maintenance decisions. In particular, please indicate whether any of the following enforcement / collection methods are available in your jurisdiction: | |
| ▪ Wage withholding | Yes |
| ▪ Tax refund intercepts | Yes |
| ▪ Garnishment from bank accounts or other sources | Yes |
| ▪ Deductions from social security payments | Not from public assistance, but from other government pensions and benefits |
| ▪ Seizure &/or forced sale of property/assets | Yes |
| ▪ Division of pension benefits | Yes |
| ▪ Committal to prison | Yes |
| ▪ The power to prohibit a liable parent from leaving your country | No, but the payor in persistent default may have his Canadian passport revoked. If he has been summonsed to court and failed to appear, a warrant for his arrest may have been issued and this may prevent him from entering another country. |
| ▪ Other – please specify | Suspension of driver's license; report of default to the "credit bureau"; appointment of a receiver; placement of a lien against real property; registration against personal property |

G. Acting as Transmitting State

TRANSMITTING REQUIREMENTS

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| G1. Please specify the requirements in transmitting a maintenance decision to another state. | <i>This question is unclear--whose requirements?</i> |
| G2. Are there any restrictions compared to your domestic arrangements Please specify. | <i>Again, unclear what is being asked here.</i> |

FOLLOWING RECOGNITION

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| G3. Following recognition of the maintenance decision in the other state do you require notification of the recognition? | Yes |
| G4. Does the recognition in the other state affect the status of the original decision? If so, please specify. | No, not from our perspective |

H. Any Other Information That May Be Useful

Please provide any other information concerning your arrangements that may be of benefit for other overseas authorities to be aware of.

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