

Rhode Island Divorce Laws

CHAPTER 15-5 Divorce and Separation

§ 15-5-1 Marriages void or voidable – Civil death or presumption of death. –

Divorces from the bond of marriage shall be decreed in case of any marriage originally void or voidable by law, and in case either party is for crime deemed to be or treated as if civilly dead, or, from absence or other circumstances, may be presumed to be actually dead.

§ 15-5-2 Additional grounds for divorce. –

Divorces from the bond of marriage shall also be decreed for the following causes:

- (1) Impotency;
- (2) Adultery;
- (3) Extreme cruelty;
- (4) Willful desertion for five (5) years of either of the parties, or for willful desertion for a shorter period of time in the discretion of the court;
- (5) Continued drunkenness;
- (6) The habitual, excessive, and intemperate use of opium, morphine, or chloral;
- (7) Neglect and refusal, for the period of at least one year next before the filing of the petition, on the part of the husband to provide necessaries for the subsistence of his wife, the husband being of sufficient ability; and
- (8) Any other gross misbehavior and wickedness, in either of the parties, repugnant to and in violation of the marriage covenant.

§ 15-5-3 Separation of parties as ground for dissolution – Appeal. –

(a) Whenever, in the trial of any petition for divorce from the bond of marriage or any petition for dissolution of a marriage, it shall be alleged in the petition that the parties have lived separate and apart from each other for the space of at least three (3) years, whether voluntarily or involuntarily, the court shall, upon a finding that the allegation is true, enter a judgment pending final judgment of divorce, which may include provisions for alimony.

(b) Final judgment shall not be entered until the expiration of twenty (20) days after entry of the judgment pending final judgment or, if the time for taking an appeal has been extended pursuant to Rule 4 of the Rules of Appellate Procedure, Article I, Rule 4 of the Supreme Court Rules, until the expiration of the extended period.

(c) Final judgment may be entered ex parte and in chamber on the suggestion of the prevailing party.

(d) If no final judgment is presented to the court for entry within thirty (30) days next after the expiration of twenty (20) days from the date of decision, after this a final judgment may be entered only in open court and on motion.

(e) Notice of the filing of the motion shall not be required in cases in which the original petition is unanswered.

(f) The taking of an appeal shall operate as a stay of the judgment during the pendency of the appeal. Upon motion and for good cause shown:

(1) The family court may, prior to the filing of a notice of appeal, order that the judgment become final and operative immediately; and

(2) The supreme court may, in the event an appeal is taken, vacate the automatic stay provided under this section.

§ 15-5-3.1 Divorce on grounds of irreconcilable differences. –

(a) A divorce from the bonds of matrimony shall be decreed, irrespective of the fault of either party, on the ground of irreconcilable differences which have caused the irremediable breakdown of the marriage.

(b) In any pleading or hearing for divorce under this section, allegations or evidence of specific acts of misconduct shall be improper and inadmissible, except for the purpose of making a determination pursuant to §§ 15-5-16 and 15-5-16.1, or where child custody is in issue and the

evidence is relevant to establish that parental custody would be detrimental to the child, or at a hearing where it is determined by the court to be necessary to establish the existence of irreconcilable differences.

(c) Upon hearing of an action for divorce under this section, the acts of one party shall not negate the acts of the other nor bar the divorce decree.

§ 15-5-4 Collusion of parties. –

Whenever it appears that the absence, adultery, cruelty, desertion, or other cause of complaint was committed or occasioned by the collusion of the parties, and done or contrived with an intention to procure a divorce, no divorce shall be decreed.

§ 15-5-5 Uncorroborated testimony of complainant. –

Whenever the act or acts giving rise to the cause for divorce are of a nature that the complaining party could not ordinarily produce corroborating testimony, the court may, in its discretion, if it is satisfied of the existence of the cause in question, the proof in other respects being satisfactory, grant the divorce on the testimony of the complaining party alone.

§ 15-5-9 Divorce from bed and board. –

Divorces from bed, board, and future cohabitation, until the parties are reconciled, may be granted for any of the causes for which by law a divorce from the bond of marriage may be decreed, and for other causes which may seem to require a divorce from bed and board; provided, the petitioner is a domiciled inhabitant of this state and has resided in this state for a length of time that, to the court in its discretion, seems to warrant the exercise of the powers in this section conferred. In case of a divorce from bed, board, and future cohabitation, the court may assign to the petitioner a separate maintenance out of the estate or property of the husband or wife, as the case may be, in a manner and of an amount as it may think necessary or proper.

§ 15-5-10 Disposal of certain real estate after filing of complaint. –

At any time after the filing of a complaint for divorce from bed, board, and future cohabitation, and until a decree of reconciliation has been entered, the court, upon the petition of either party seized in his or her own right of real estate in Rhode Island, after notice to the opposing party, after a hearing on the petition, may, if the court finds that justice and the best interests of the party require, enter a decree permitting the party to sell, mortgage, or otherwise dispose of the real estate free of the rights of life estates created by chapter 25 of title 33 of the opposing party. The decree shall contain a description of the real estate sufficient to identify it either by reference to a recorded plat or otherwise, and a certified copy of the decree shall be recorded in the records of land evidence of the city or town in which the real estate is located.

§ 15-5-11 Verification of complaint. –

Every complaint shall be verified by the plaintiff, if of sound mind and of legal age to consent to marriage; otherwise, upon application to the court and after notice to the party in whose name the complaint is filed, the court may allow the complaint to be verified by a resident guardian or next friend.

§ 15-5-12 Domicile and residence requirements. –

(a) No complaint for divorce from the bond of marriage shall be granted unless the plaintiff has been a domiciled inhabitant of this state and has resided in this state for a period of one year next before the filing of the complaint; provided, that if the defendant has been a domiciled inhabitant of this state and has resided in this state for the period of one year next before the filing of the complaint, and is actually served with process, the requirement of this subsection as to domicile and residence on the part of the plaintiff is deemed satisfied and fulfilled. The residence and domicile of any person immediately prior to the commencement of his or her active service as a member of the armed forces or of the merchant marine of the United States, or immediately prior to his or her absence from the state in the performance of services in connection with military

operations as defined in subsection (c) of this section, shall, for the purposes of this section, continue to be his or her residence and domicile during the time of his or her service and for a period of thirty (30) days after this. Testimony to prove domicile and residence may be received through the ex parte affidavit of one witness.

(b) Every word importing the masculine gender only shall be construed in this section to extend to and include females as well as males.

(c) The term "services in connection with military operations" shall be construed in this section to include persons serving with the American Red Cross, the Society of Friends, the Women's Auxiliary Service Pilots, and the United Service Organizations.

§ 15-5-13 Venue. –

(a) All complaints for divorce from the bond of marriage and from bed and board and complaints for relief without commencement of divorce proceedings shall be filed in the county in which the plaintiff is residing, unless the complaint is based upon the residence of the defendant, in which case the complaint shall be filed in Providence County or in the county in which the defendant resides.

(b) All complaints for divorce from the bond of marriage and from bed and board and complaints for relief without commencement of divorce proceedings may be tried and heard in the county in which the plaintiff resides, unless the complaint is based upon the residence of the defendant, in which case the complaint may be heard and tried in Providence County or in the county in which the defendant resides. In the interest of convenience, the court may, with the consent of the chief judge of the family court or any associate justice designated by him or her and the parties, order any such actions transferred to another county.

(c) The chief judge of the family court, or his or her designee, in accordance with the provisions of the Family Court Act, § 8-10-14, may order any complaint for divorce from the bond of marriage and from bed and board and complaints for relief without commencement of divorce proceedings to be transferred to Providence County for trial on the merits should it be determined by the trial judge in the county in which the action was originally brought that the trial would require a minimum of three (3) court days for testimony. Any complaint, which is transferred under this section, shall have priority on the trial calendar in Providence County.

§ 15-5-14 Return day of petitions – Notice – Issuance of process – Time of hearing. –

(a) The court may, by general rule, determine the return day of petitions for divorce and prescribe the notice to be given, within or without the state, on all petitions, and may issue any process that may be necessary to carry into effect all powers conferred upon it in relation to the petitions; and the court may also, by general rule, fix the times, during its session, when all petitions for divorce shall be heard, as they may be filed in Providence, Newport, East Greenwich, or South Kingstown, respectively. These general rules shall, be subject to special orders which the court may make in special cases. Until general rules are made, special order in each case shall be made.

(b) Notwithstanding the provisions of subsection (a) of this section, no petition for divorce or separation shall be in order for hearing until after the expiration of sixty (60) days after the filing of the petition, unless sooner ordered, ex parte, by a justice of the family court. During this period the family counseling service may investigate the circumstances at the discretion of the court, or at the request of either party, counsel the parties, and make recommendations to the court and the parties.

§ 15-5-14.1 Automatic orders in divorce cases. –

(a) Upon the filing of a complaint for divorce, divorce from bed and board, legal separation, annulment, custody or visitation by the plaintiff and upon service of the petition and summons of the defendant or upon waiver and acceptance of service by the parties, the automatic orders shall be effective with regard to the plaintiff upon the signing of the complaint and with regard to the defendant upon service. A copy of the automatic order shall be served with the summons and complaint.

(b) Neither party shall sell, transfer, encumber, conceal, assign, remove or in any way dispose of, without the consent of the other party in writing, or without an order of the court, any property, individually or jointly held by the parties, except in the usual course of business or for customary

and usual household expenses or for reasonable attorneys' fees in connection with this action. Nothing in this section shall be construed to create liability against or affect the validity of the title to real estate of any purchaser of real estate for value when the purchaser acts in good faith and without actual knowledge of the court's order.

(c) Neither party shall incur any unreasonable debts including, but not limited to, further borrowing against any credit line secured by the family residence, further encumbrance of any assets, or unreasonably using credit cards or cash advances against credit or bank cards. Nothing in this section shall be construed to create liability against the creditor under the terms of the original agreement when the creditor acts in good faith and without actual knowledge of the court's order.

(d) Neither party shall permanently remove the minor child or children from the state of Rhode Island without the written consent of the other party or an order of the court.

(e) Neither party shall cause the other party or the children of the marriage to be removed from any medical, hospital and/or dental insurance coverage, and each party shall maintain the existing medical, hospital, and dental insurance coverage in full force and effect.

(f) Neither party shall change the beneficiaries of any existing life insurance policies, and each party shall maintain the existing life insurance, automobile insurance, homeowner's or renter's insurance policies in full force and effect.

(g) If the parties are living together on the date of service of these orders, neither party may deny the other party use of the current primary residence of the parties, whether it be owned or rented property, without court order. This provision shall not apply if there is a prior, contradictory court order.

(h) If the parties share a child or children, a party vacating the family residence shall notify the other party or the other party's attorney, in writing, within forty-eight (48) hours of such move, of an address where the relocated party can receive communication. This provision shall not apply if there is a prior, contradictory court order.

(i) If the parents of the children live apart during the dissolution proceeding, they shall assist their children in having contact with both parties, which is consistent with the habits of the family, personally, by telephone, and in writing unless there is a prior court order.

§ 15-5-15 Orders as to notice. –

Whenever any petition for divorce has been filed or is pending in the family court, and the court is of the opinion that sufficient notice of the pendency of the petition has not, from any cause, been given to the adverse party, the court may order notice or further notice to the adverse party to be given in the manner that the court may prescribe.

§ 15-5-16 Alimony and counsel fees – Custody of children. –

(a) In granting any petition for divorce, divorce from bed and board, or relief without the commencement of divorce proceedings, the family court may order either of the parties to pay alimony or counsel fees, or both, to the other.

(b) In determining the amount of alimony or counsel fees, if any, to be paid, the court, after hearing the witnesses, if any, of each party, shall consider:

(i) The length of the marriage;

(ii) The conduct of the parties during the marriage;

(iii) The health, age, station, occupation, amount and source of income, vocational skills, and employability of the parties; and

(iv) The state and the liabilities and needs of each of the parties.

(2) In addition, the court shall consider:

(i) The extent to which either party is unable to support herself or himself adequately because that party is the primary physical custodian of a child whose age, condition, or circumstances make it appropriate that the parent not seek employment outside the home, or seek only part-time or flexible-hour employment outside the home;

(ii) The extent to which either party is unable to support herself or himself adequately with consideration given to:

(A) The extent to which a party was absent from employment while fulfilling homemaking responsibilities, and the extent to which any education, skills, or experience of that party have become outmoded and his or her earning capacity diminished;

(B) The time and expense required for the supported spouse to acquire the appropriate education or training to develop marketable skills and find appropriate employment;

(C) The probability, given a party's age and skills, of completing education or training and becoming self-supporting;

(D) The standard of living during the marriage;

(E) The opportunity of either party for future acquisition of capital assets and income;

(F) The ability to pay of the supporting spouse, taking into account the supporting spouse's earning capacity, earned and unearned income, assets, debts, and standard of living;

(G) Any other factor which the court expressly finds to be just and proper.

(c) For the purposes of this section, "alimony" is construed as payments for the support or maintenance of either the husband or the wife.

(2) Alimony is designed to provide support for a spouse for a reasonable length of time to enable the recipient to become financially independent and self-sufficient. However, the court may award alimony for an indefinite period of time when it is appropriate in the discretion of the court based upon the factors set forth in subdivision (b)(2)(ii)(B). After a decree for alimony has been entered, the court may from time to time upon the petition of either party review and alter its decree relative to the amount and payment of the alimony, and may make any decree relative to it which it might have made in the original suit. The decree may be made retroactive in the court's discretion to the date that the court finds that a substantial change in circumstances has occurred; provided, the court shall set forth in its decision the specific findings of fact which show a substantial change in circumstances and upon which findings of facts the court has decided to make the decree retroactive. Nothing provided in this section shall affect the power of the court as subsequently provided by law to alter, amend, or annul any order of alimony previously entered. Upon the remarriage of the spouse who is receiving alimony, the obligation to pay alimony shall automatically terminate at once.

(d) In regulating the custody of the children, the court shall provide for the reasonable right of visitation by the natural parent not having custody of the children, except upon the showing of cause why the right should not be granted. The court shall mandate compliance with its order by both the custodial parent and the children. In the event of noncompliance, the noncustodial parent may file a motion for contempt in family court. Upon a finding by the court that its order for visitation has not been complied with, the court shall exercise its discretion in providing a remedy, and define the noncustodial parent's visitation in detail. However, if a second finding of noncompliance by the court is made, the court shall consider this to be grounds for a change of custody to the noncustodial parent.

(2) In regulating the custody and determining the best interests of children, the fact that a parent is receiving public assistance shall not be a factor in awarding custody.

(3) A judicial determination that the child has been physically or sexually abused by the natural parent shall constitute sufficient cause to deny the right of visitation. However, when the court enters an order denying visitation under this section, it shall review the case at least annually to determine what, if any, action the parent has taken to rehabilitate himself or herself and whether the denial of visitation continues to be in the child's best interests.

(4) The court may order a natural parent who has been denied the right of visitation due to physical or sexual abuse of his or her child to engage in counseling. The failure of the parent to engage in counseling, ordered by the court pursuant to this section, shall constitute sufficient cause to deny visitation.

(e) In all hearings regarding denial of visitation, the court shall make findings of fact.

(f) This chapter does not affect the right of the family court to award alimony or support pendente lite.

(g) Notwithstanding the provisions of this section and § 15-5-19, the court, when making decisions regarding child custody and visitation, shall consider evidence of past or present domestic violence. Where domestic violence is proven, any grant of visitation shall be arranged so as to best protect the child and the abused parent from further harm.

(2) In addition to other factors that a court must consider in a proceeding in which the court has made a finding of domestic or family violence, the court shall consider as primary the safety and well-being of the child and of the parent who is the victim of domestic or family violence. The court shall also consider the perpetrator's history of causing physical harm, bodily injury or assault to another person.

(3) In a visitation or custody order, as a condition of the order, the court may:

(i) Order the perpetrator of domestic violence to attend and successfully complete, to the satisfaction of the court, a certified batterer's intervention program;

- (ii) Order the perpetrator to attend a substance abuse program whenever deemed appropriate;
 - (iii) Require that a bond be filed with the court in order to ensure the return and safety of the child;
 - (iv) Order that the address and telephone number of the child be kept confidential;
 - (v) Order an exchange of the child to occur in a protected setting, or supervised by another person or agency; provided that, if the court allows a family or household member to supervise visitation, the court shall establish conditions to be followed during visitation;
 - (vi) Order the perpetrator of domestic violence to abstain from possession or consumption of alcohol or controlled substances during the visitation; and
 - (vii) Impose any other condition that is deemed necessary to provide for the safety of the child, the victim of domestic violence, or other family or household member.
- (4) "Domestic violence" means the occurrence of one or more of the following acts between spouses or people who have a child in common:
- (i) Attempting to cause or causing physical harm;
 - (ii) Placing another in fear of imminent serious physical harm;
 - (iii) Causing another to engage involuntarily in sexual relations by force, threat of force, or duress.
- (5) In every proceeding in which there is at issue the modification of an order for custody or visitation of a child, the finding that domestic or family violence has occurred since the last custody determination constitutes a prima facie finding of a change of circumstances.
- (6) The fact that a parent is absent or relocates because of an act of domestic or family violence by the other parent shall not weigh against the relocating or absent parent in determining custody and visitation.

§ 15-5-16.1 Assignment of property. –

- (a) In addition to or in lieu of an order to pay spousal support made pursuant to a complaint for divorce, the court may assign to either the husband or wife a portion of the estate of the other. In determining the nature and value of the property, if any, to be assigned, the court after hearing the witnesses, if any, of each party shall consider the following:
- (1) The length of the marriage;
 - (2) The conduct of the parties during the marriage;
 - (3) The contribution of each of the parties during the marriage in the acquisition, preservation, or appreciation in value of their respective estates;
 - (4) The contribution and services of either party as a homemaker;
 - (5) The health and age of the parties;
 - (6) The amount and sources of income of each of the parties;
 - (7) The occupation and employability of each of the parties;
 - (8) The opportunity of each party for future acquisition of capital assets and income;
 - (9) The contribution by one party to the education, training, licensure, business, or increased earning power of the other;
 - (10) The need of the custodial parent to occupy or own the marital residence and to use or own its household effects taking into account the best interests of the children of the marriage;
 - (11) Either party's wasteful dissipation of assets or any transfer or encumbrance of assets made in contemplation of divorce without fair consideration; and
 - (12) Any factor which the court shall expressly find to be just and proper.
- (b) The court may not assign property or an interest in property held in the name of one of the parties if the property was held by the party prior to the marriage, but may assign income which has been derived from the property during the term of the marriage, and the court may assign the appreciation of value from the date of the marriage of property or an interest in property which was held in the name of one party prior to the marriage which increased in value as a result of the efforts of either spouse during the marriage. The court also shall not assign property or an interest in property which has been transferred to one of the parties by inheritance before, during, or after the term of the marriage. The court shall not assign property or an interest in property which has been transferred to one of the parties by gift from a third party before, during, or after the term of the marriage.
- (c) The assignment of property, if any, to be made shall precede the award of alimony, since the needs of each party will be affected by the assignment of property, and once made in a final decree shall be final, subject only to any right of appeal which the parties may have. Any assignment made by the family court shall be regarded as a judgment for debt so that suit may be brought or

execution may issue on the debt for the property due and undelivered, or the amount due and unpaid to be shown by affidavits of the person entitled to the property and the attorney of record of the person, the executions to run against the goods and chattels of the husband and wife, as the case may be; and the court may make all necessary orders and decrees concerning the suits or executions.

§ 15-5-16.1.1 Deferment of sale of home. –

(a) As used in this section, the following words and terms have the following meanings unless the context indicates another or different meaning or intent:

(1) "Custodial parent" means a party awarded physical custody of a child.

(2) "Deferred sale of home order" means an order that temporarily delays the sale and awards the temporary exclusive use and possession of the family home to a custodial parent of minor children, or children for whom support is authorized under this chapter, whether or not the custodial parent has sole or joint custody, in order to minimize the adverse impact of divorce on the welfare of the children.

(3) "Resident parent" means a party who has requested or who has already been awarded a deferred sale of home order.

(b) In any case in which one of the parties has requested a deferred sale of home order pursuant to this section, the court shall first determine whether it is economically feasible to maintain the payments of any note secured by a mortgage or other liens, property taxes, or insurance for the home during the period the sale of the home is deferred. In making this determination, the court shall consider the resident parent's income, the availability of spousal support, child support, or both spousal and child support, and any other sources of funds available to make those payments. The intent in requiring this determination is to avoid defaults on the payments of notes and resulting foreclosures, to avoid inadequate insurance coverage, to prevent deterioration of the condition of the family home, and to prevent any other circumstances which would jeopardize both parents' equity in the home. After making the determination that it is economically feasible to consider ordering a deferred sale of the family home, the court in exercising its discretion to grant or deny a deferred sale of home order, shall consider whether it is in the best interest of the child or children.

(c) Upon a determination pursuant to subsection (b) of this section that a deferred sale of home order is indicated in order to minimize the adverse impact of divorce on the child, the court may make such an order. The order shall include the duration of the order, may include the legal description and assessor's plat and lot number of the real property which is subject to the order, and may be recorded in the office of the registry of deeds of the city or town in which the real property is located.

(d) The court may make an order specifying the parties' respective responsibilities for the payment of the costs of routine maintenance and capital improvements.

(e) Except as otherwise agreed to by the parties in writing, the following shall apply:

(1) A deferred sale of home order may be modified or terminated at any time at the discretion of the court.

(2) If the party awarded the deferred sale of home order remarries, or if there is otherwise a change in circumstances affecting the determinations made pursuant to subsection (b) of this section or affecting the economic status of the parties or the children on which the award is based, a rebuttable presumption, affecting the burden of proof, is created that further deferral of the sale is no longer an equitable method of minimizing the adverse impact of the divorce on the children.

(f) In making an order pursuant to this section, the court shall reserve jurisdiction to determine any and all issues that arise with respect to the deferred sale of home order including, but not limited to, the maintenance of the home and the tax consequences to each party.

§ 15-5-16.2 Child support. –

(a) In a proceeding for divorce, divorce from bed and board, a miscellaneous petition without the filing of divorce proceedings, or child support, the court shall order either or both parents owing a duty of support to a child to pay an amount based upon a formula and guidelines adopted by an administrative order of the family court. If, after calculating support based upon court established formula and guidelines, the court, in its discretion, finds the order would be inequitable to the child or either parent, the court shall make findings of fact and shall order either or both parents owing a

duty of support to pay an amount reasonable or necessary for the child's support after considering all relevant factors including, but not limited to:

- (1) The financial resources of the child;
- (2) The financial resources of the custodial parent;
- (3) The standard of living the child would have enjoyed had the marriage not been dissolved;
- (4) The physical and emotional condition of the child and his or her educational needs; and
- (5) The financial resources and needs of the non-custodial parent.

(b) The court may, if in its discretion it deems it necessary or advisable, order child support and education costs for children attending high school at the time of their eighteenth (18th) birthday and for ninety (90) days after graduation, but in no case beyond their nineteenth (19th) birthday. In addition, the court may order child support to continue, in the case of a child with a severe physical or mental impairment, until the twenty-first (21st) birthday of the child.

(c) The court may, if in its discretion it deems it necessary or advisable, appoint an attorney or a guardian ad litem to represent the interest of a minor or dependent child with respect to his or her support, custody, and visitation.

(i) In determining whether an appointment should be made, the court shall consider the extent to which a guardian ad litem may assist in providing information concerning the best interest of the child; the age of the child; the wishes of the parents as well as their financial resources; the nature of the proceeding including the level of contentiousness, allegations of child abuse or domestic violence and the risk of harm to the child if a guardian is not appointed; or conflicts of interest between the child and parents or siblings;

(ii) The guardian ad litem shall be appointed from a list of persons properly credentialed pursuant to administrative orders of the chief judge of the family court;

(iii) The court shall enter an order of appointment stating the specific assignment the optional and mandatory duties of the guardian ad litem, the guardian's access to the child and confidential information regarding the child, and a provision for payment of the costs and fees of the guardian ad litem;

(iv) Communications made to a guardian, including those made by a child, are not privileged and may or may not be disclosed to the parties, the court or to professionals providing services to the child or the family;

(v) The guardian ad litem shall meet with the child, conduct an investigation and upon request of the court shall prepare an oral or written report that contains the procedural background of the case, identification of all persons interviewed and other sources of information, a statement of the child's emotional, medical, educational and social service needs, the child's wishes and other factors relevant to the court's determination regarding the best interests of the child;

(vi) Any written report of the guardian ad litem shall be marked as a full exhibit in the proceedings, subject to cross-examination;

(vii) If the guardian ad litem requests confidential health care information and consent is withheld, he or she shall apply to the court for leave to obtain such information after compliance with § 5-37.3-6.1;

(viii) The guardian ad litem shall be given notice of and should appear at all proceedings in family court that affect the interests of the child;

(ix) A person serving as a guardian ad litem under this section acts as the court's agent and is entitled to quasi-judicial immunity for acts performed within the scope of the duties of the guardian ad litem;

(x) The chief judge of the family court shall issue, through administrative orders, rules governing the appointment and performance of guardians ad litem in domestic proceedings.

(2) After a decree for support has been entered, the court may from time to time upon the petition of either party review and alter its decree relative to the amount of support and the payment of it, and may make any decree relative to it which it might have made in the original suit. The decree may be made retroactive in the court's discretion only to the date that notice of a petition to modify was given to the adverse party if the court finds that a substantial change in circumstances has occurred; provided, that the court shall set forth in its decision the specific findings of fact which show a substantial change in circumstances and upon which findings of facts the court has decided to make the decree retroactive.

(d) In a proceeding to enforce a child support order, or a spousal support order for a custodial parent having custody of a minor child, the court or its magistrate may assign to the obligee such tangible personal property of the obligor that will be sufficient to satisfy the child or spousal support arrearage owed. The court or its magistrate, after a hearing, shall establish the amount of the child or spousal support arrearage, and the nature and value of the tangible personal property.

To effect the assignment, the court or its magistrate may order the obligor to execute and deliver the documents of title which may be necessary to complete the transfer of title to the property, and may order the obligor to deliver possession of the property to the obligee. Whenever the obligor fails to comply with the order assigning the property, the order of assignment shall be regarded as a judgment vesting title to the property in the obligor as fully and completely as if the obligor had executed and delivered the documents of title.

(2) Any order for child support issued by the family court shall contain a provision requiring either or both parents owing a duty of support to a child to obtain health insurance coverage for the child when coverage is available to the parent or parents through their employment without cost or at a reasonable cost. "Reasonable cost" shall be defined in accordance with guidelines adopted by administrative order of the family court in conjunction with the child support guidelines.

(3) Any existing child support orders may be modified in accordance with this subsection unless the court makes specific written findings of fact that take into consideration the best interests of the child and conclude that a child support order or medical order would be unjust or inappropriate in a particular case.

(4) In addition, the national medical support notice shall be issued with respect to all orders issued, enforced, or modified on or after October 1, 2002, in accordance with chapter 29 of title 15. The notice shall inform the employer of provisions in the child support order, for health care coverage for the child, and contain instructions on how to implement this coverage. In lieu of the court ordering the non-custodial parent to obtain or maintain health care coverage for the child, the court may order the non-custodial parent to contribute a weekly cash amount towards the medical premium for health care coverage paid by the state of Rhode Island and/or the custodial parent. The method to determine a reasonable weekly amount shall be addressed in the family court administrative order pertaining to the child support guidelines.

(e) In a proceeding to establish support, the court in its discretion may, after opportunity for a hearing, issue a temporary order for child support payable into the registry of the court and to be held pending entry of judgment. In the event of a final adjudication requiring no payment or payments in an amount less than those payments which have been made pursuant to a temporary order under this section, the defendant shall be entitled to a refund of all or a portion of the amounts paid.

(f) In any proceeding to establish support, or in any case in which an obligor owes past due support, for a child or children receiving public assistance pursuant to chapter 5.1 of title 40, the court or its magistrate, upon a finding that an able bodied absent parent obligor is unemployed, underemployed or lacks sufficient income or resources from which to make payment of support equal to the public assistance payment for the child or children, or is unable to pay the arrearages in accordance with a payment plan, may order that parent to perform unpaid community service for at least twenty (20) hours per week through community service placements arranged and supervised by the department of human services and/or the division of taxation within the department of administration or to participate in any work activities that the court deems appropriate. The performance of community service shall not be a basis for retroactive suspension of arrears due and owing.

(g) In any proceeding to establish support for a minor child whose adjudicated parent is a minor (minor-parent), the court or its magistrate may order a grandparent of the minor child to reimburse the department of human services in an amount not to exceed the total amount of cash assistance benefits paid to or for the minor child pursuant to chapter 5.1 of title 40 until the minor-parent reaches the age of eighteen (18), less any payment made to the department by the minor parent.

(2) The obligation of reimbursement for the minor child shall be the joint and several responsibility of the minor parent and the grandparent(s) until the minor parent reaches the age of eighteen (18); provided, that each joint obligor shall have a right of contribution against each joint obligor, which right shall be enforceable by an action in the family court.

(h) All support orders established or modified in the state on or after October 1, 1998, shall be recorded with the Rhode Island family court/department of administration, division of taxation child support computer enforcement system, which maintains the official registry of support orders entered in accordance with applicable administrative orders issued by the Rhode Island family court. The support order shall be recorded whether or not services are being provided under the IV-D state plan.

(2) The obligee to a paternity or child support proceeding shall be required to file with the family court, upon the entry of the order, the appropriate form as provided by family court which includes the full name of the parties, residential and mailing address, telephone number, drivers license

number, social security number and the name, address and telephone number of the employer. The form shall also include the full order amount and date and amount of arrearages if any, the name of the child(ren), their date of birth, address and social security number and any other information as required by administrative order.

(3) After this, each party is required to file an amended form whenever any of the information contained on the original form has been changed in any way, within ten (10) days of the change. The information shall be entered in the child support enforcement computer system within five (5) business days of receipt of the amended form.

(i) In any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the court may deem state due process requirements for notice and service of process to be met with respect to the party, upon service by first class mail or, where appropriate, by service as specified in the Rhode Island rules of procedure for domestic relations for the Family Court of Rhode Island, of written notice to the most recent residential or employer address of record.

§ 15-5-16.2.1 Credit rating. –

Credit bureaus are required to take into consideration a non-custodial parent's child support obligations and his or her delinquencies in this regard, and these delinquencies shall be verified by either the court or by the bureau of family support.

§ 15-5-16.2.2 Service of court papers at work. –

No employer in this state is permitted to refuse or obstruct the service of family court process relating to child or spousal support upon an employee at the place of employment and the service shall not be grounds for dismissal of the employee. The employer may designate an area where the service may be effected.

§ 15-5-16.2.3 Continuances – Compensation for lost wages. –

In any matter related to child support or support for a custodial parent having custody of a minor child, except when a continuance is mutually agreed upon, the court may, in its discretion, order a party requesting a continuance to compensate the other party for wages lost as a result of court attendance.

§ 15-5-16.2.4 Retroactive modification of child support. –

Notwithstanding the provisions of § 15-5-16.2, the court, in its discretion, may modify a child support order retroactively only to the date that notice of a petition to modify was given to the adverse party if it finds that a substantial change in circumstances has occurred. The court shall set forth in its decision the specific findings of fact which show a substantial change in circumstances and upon which findings of fact the court has decided to make its order of modification retroactive. The court, in its discretion, may for good cause shown suspend payment of child support arrearages until there is a finding by the court of financial ability to make payment on arrearages; provided, that incarceration for nonpayment of child support shall not constitute good cause to suspend payment of child support or child support arrearages.

§ 15-5-16.3 Allowance regarded as judgment for debt. –

Any allowance or order made by the family court pursuant to §§ 15-5-16 and 15-5-16.2 shall be regarded as a judgment for debt so that suits may be brought or executions may issue on it for amounts due and unpaid, from time to time, to be shown by affidavits of the person entitled to the amounts due and the attorney of record of the person, the executions to run against the goods and chattels of the husband or wife, as the case may be; and the court may make all necessary orders and decrees concerning the suits or executions, and the court at any time may alter, amend, and annul for sufficient cause, after notice to the interested parties.

§ 15-5-16.4 Judgment assigning real property – Effect. –

Whenever the assignment of real property is ordered by the family court pursuant to § 15-5-16.1 and the court directs that a deed, conveyance, or release of any real estate or interest in real estate shall be made, the judgment shall create an equitable right to its enforcement, subject to the provisions for recording of notice in chapter 13 of title 34, in the party entitled to the assignment by judgment; and if the judgment has not been complied with at the time the judgment of divorce becomes final and the judgment is subsequently recorded in the manner provided for in chapter 13 of title 34, then the judgment shall operate to vest title to the real estate or interest in the real estate in the party entitled to it by the judgment as fully and completely as if the deed, conveyance, or release had been duly executed by the party directed to make it.

§ 15-5-16.5 Interest on arrearages. –

Interest at the rate of twelve percent (12%) per annum on any support debt due or owing, child or spousal support, shall be assessed unless the responsible party shall, for good cause shown, be relieved of the obligation to pay interest by the family court.

§ 15-5-16.6 Security, bond, or guarantee to secure payment of overdue support. –

(a) In a proceeding to enforce overdue support, as defined in subsection (b) of this section, the court or its magistrate, after a hearing and a finding of overdue support, may require an obligor parent to give security, post a bond, or give some other guarantee to secure payment of overdue support; the security, bond, or guarantee is to be in any amount, for any term, and upon any conditions that the court or magistrate shall deem necessary or advisable. The court may order that the security, bond, or other guarantee be deposited into the registry of the family court. The obligor parent shall be served with the notice of any proceeding under this section and the notice shall state the procedures to contest the action.

(b) For purposes of this section, "overdue support" means a delinquency pursuant to an obligation determined under a court order, or an order of an administrative process established under the law of any state, for:

- (1) Support and maintenance of a minor child, which is owed to or on behalf of the child; or
- (2) Support and maintenance of the obligor parent's spouse or former spouse with whom the child is living.

§ 15-5-16.7 Review of child support orders. –

(a) For purposes of this section, a "child support order" means a child support order enforceable pursuant to the Rhode Island state plan for support enforcement as further defined in § 15-16-5(a).

(b) Every three (3) years from the date the child support order was established or modified, and upon the request of either party, or if there is an assignment under § 40-6-9 upon the request of the state, the court shall review and, if appropriate, adjust the order in accordance with the child support guidelines if the amount of the child support award under the order differs from the amount that would be awarded in accordance with the guidelines. The adjustment of the order shall be made under this subsection without a requirement for proof or showing of a change in circumstances. The periodic review of child support orders as provided in this subsection is in addition to the opportunity for review provided in § 15-5-16.2(c).

(c) In the case of a request for a review before the three (3) year period, the amount of support may, in the court's discretion, be modified if the court finds that a substantial change in circumstances has occurred in accordance with § 15-5-16.2. The court, in its discretion, may modify a child support order retroactively only to the date that notice of a petition to modify was given to the adverse party if the court finds that a substantial change in circumstances has occurred; provided, that the court shall set forth in its decision the specific findings of fact which show a substantial change in circumstances and upon which findings of facts the court has decided to make the decree retroactive.

§ 15-5-17 Change of name. –

Any woman, to whom a divorce from the bond of marriage is decreed, shall, upon request, be authorized by the decree to change her name, notwithstanding that there may be children born of

the marriage, and subject to the same rights and liabilities as if her name had not been changed. This statute is in addition to, and not in abrogation of, the common law.

§ 15-5-18 Interlocutory decrees and injunctions. –

After the filing and during the pendency of any petition for divorce, the court may make any interlocutory decrees and grant any temporary injunctions that may be necessary until a hearing can be had before the court.

§ 15-5-19 Restraining orders – Treatment for harmed or menaced spouse – Custody of children – Allowances – Alimony and counsel fees. –

(a) Whenever either party to a marriage is insane, or whenever a cause is in existence which is, or if continued, will be a cause for divorce, the family court, upon the original petition of one of the parties, or upon the filing of a complaint for divorce, may restrain either party from interfering with the personal liberty of the other, and may restrain either party from maliciously causing or attempting to cause bodily harm to the other, with or without a dangerous weapon, and may restrain either party from placing, by physical menace or threat of physical menace, the other in fear of imminent bodily injury; and upon a finding by the court that any party has been so harmed, menaced, or threatened the court may prescribe treatment including, but not limited to, out-patient counseling, and may regulate the custody and provide for the education, maintenance, and support of the children, if any, and may, in its discretion, order one of the parties to pay alimony and/or counsel fees to the other pursuant to § 15-5-16, which allowance shall not be regarded as a judgment for debt until the court, which made the order for maintenance and support of the children, alimony for one or the other of the parties, and counsel fees, has adjudicated in appropriate proceedings what, if anything, is due under the order. Suits may be brought or executions may issue for amounts due and unpaid, the executions to run against the goods and chattels of the husband or wife, as the case may be; the court may make all necessary orders and decrees concerning the suits or executions and at any time may alter, amend, or annul for sufficient cause, after notice to the interested parties.

(b) Any violation of the protective orders mentioned in subsection (a) of this section shall subject the defendant to being found in contempt of court.

(2) The contempt order shall not be exclusive and shall not preclude any other available civil or criminal remedies.

(c) Any violation of a restraining order under this chapter protecting a person against bodily harm and/or against threat of imminent bodily injury shall be a misdemeanor which shall be punished by a fine of no more than one thousand dollars (\$1,000) or by imprisonment for not more than one year, or both. The penalties for violation of this section shall also include the penalties provided in § 12-29-5. The district court has criminal jurisdiction over violations of restraining orders protecting the person of the complainant against bodily harm and/or against the threat of imminent bodily injury.

(d) In regulating the custody of the children, the court shall provide for the reasonable right of visitation by the natural parent not having custody of the children except upon the showing of cause as to why the right should not be granted. The court shall mandate compliance with its orders by both the custodial parent and the children. In the event of noncompliance, the non-custodial parent may file a motion for contempt in family court. Upon a finding by the court that its order for visitation has not been complied with, the court shall exercise its discretion in providing a remedy, and define the non-custodial parent's visitation in detail. However, if a second finding of noncompliance by the court is made, the court shall consider this to be grounds for a change of custody to the non-custodial parent.

(e) In all hearings regarding denial of visitation, the court shall make findings of fact.

(f) This chapter does not affect the right of the family court to award alimony or support pendente lite.

§ 15-5-19.1 Restraining orders – Notification of local authorities – Notice of penalty. –

(a) The clerk of the family court may, if requested by the prevailing party's attorney, immediately forward a certified copy of any restraining order issued pursuant to § 15-5-19(a) to the police department of the municipality in which the prevailing party is domiciled, and the police department shall retain the restraining order on file for at least one year.

(2) The clerk shall also provide the prevailing party and/or his or her attorney with two (2) certified copies of any restraining order issued pursuant to § 15-5-19.

(b) Each restraining order issued under this chapter, including a temporary ex parte order, shall be set out on a separate piece of paper and shall have the following statement printed in bold faced type or in capital letters:

A PERSON WHO VIOLATES THIS ORDER MAY BE GUILTY OF A MISDEMEANOR AND MAY BE PUNISHED BY A FINE OF AS MUCH AS ONE THOUSAND DOLLARS (\$1,000) OR BY CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR AND MAY BE ORDERED TO ATTEND COUNSELING.

(c) The clerk of the family court may have a certified copy of any order issued under this chapter forwarded immediately to the law enforcement agency designated by the plaintiff. The clerk shall also provide the plaintiff with two (2) certified copies of any order issued under this chapter.

§ 15-5-20 Service on or notice to defendant. –

No person shall be entitled to a divorce from the bond of marriage unless the defendant, in accordance with rules adopted by the court, has been personally served with process if within the state, or with personal notice duly authenticated if out of the state, or unless the defendant has entered an appearance in the cause; or unless it appears to the satisfaction of the court that the petitioner does not know the address nor the residence of the defendant and has not been able to ascertain either after reasonable and due inquiry and search for six (6) months, in which case the court, or in vacation a judge of the court, may authorize notice by publication of the pendency of the petition for divorce to be given in a manner provided by law; provided, that in cases where indigence has been established, the court may, as an alternative to publication and upon motion and in appropriate circumstance, authorize an alternate means of service of process in the manner provided by Rule 4 of the Family Court Rules of Procedure for Domestic Relations.

§ 15-5-21 Service by publication – Jurisdiction acquired. –

After service of process on any petition, whether by citation or by publication, where the adverse party has no attorney of record and cannot be found for the service of citation or notice of any motion or any other matter arising in the course of the proceedings, the court may order service by publication and the service shall have the same effect as personal service within the state on the party; provided, that the service shall not, in the case of an adverse party who has not appeared either in person or by attorney, and the petition against him or her was served by publication, authorize the entry of any decree or order binding the party personally to pay any sum of money or to do any other affirmative act.

§ 15-5-22 Trial required – Collusion. –

No divorce from the bond of marriage shall be granted solely upon default nor solely upon admissions by the pleadings, except upon trial before the court in open session; nor shall the divorce be granted where the court is satisfied that there has been any collusion or corrupt conduct by the parties, or either of them, in regard to the proceedings to obtain the divorce.

§ 15-5-23 Remarriage – Final decree. –

After final decree for divorce from the bond of marriage either party may marry again; but no decree for a divorce shall become final and operative until three (3) months after the trial and decision. Final decree from the bond of marriage may be entered ex parte and in chambers on the suggestion of the prevailing party at any time within thirty (30) days next after the expiration of three (3) months from the date of decision. After the expiration of the thirty (30) days, final decrees may be entered only in open court and on motion. Notice of the filing of the motion shall not be required in cases in which the original petition is unanswered.

§ 15-5-24 Support – Wage assignment procedures. –

(a) With respect to a support order issued, enforced, or modified on or after January 1, 1994, the income of an obligor shall be subject to immediate income withholding under chapter 16 of this title

on the effective date of the order, regardless of whether support payments by the obligor are in arrears; provided, that the income of the obligor shall not be subject to immediate income withholding: (1) if a judge or magistrate of the family court finds that there is good cause not to require immediate income withholding, or (2) if the obligor and obligee (and the department in the case of an obligee subject to an assignment of support rights under § 40-6-9) enter into a written agreement or the family court enters an order which provides for an alternative agreement for the timely payment of support due under the support order. In no event shall the court order wage withholding payable to the obligee directly from any wage withholding agent.

(b) The obligor shall be given the notice by way of the pleadings or otherwise, that his or her income is subject to immediate income withholding as provided in subsection (a) of this section, that the maximum amount of income to be withheld may not exceed the limit permitted under § 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)), and that he or she may contest immediate income withholding, and assert any defenses, exceptions or exemptions to which he or she may be entitled, at a hearing before a judge or magistrate of the family court.

(c) An immediate income withholding order issued under this section shall be filed by the obligee or the department of administration, division of taxation, child support enforcement with the clerk of the family court and shall be subject to the provisions of §§ 15-16-9 – 15-16-12.

(d) A wage withholding made under this section shall be binding upon a wage withholding agent one week after service upon the wage withholding agent of the wage withholding by personal service or by registered or certified mail, until further order of the court. For purposes of this chapter, the term "employer" includes the state and federal governments and the political subdivisions of the state. The wage withholding agent shall remit to the clerk of the family court, or other designated remittee, within seven (7) days of the date of withholding, the amount withheld pursuant to the wage withholding and the wage withholding agent shall specify the date and amount of each withholding included in the remittance, the social security number of the obligor, the child support account number, the employee's name and any other information as required if electronic transfer is utilized. The wage withholding agent may combine withheld amounts from two (2) or more obligors into a single payment, provided that the withholding agent separately identifies the individual obligors and the amount attributable to each obligor.

(e) The wage withholding agent may not use the wage withholding as a basis for the discharge of an employee or for any disciplinary action against the employee.

(f) The wage withholding agent must notify the clerk of the family court, in writing, of the termination of the obligor employee's employment within ten (10) days of termination. Notice must include the name and address of the obligor employee's new employer if known.

(g) A wage withholding under this section shall have priority over any attachment, execution, garnishment, or wage assignment unless otherwise ordered by the court. A wage withholding under this section shall not be subject to any specific or general statutory exemption or limitation prohibiting levy, execution, assignment, or attachment process or limiting the amount subject to assignment levied against the income of the obligor employee except as provided by federal law.

(h) The family court is authorized and directed to promulgate rules, regulations, and forms reasonably calculated to apprise the obligor of exemptions available to him or her under the law with respect to a family court wage withholding and the procedure for asserting these exemptions.

(i) A wage withholding agent may deduct two dollars (\$2.00) from the obligor's remaining income for each payment made pursuant to a wage withholding under this section to cover the wage withholding agent's expenses involved in the wage withholdings.

(j) The obligor shall pay all costs involved in the wage withholdings.

(k) The justices or magistrate(s) of the family court shall enter, when appropriate, an order for payment of reasonable counsel fees for the prosecution of the wage withholdings.

(l) Any judgment or order of support issuing from a court of competent jurisdiction of any state shall have the same force and effect as if the judgment or order issued from the Rhode Island family court.

(m) For purposes of this section and §§ 15-5-25 and 15-5-26, the following definitions apply:

(1) "Income" includes amounts paid or payable to an obligor as:

(i) Compensation paid or payable for personal services whether denominated as wages, salary, commission, bonus, or otherwise, whether taxable or not taxable, and specifically including periodic payments pursuant to pension or retirement programs or insurance policies of any type; and

(ii) Benefit payments or other similar compensation paid or payable to the obligor by or through a department, agency, or political subdivision of the state or federal government, or by an insurance company, including unemployment compensation benefits, workers' compensation

benefits, and temporary disability benefits, except where garnishment or attachment of such benefit payments is prohibited by federal law.

(2) "Wage withholding agent" means any person, firm, partnership, corporation, association, trust, federal or state agency, department, or political subdivision, paying or obligated to pay income, as defined in this subsection, to an obligor of court ordered child support.

§ 15-5-24.1 Visitation rights of grandparents. –

The court may, upon miscellaneous petition of a grandparent whose child is deceased, grant reasonable visitation rights of the grandchild or grandchildren to the grandparent, whether or not any divorce or custody proceedings were ever commenced, and may issue all necessary orders to enforce visitation rights.

§ 15-5-24.2 Visitation rights of grandparents whose child is denied or has failed to exercise rights. –

In any divorce proceeding the family court may, upon petition of a grandparent whose grandchild is a child of the marriage, grant reasonable visitation rights of the grandchild to the grandparent. The court may issue all necessary orders to enforce visitation rights. Once a grandparent has been granted reasonable visitation rights, notice of any petition and/or order providing for a change in custody or visitation shall be provided to the grandparent.

§ 15-5-24.3 Visitation rights – Grandparents and siblings. –

(a) The family court, upon miscellaneous petition of a grandparent for visitation rights with the petitioner's grandchild, and upon notice to both parents of the child and notice to the child, and after a hearing on the petition, may grant reasonable rights of visitation of the grandchild to the petitioner.

(2) The court, in order to grant the petitioner reasonable rights of visitation, must find and set forth in writing the following findings of fact:

(i) That it is in the best interest of the grandchild that the petitioner is granted visitation rights with the grandchild;

(ii) That the petitioner is a fit and proper person to have visitation rights with the grandchild;

(iii) That the petitioner has repeatedly attempted to visit his or her grandchild during the ninety (90) days immediately preceding the date the petition was filed and was not allowed to visit the grandchild during the ninety (90) day period as a direct result of the actions of either, or both, parents of the grandchild;

(iv) That there is no other way the petitioner is able to visit his or her grandchild without court intervention; and

(v) That the petitioner, by clear and convincing evidence, has successfully rebutted the presumption that the parent's decision to refuse the grandparent visitation with the grandchild was reasonable.

(b) The family court, upon miscellaneous petition of, or on behalf of, a sibling(s) for visitation rights with a minor brother(s), and/or step-brother(s), and/or sister(s), and/or step-sister(s) of the sibling(s) and upon notice to both parents of the minor and notice to the minor, and after a hearing on the petition, may grant reasonable rights of visitation of the minor to a sibling(s).

(2) The court, in order to grant a sibling reasonable rights of visitation, must find and set forth in writing the following findings of fact:

(i) That it is in the best interest of the minor that a sibling(s) be granted visitation rights with the minor;

(ii) That the sibling(s) is a fit and proper person to have visitation rights with the minor;

(iii) That the sibling(s) was not allowed to visit the minor during the ninety (90) day period immediately preceding the date the petition was filed as a direct result of the actions of either, or both, parents or guardians of the minor;

(iv) That there is no other way the sibling(s) is able to visit the minor without court intervention; and

(v) That the sibling(s), by clear and convincing evidence, has successfully rebutted the presumption that the parental decision to refuse the visitation with the minor was reasonable.

(c) The court may issue all necessary orders relative to the visitation rights it has granted. Once a petition has been granted, notice of any petition seeking a change in custody or visitation shall be served on the petitioner.

§ 15-5-24.4 Sibling visitation rights. –

The family court, upon miscellaneous petition of a brother, sister, half-brother or half-sister, stepbrother, stepsister, or on behalf of any of those persons by his or her legal guardian, for visitation rights for the petitioner's sibling, half-sibling or stepsibling and upon notice to both parents of the child and notice to the child, and after a hearing on the petition, may grant reasonable rights of visitation of the sibling to the petitioner. The court, in order to grant reasonable rights of visitation, must find and set forth in writing the following findings of fact:

(1) That it is in the best interests of the child that the petitioner is granted visitation rights with the child;

(2) That the petitioner is a fit and proper person to have visitation rights with the child;

(3) That the petitioner has repeatedly attempted to visit his or her sibling, half-sibling or stepsibling during the six (6) months immediately preceding the date the petition was filed and was not allowed to visit the child during the six (6) month period as a direct result of the actions of either, or both, parents of the child;

(4) There is no other way that the petitioner is able to visit his or her sibling, half-sibling or stepsibling without court intervention; and

(5) That the petitioner, by clear and convincing evidence, has successfully rebutted the presumption that the parent's decision to refuse the petitioner's visitation with the child was reasonable.

(b) The court may issue all necessary orders relative to the visitation rights granted to the petitioner. Once the petitioner has been granted reasonable visitation rights, notice of any petition seeking a change in custody or visitation shall be served on the petitioner.

§ 15-5-24.5 Court ordered visitation rights to certain persons convicted of first degree murder – Prohibited. –

No court shall make an order providing visitation rights to a parent who has been convicted of murder in the first degree of the other parent of the child who is the subject of the order, unless that court first conducts a hearing in order to determine whether the child is of an appropriate age, maturity, intelligence and voluntarily consents to the visitation. No person shall cause, facilitate, or assist a child to visit a parent who has been convicted of murder in the first degree of the other parent of the child without the consent of the child's custodian or legal guardian except as authorized by a court order.

§ 15-5-25 Application for wage withholding – Obligor in arrears. –

(a) In cases where a wage withholding has not been secured pursuant to § 15-5-24, upon application of the child or of any person having a direct interest in the welfare of the child, or any person to whom support is owed pursuant to court order, the court, pursuant to this section and upon a showing that a support payment has not been made in full within fourteen (14) days of its due date, may order a wage withholding agent of the obligor:

(i) To withhold from the obligor's income presently due, and from future income as it becomes due, amounts which shall satisfy the obligor's previous arrearage in support payments, the obligor's obligation to pay support as it accrues in the future, and any attorney's fees that may be awarded in a proceeding under this section;

(ii) To deduct from the balance of the obligor's income a fee of two dollars (\$2.00) to cover the employer's expenses involved in withholding and transmitting the support payment;

(iii) To remit the amount withheld under subsection (a) of this section to the clerk of the family court or other designated remittee entering the order, within seven (7) days of the date of withholding, and to specify the date and amount of each withholding included in the remittance, the social security number of the obligor, the child support account number, the employee's name, and any other information as required if electronic transfer is utilized. The wage withholding agent may combine withheld amounts from two (2) or more obligors into a single payment, provided that the wage withholding agent separately identifies the individual obligors and the amount attributable to each obligor;

(iv) To refrain from dismissing, disciplining, or in any way penalizing the obligor employee on account of the proceeding to collect support, on account of any order or orders entered by the court in the proceeding, and on account of wage withholding agent compliance with the order or orders; and

(v) To notify, in writing, the clerk of the family court entering the order of the termination of the obligor's employment and the name and address, if known, of the obligor's new employer within ten (10) days after termination of employment.

(2) The application may be filed as part of any proceeding brought for failure to make support payments or may be made independently of any other support enforcement action.

(b) Upon the filing of an application for wage withholding the court shall set a time for a hearing. The hearing shall be held within three (3) weeks of the date the application is filed with the court. No wage withholding shall become effective unless the obligor has been given notice, by way of the pleadings or otherwise, of the exemptions to which he or she may be entitled under the law and of the procedure for asserting these exemptions.

(c) The applicant shall then cause to be served on the wage withholding agent a copy of the application, a notice of hearing, and interrogatories to be completed and returned by the wage withholding agent to the court no later than three (3) days prior to the hearing. The interrogatories when completed shall show whether the obligor receives income from or is an employee of the employer, whether the obligor performs work and provides services or makes sales in this state, the present length of employment of the obligor with the wage withholding agent, the present pay period for the obligor, the average earnings of the obligor per pay period, and the name and address of the person, office, or division of the wage withholding agent responsible for the preparation of the obligor's income payments.

(d) The applicant shall also cause to be served on the obligor a copy of the application and a notice of hearing.

(e) Service under this section shall be personally or by mailing by registered or certified mail the documents required to be served.

(f) Any order for wage withholding under this section shall have priority over any attachment, execution, garnishment, or wage assignment unless otherwise ordered by the court. This order shall not be subject to any specific or general statutory exemption or limitation prohibiting levy, execution, assignment, or attachment process or limiting the amount of executions issued against the income of the obligor except as provided by federal law.

§ 15-5-26 Duties and liabilities of employer under income assignment order or order for wage withholding. –

(a) Any wage withholding agent failing to comply with any requirements in §§ 15-5-24 and 15-5-25 may be punished by the court for civil contempt. The court shall first afford the wage withholding agent a reasonable opportunity to purge itself of contempt.

(b) Any wage withholding agent who fails or refuses to deliver income pursuant to an order under §§ 15-5-24 and 15-5-25, when the garnishing agent has had in its possession the income, shall be personally liable for the amount of the income which the wage withholding agent failed or refused to deliver, together with costs, interest, and reasonable attorney's fees.

(c) Any wage withholding agent who dismisses, demotes, disciplines, or in any way penalizes an obligor on account of any proceeding to collect support, on account of any order or orders entered by the court in the proceeding, or on account of the wage withholding agent's compliance with the order or orders, shall be liable to the obligor for all damages, together with costs, interest thereon, and reasonable attorney's fees resulting from the action, and shall be subject to a fine not to exceed one hundred dollars (\$100). The wage withholding agent shall be required to make full restitution to the aggrieved obligor including reinstatements and back pay.

(d) A wage withholding agent may be enjoined by a court of competent jurisdiction from continuing any action in violation of §§ 15-5-24 and 15-5-25.

(e) Any proceeding against a wage withholding agent under this section must be commenced within ninety (90) days after a wage withholding agent's act or failure to act upon which the proceeding is based.

(f) Compliance by a wage withholding agent with an order issued under §§ 15-5-24 and 15-5-25 operates as a discharge of the wage withholding agent's liability to the obligor as to that portion of the obligor's income so affected.

§ 15-5-27 Order for wage withholding – Duration. –

An order for wage withholding under §§ 15-5-24 and 15-5-25 shall remain in effect until modified or terminated by the court.

§ 15-5-28 Judgment or order as lien on property – Duration – Effect. –

(a) A certified copy of any judgment or order which contains a provision adjudging a party to the action in contempt for failure to pay any support payment, or which states an arrearage due on any support payment or payments, may be recorded with the recorder of deeds in any city or town where real estate owned by the obligor may be found, and shall become a lien upon all real property of the obligor owned by the obligor in the city or town at the time of the recording. The division of taxation, child support enforcement shall not be required to pay a recording fee. The lien shall remain in full force and effect unless the lien is discharged by the obligee or his or her attorney or subsequent family court judgment or order as provided in this section.

(b) The certificate of the obligee, or his or her attorney duly signed and notarized, or a certified copy of a judgment or order of the family court which contains a provision that all arrearages have been paid in full, shall, when recorded, be a discharge in full of the land.

(c) If any amount of child support provided in a judgment or order has been directed to be paid to the clerk of the court or to any other office designated by the court pursuant to any other provision of law, and the directive is set forth in the copy of the docketed judgment or order, or in the docket or certified copy of an amended or supplemental order, the certificate shall not affect the lien unless also approved in writing by the clerk or other designated officer.

(d) A lien under this section shall not be dischargeable in bankruptcy.

§ 15-5-29 Mediation proceedings involving custody and/or visitation. –

(a) Where, in any petition for divorce, divorce from bed and board, or relief without the commencement of divorce proceedings, the family court may, as to issues of custody and visitation, direct the parties to participate in mediation in an effort to resolve their differences, the court may order the participation in mediation in a program established by the court.

(b) At its discretion, the court may:

(1) Order mediation under this section prior to trial and postpone trial of the case pending the outcome of the mediation, in which case the issues of custody and visitation shall be tried only upon failure to resolve the issues of custody by mediation;

(2) Order mediation under this section prior to trial and proceed to try the case as to issues other than custody and visitation while the parties are at the same time engaged in the mediation, in which the issue of custody shall be tried separately upon failure to resolve the issues; and

(3) Complete the trial of the case on all issues and order mediation under this section upon the conclusion of the trial, postponing entry of the decree pending outcome of the mediation, in which case the court may enter a temporary decree as to issues other than custody any visitation upon completion of the trial or may postpone entry of any decree until the expiration of the mediation period of agreement of the parties.

(c) Communications made by or to a mediator or between parties in the presence of the mediator as a part of mediation ordered under this section are privileged and are not admissible as evidence in any civil or criminal proceeding.

CHAPTER 15-6 Uniform Divorce Recognition Act

§ 15-6-1 Short title. –

This chapter may be cited as the "Uniform Divorce Recognition Act".

§ 15-6-2 Ex parte divorce in another state between parties resident in this state. –

A divorce from the bonds of matrimony obtained in another jurisdiction in ex parte proceedings shall be of no force or effect in this state, if both parties to the marriage were domiciled in this state at the time that the proceeding for the divorce was commenced.

§ 15-6-3 Prima facie evidence of continued domicile in state. –

Proof that a person obtaining a divorce from the bonds of matrimony in another jurisdiction: (1) was domiciled in this state within twelve (12) months prior to the commencement of the proceeding for divorce, and resumed residence in this state within eighteen (18) months after the date of his or her departure from this state, or (2) at all times after his or her departure from this state and until his or her return maintained a place of residence within this state, shall be prima facie evidence that the person was domiciled in this state when the divorce proceeding was commenced.

§ 15-6-4 Uniformity of construction. –

This chapter shall be interpreted and construed so as to effectuate its general purpose to make uniform the law of those states which enact it.

CHAPTER 15-9 Support of Children

§ 15-9-1 Duty of parent to pay support and maintenance to the agency or person having custody of the child. –

(a) Whenever the department of children, youth and families shall pay for the support and maintenance of any child pursuant to §§ 42-72-13 and 42-72-14, or whenever another department, agency, society, institution, or person having the charge, care, or custody of a child shall pay for the support and maintenance of the child, the court shall order either or both parents owing a duty of support to a child to pay an amount based upon a formula and guidelines adopted by an administrative order of the family court. If, after calculating support based upon court established formula and guidelines, the court, in its discretion, finds the proposed order would be inequitable to the child or either parent, the court shall make findings of fact and shall order either or both parents owing a duty of support to pay an amount reasonable or necessary for the child's support after considering all relevant factors, including, but not limited to:

- (1) The financial resources of the child;
- (2) The financial resources of the custodial parent;
- (3) The standard of living the child would have enjoyed had the marriage not been dissolved;
- (4) The physical and emotional condition of the child and his or her educational needs; and
- (5) The financial resources and needs of the non-custodial parent.

(b) If it deems necessary or advisable, the court may order child support and education costs for children attending high school at the time of their eighteenth (18th) birthday and for ninety (90) days after graduation, but in no case beyond their nineteenth (19th) birthday. In addition, the court may order the support of a child with a severe physical or mental impairment to continue until the twenty-first (21st) birthday of the child.

(c) After a decree for support has been entered and upon the petition of either party, the court may review and alter its decree relative to the amount and payment of support. If the court finds that a substantial change in circumstances has occurred, the decree may be made retroactive to the date that notice of a petition to modify was given to the adverse party. In such a case the court shall set forth in its decision the specific findings of fact which show a substantial change in circumstances and why the decree should be made retroactive.

(d) Any order for child support issued by the family court shall contain a provision requiring either or both parents owing a duty of support to a child to obtain health insurance coverage for the child when such coverage is available to the parent or parents through their employment without cost or at a reasonable cost. "Reasonable cost" shall be defined in accordance with guidelines adopted by administrative order of the family court in conjunction with the child support guidelines.

(e) Any existing child support orders may be modified in accordance with this section unless the court makes specific written findings of fact that take into consideration the best interests of the child and conclude that a child support order or medical order would be unjust or inappropriate in a particular case.

(f) In addition, the national medical support notice shall be issued with respect to all orders issued, enforced, or modified on or after October 1, 2002, in accordance with chapter 29 of this title. The notice shall inform the employer of provisions in the child support order for health care coverage for the child and of the method to implement this coverage. In lieu of the court ordering the non-custodial parent to obtain or maintain health care coverage for the child, the court may order the non-custodial parent to contribute a weekly cash amount towards the medical premium

for health care coverage paid by the state of Rhode Island and/or the custodial parent. The method to determine a reasonable weekly amount shall be addressed in a family court administrative order pertaining to the child support guidelines.

(g) All support orders established or modified in the state on or after October 1, 1998, shall be recorded with the Rhode Island family court/department of administration, division of taxation child support computer enforcement system. The system maintains the official registry of support orders entered in accordance with applicable administrative orders issued by the Rhode Island family court.

(h) In any subsequent child support enforcement action between the parties, upon sufficient showing that a diligent effort has been made to ascertain the location of such a party, the court may allow for notice and service of process to be made by first class mail or by service of written notice to the most recent residential or employer address of record, as specified in the Rhode Island rules of procedure for domestic relations for the Family Court of Rhode Island.

(i) The department of children, youth, and families shall not seek child support for services to the child which are special education services as defined under state and federal law and pursuant to the regulations of the board of regents for elementary and secondary education governing the special education of students with disabilities, section two, I., 1.0-4.11 and 34 C.F.R. Part 300.

§ 15-9-2 Enforceability. –

All duties of support and maintenance, including the duty to pay arrearages, are enforceable by a court proceeding under the provisions of chapter 23 of this title.

§ 15-9-3 Division of taxation within the department of administration as legal representative – Payment of costs. –

(a) In any proceeding under this chapter the division of taxation within the department of administration shall represent the department of children, youth and families.

(b) The division of taxation within the department of administration shall remit to the general treasury the net collections after deducting all reasonable costs and expenses of any action or proceeding under this chapter.

§ 15-9-4 Severability. –

If any provision of this chapter or the application of it to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

§ 15-9-5 Duty of department to parent. –

(a) Prior to filing a claim pursuant to § 15-9-1, the department shall seek the cooperation of the person from whom reimbursement for support and maintenance may be sought.

(b) The department shall inform the person that he or she does not, for good cause, have to cooperate. The department shall explain to the person his or her rights and obligations, including good cause for refusal to cooperate, as set forth in 45 C.F.R. 232.41 et seq.

(c) The department shall promulgate rules, regulations, and procedures to implement this section.

CHAPTER 15-11.1 Full Enforcement of Support Obligations

§ 15-11.1-1 Short title. –

This chapter shall be known and may be cited as the "Rhode Island Full Enforcement of Support Obligations Act".

§ 15-11.1-2 Definitions. –

For the purposes of this chapter:

(1) "Administrator" means the tax administrator for the department of administration, division of taxation or his or her designee.

(2) "Board" means any bureau, board, or commission or other licenser that is affiliated with or is a part of the department of business regulation, and any other state agency, municipality, or licenser that issues a license authorizing a person to engage in a recreational activity, in a business, occupation, profession, industry, or authorizes a person to operate a motor vehicle.

(3) "Compliance with a court order of support" means that the support obligor has accrued no more than ninety (90) days worth of current support no more than ninety (90) days worth of periodic payments due pursuant to a written agreement with the department or as set forth in a court order and/or has obtained or maintained health insurance coverage if required by a court order of support.

(4) "CSE system" means the Rhode Island family court/department of administration, division of taxation, child support enforcement system, which system maintains the official record of support orders and arrearages of all support orders entered upon it in accordance with applicable administrative orders issued by the Rhode Island family court.

(5) "Court order of support" means any judgment or order for the support of dependent children now or subsequently recorded and maintained on the child support enforcement (CSE) system which has been issued by any court of the state or another state, including an order in a final decree of divorce or any judgment or order issued in accordance with an administrative procedure established by state law that affords substantial due process and is subject to judicial review.

(6) "Department" means the department of administration, division of taxation.

(7) "License" means any of the following: a license to operate a motor vehicle, a motor vehicle registration, a license, certification, registration, permit, approval, or other similar document evidencing admission to or granting authority to engage in a profession, occupation, business, industry, or recreational activity.

(8) "Licensee" means any individual holding any of the following: a license to operate a motor vehicle, motor vehicle registration, a license, certification, registration, permit, approval, or other similar document evidencing admission to or granting authority to engage in a profession, occupation, business, industry, or recreational activity.

(9) "Obligor" means any person required to make payments under the terms of a court order of support.

§ 15-11.1-3 Notice. –

(a) The department may serve notice upon a support obligor who is not in compliance with a court order of support that informs the obligor of the department's intention to submit the obligor's name to any appropriate board, state agency, or department as a licensee who is not in compliance with a court order of support.

(b) The notice shall include the address and telephone number of the department's support enforcement office that issues the notice and a statement of the need to obtain a release from that office as provided in § 15-11.1-7. The department shall attach a copy or facsimile of the obligor's court order of support to the notice. Service of the notice must be made by first class mail. The notice must inform the obligor that:

(1) The obligor may request a family court hearing to contest the issue of compliance;

(2) A request for a hearing must be made in writing and must be received by the department within thirty (30) days of the date of the notice;

(3) If the obligor requests a hearing within thirty (30) days of the date of the notice, the department shall stay action to certify the obligor to any board for noncompliance with a court order of support pending a decision after a hearing;

(4) If the obligor does not request a hearing within thirty (30) days of the date of the notice and is not in compliance with a court order of support, the department shall certify the obligor to the appropriate board, state agency, or department for noncompliance with a court order of support;

(5) If the department certifies the obligor to a board for noncompliance with a court order of support, the board, state agency, or department shall suspend the obligor's license and refuse to issue or reissue a license until the obligor provides the board with a release from the department that states the obligor is in compliance with the obligor's support order. A suspension by an agency or a refusal by an agency to reissue, renew, or otherwise extend the license or certificate of authority shall be deemed a final determination;

(6) If the obligor files a motion to modify support with the family court and duly serves the department with notice of the motion to modify, the department shall stay action to certify the obligor to any board for noncompliance with a court order of support; and

(7) The obligor may restore compliance with a court order of support by:

(i) Paying current support; and

(ii) Paying all past due support or, if unable to pay all past due support and a periodic payment for past due support has not been ordered by the court, by making periodic payments in accordance with a written payment agreement with the department which agreement shall then be filed with the family court; and/or

(iii) Meeting the obligor's health insurance obligation.

§ 15-11.1-4 Family court compliance hearing. –

(a) An obligor may request a hearing before a magistrate of the family court upon receipt of service of the notice described in § 15-11.1-3. The request for a hearing must be made in writing and must be received by the department within thirty (30) days of the date of the notice. The department shall promptly file the obligor's written request for a hearing with the clerk of the family court or his or her designee; the clerk shall then assign the matter for a hearing before a magistrate of the family court.

(b) The department shall notify the obligor in writing of the date, time, and place of the hearing assigned by the clerk. Service of the hearing notice must be made by first class mail.

(c) The issues that may be determined at the hearing are limited to whether the obligor is required to pay child support under a court or administrative order and whether the obligor is in compliance with a court order of support.

(d) Nothing in this section shall prohibit the obligor from filing other appropriate motions for relief, including but not limited to a motion to modify a support order, with the family court.

§ 15-11.1-5 Automatic stay pending compliance hearing. –

If an obligor requests a timely hearing to contest the issue of compliance in accordance with § 15-11.1-4, the department may not certify the name of the obligor to a board for noncompliance with a court order of support until the department receives a decision or order of the family court that finds the obligor is not in compliance with a court order of support.

§ 15-11.1-6 Certification of noncompliance. –

(a) The department may certify in writing to any appropriate board that a support obligor is not in compliance with a court order of support if:

(1) The obligor does not timely request a hearing upon service of a notice issued under § 15-11.1-3 and is not in compliance with a court order of support thirty-one (31) days after service of the notice or mailing of the notice;

(2) The family court issues a decision or order after a hearing that finds the obligor is not in compliance with a court order of support, and the obligor has not appealed the decision within any applicable appeal period provided by law for appeals of a decision or order of a magistrate of the family court; or

(3) After a decision or order of the family court has been appealed, a decision or order of the Rhode Island supreme court which determines or affirms that the obligor is not in compliance with a court order of support.

(b) The department's certification shall include a copy of the decision or order of the court, where applicable. The department shall send by first class mail a copy of any certification of noncompliance filed with a board to the obligor at the obligor's most recent address of record.

§ 15-11.1-7 Suspension by board – Notice from board. –

(a) Upon receipt of the certification of noncompliance from the department issued in accordance with § 15-11.1-6, a board shall suspend the obligor's license and refuse to issue or reissue a license until the obligor provides the board with a release from the department that states the obligor is in compliance with the obligor's support order. When an obligor who is served notice under § 15-11.1-3 subsequently complies with the court order of support, the department shall within five (5) business days after compliance provide the obligor with written confirmation and a

release that the obligor is in compliance with the order. A suspension by a board or a refusal by a board to reissue, renew, or otherwise extend the license or certificate of authority shall be deemed a final determination for the purposes of chapter 35 of title 42.

(b) A board shall notify an obligor certified by the department under § 15-11.1-6, without undue delay, that the obligor's application for the issuance or renewal of a license may not be granted or that the obligor's license has been suspended because the obligor's name has been certified by the department as a support obligor who is not in compliance with a court order of support.

(c) Within five (5) business days of receiving written confirmation that the obligor is in compliance with the court order of support, the board shall reinstate, reissue, renew or otherwise extend the obligor's license or certificate of authority.

§ 15-11.1-8 Reporting. –

(a) During each renewal period all boards subject to this chapter shall provide to the department specified information, according to standards established by the department, about applicants for licensure and all current licensees.

(b) All boards subject to this chapter shall provide the specified information for only those current licensees that are residents of this state.

(c) The information to be provided must include all of the following information to the extent that this information is maintained by the board about the licensee:

- (1) Name;
- (2) Address of record;
- (3) Federal employer identification number or social security number;
- (4) Type of license;
- (5) Effective date of license or renewal;
- (6) Expiration date of license; and
- (7) Active or inactive status.

§ 15-11.1-10 Rules and regulations. –

The department of human services is authorized and directed to promulgate rules and regulations that it deems necessary to implement the provisions and purposes of this chapter; provided, that any rule or regulation affecting the duties and responsibilities of the family court shall be made with the concurrence of the chief judge of the family court.

§ 15-11.1-11 Cooperative agreements with boards. –

The department and the various boards may enter into any agreements that may be necessary to carry out the requirements of this section, but only to the extent the department determines it is cost effective.

§ 15-11.1-12 Severability. –

If any provision of this chapter or the application of it is for any reason judged invalid, that judgment shall not affect, impair, or invalidate the remainder of the chapter, but shall be confined in its effect to the provision or application directly involved in the controversy giving rise to the judgment.

Divorce or Separation Proceedings—Support for Children Receiving Public Assistance

§ 15-13-1 Determination of children receiving public assistance. –

The party commencing an action seeking a divorce from the bond of marriage or divorce from bed and board or an order pursuant to § 15-5-19 shall, at the time the proceeding is begun, append to the petition a statement containing the names of all children of the marriage and their ages and stating whether any of the children are at that time recipients of or applicants for public assistance.

§ 15-13-2 Setting of support for children receiving public assistance. –

(a) If the statement appended to the petition indicates that any child of the marriage is a recipient of or applicant for public assistance, a hearing shall be held as promptly as possible to determine the amount of support to which each child is entitled from the appropriate parent. The department of human services shall be given notice of the hearing and shall appear at the hearing for the purpose of assisting the court in fixing the amount of support. In the absence of the consent of the parties and agreement of the department of human services, the court shall not enter an order providing for support without conducting a hearing.

(b) In fixing the amount of support, which the parent shall be ordered to pay, the court shall take into account the following factors:

- (1) All earnings, income, and resources of the parent including real and personal property;
- (2) The earnings potential of the parent;
- (3) The reasonable necessities of the parent;
- (4) The needs of the child for whom support is sought;
- (5) The existence and needs of other dependents of the parent; and
- (6) Any other factors, which bear upon the needs of the child and the ability of the parent to provide financial support of those needs.

§ 15-13-3 Reconsideration of support orders. –

(a) Every order entered by the family court providing for support of a child who at the time of entry of the order was not a recipient of or applicant for public assistance shall, in the event the child becomes the recipient of public assistance, be reconsidered de novo upon the petition of a parent or guardian of the child or the department of human services.

(b) Upon the filing of the petition, the court shall hold a hearing for the purpose of determining the amount of support to which the child is entitled from the appropriate parent. In fixing the amount of support the court shall take into account the factors set forth in § 15-13-2.

§ 15-13-3.1 Enforcement procedures. –

(a) In any proceeding brought for failure to make support payments as ordered by the court, upon a showing that the payments are more than forty-five (45) days overdue, the family court may grant an order directing that an execution issue against the wages, debts, earnings, salary, income from trust funds, or profits of the parent responsible for support for the full amount of both the arrears payments and for the satisfaction of current support and maintenance payments until further order of the family court, notwithstanding any statutory limitation on executions issued against the wages, earnings, salary, and other income of the judgment debtor, and the execution shall have priority over any other executions.

(b) No employer shall discharge an employee because his or her wages are subject to execution in accordance with this section or shall discriminate in hiring because of a potential execution.

(c) An employer, in remitting wages levied upon a judgment or order of support, may make a two dollar (\$2.00) deduction to defray his or her bookkeeping expenses for each paycheck levied upon out of the funds ordered for support.

(d) In any proceeding brought for failure to make support payments, upon a showing that the payments are more than forty-five (45) days overdue, the family court may grant an order directing that an execution issue against the interest of the responsible parent in and to any real estate or personal property within the jurisdiction of the family court whether that interest is held individually or jointly with others, and the execution shall have priority over any other executions or attachments except as prescribed by applicable federal or state statutes.

(e) The execution shall attach to all real and personal property of the responsible parent when it is recorded with the recorder of deeds for the city or town in which the real estate is located or with the appropriate office for a notice with respect to personal property. The department of administration, division of taxation, child support enforcement agency, shall not be required to pay a recording fee.

(f) Whenever an execution has been filed and there is in the possession of any person having notice of the execution any property which may be subject to the execution, the property shall not be paid over, released, sold, transferred, encumbered, or conveyed unless a release or waiver signed by the director has been delivered to the person in possession or the family court has ordered the release of the execution.

(g) Any person who fails to honor an execution shall be liable to the person entitled to receive the support payments in an amount equal to the debt, which is the basis of the execution, together with costs, interest, and reasonable attorney fees.

(h) Any judgment or order for support issuing from a court of competent jurisdiction of any other state, which passes legislation similar to this chapter and provides for reciprocity to this state, shall have the same force and effect as if the judgment or order originated from the Rhode Island courts.

(i) Interest at the rate of twelve (12%) per annum on any support debt due or owing may be assessed by operation of law unless the responsible parent shall, for good cause shown, be relieved of the obligation to pay the interest by the family court.

§ 15-13-3.2 Transfer of assets. –

No person shall proceed to foreclose, sell, or otherwise transfer any property against which an execution granted and reordered pursuant to § 15-13-3.1 may run without first obtaining the approval of the family court. After this, any person to whom an execution has been granted may pursue any remedy available to the holder of an execution by law.

§ 15-13-3.3 Release of execution. –

Any person or the director may release or discharge an execution upon receipt of any other security that the holder of the execution shall deem satisfactory.

§ 15-13-4 Severability. –

If any provision of this chapter or the application of it to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provisions or application, and to this end the provisions of this chapter are declared to be severable.

CHAPTER 15-16 Income Withholding

§ 15-16-1 Purpose. –

The purpose of this chapter is to enhance the enforcement of support obligations by providing a swift and effective procedure for the withholding of income derived in this state to enforce support orders issued in this state or other jurisdictions, and by providing a mechanism by which income withholding, to enforce the support orders issued in this state, may be sought in other jurisdictions. This chapter shall be applicable to support obligations established or enforceable in this state, including support obligations enforceable pursuant to the Rhode Island state plan for child and spousal support enforcement, as the plan may be adopted and amended by the Rhode Island department of human services in accordance with title IV, part D, § 454 of the federal Social Security Act, 42 U.S.C. § 654, and as more fully defined in § 15-16-2. This chapter shall be construed liberally to effect this purpose.

§ 15-16-2 Definitions. –

For purposes of this chapter, except as may otherwise be required by the context:

(1) "Agency" means either the court or agency of any other jurisdiction with income withholding functions similar to those of the department of administration, division of taxation, child support enforcement defined in this chapter, including the issuance and enforcement of support orders.

(2) "Child" means any child, whether above or below the age of majority, with respect to whom a support order exists.

(3) "CSE system" means the Rhode Island family court/department of administration, division of taxation, child support computer enforcement system, which system maintains the official record of support orders and arrearages of all support orders entered upon it in accordance with applicable administrative orders issued by the Rhode Island family court.

(4) "Court" means the Rhode Island family court and, when the context requires, means either the court or agency of any other jurisdiction with functions similar to those defined in this chapter, including the issuance and enforcement of support orders.

(5) "Department" means the division of taxation, within the department of administration.

(6) "Income" shall include amounts paid or payable by a payor who is subject to the jurisdiction of this state to an obligor as:

(i) Compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, whether taxable or not taxable, and specifically including periodic payments pursuant to pension or retirement programs or insurance policies of any type; or

(ii) Benefit payments or other similar compensation paid or payable to the obligor by or through a department, agency, or political subdivision of the state or federal government or by an insurance company, including unemployment compensation benefits, workers' compensation benefits, and temporary disability benefits, except where garnishment or attachment of benefit payments is prohibited by federal law.

(7) "Income withholding order" means an order to withhold income of an obligor to pay support, arrearages, and fees, if any, authorized under this chapter, whether the order is issued by the department and filed with the clerk of the family court, or whether the order is issued by the family court as provided for in this chapter or whether the order is issued by a court or agency of another jurisdiction.

(8) "Jurisdiction" means any state or political subdivision, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(9) "Magistrate" means a magistrate of the family court pursuant to § 8-10-3.1.

(10) "Obligee" means any person or entity entitled to receive support under an order of support and includes an agency of another jurisdiction to which a person has assigned his or her right to support.

(11) "Obligor" means any person required to make payments under the terms of a support order for a child, spouse, or former spouse.

(12) "State plan" means the Rhode Island state plan for child and spousal support established in accordance with title IV, part D, § 454 of the federal Social Security Act, 42 U.S.C. § 654, which plan includes, but is not limited to, the establishment and enforcement of support orders on behalf of a person, whether residing in this state or another jurisdiction, who is:

(i) Receiving public assistance pursuant to part A of title IV of the federal Social Security Act, 42 U.S.C. § 601 et seq.;

(ii) Receiving foster care maintenance payments pursuant to part E of title IV of the federal Social Security Act, 42 U.S.C. § 670 et seq.; or

(iii) Not receiving aid to families with dependent children nor foster care maintenance payments but who files an application for support enforcement services with the department of administration, division of taxation, child support enforcement, or any authorized title IV, part D agency of another jurisdiction.

(13) "Support order" means a judgment, decree or order, whether temporary, final, or subject to modification, issued by the family court, by the division of taxation within the department of administration under § 15-16-7 or by a court or agency of another jurisdiction, for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.

(14) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

(15) "Withholding agent" means any person, firm, partnership, corporation, association, trust, federal or state agency, department, or political subdivision, paying or obligated to pay income, as defined in this chapter, to an obligor.

(16) "Remittee", as used in this section, means the division of taxation, child support enforcement or its designee, authorized to receive wage withholding, including an agency designated by another state to receive income withholding pursuant to chapter 23.1 of title 15. Remittee does not include an individual obligee/custodial parent.

§ 15-16-3 Remedies additional. –

The income withholding remedy provided in this chapter is in addition to, and not in substitution for, any other remedy available to enforce a support order issued in this state or in another jurisdiction. Relief under this chapter shall not be denied, delayed, or affected because of the availability of other remedies, nor shall relief under any other statute be delayed or denied because of the availability of this remedy.

§ 15-16-4 Income withholding agency. –

The division of taxation within the department of administration is designated as the state income withholding agency for all income withholding orders issued or registered in Rhode Island and shall have all powers, duties, and responsibilities to establish and administer income withholding in accordance with this chapter, and is further authorized and directed to promulgate rules and regulations that it deems necessary to implement the provisions and purposes of this chapter; provided, that any rule or regulation affecting the duties and responsibilities of the family court shall be made with the concurrence of the chief judge of the family court.

§ 15-16-5 Requirement of income withholding – Support orders issued in this state or other jurisdictions. –

(a) In the case of each obligor against whom a support order: (i) has been issued or modified in this state; or (ii) has been issued or modified in another jurisdiction; or (iii) has been issued or modified in another jurisdiction and has been filed and registered with the department in accordance with § 15-16-13, and in either case the order is being enforced under the state plan; so much of an obligor's income must be withheld in an amount sufficient to comply with the order for current support when the obligor has failed to make payment of support as provided in this section or when the obligor or obligee has requested withholding in accordance with the requirements of this section.

(2) If an obligor owes a support arrearage in addition to the amount to be withheld to comply with the order for current support, the order to withhold income must include an amount equal to ten percent (10%) of the current support order, which amount shall be applied toward liquidation of support arrearages; provided, that the additional withholding to satisfy arrearages, when added to the amounts withheld to pay current support and to provide for the withholding agent's fee provided in § 15-16-10, may not exceed the limit permitted under § 303(b) of the Consumer Credit Protection Act, 15 U.S.C. § 1673(b).

(3) Upon petition by an obligor, the court in its discretion may reduce the amount required to be withheld in liquidation of support arrearages to a nominal or token amount, if the court finds that additional withholding would work an undue hardship on the obligor. The income withholding must occur without the need for any amendment to the support order involved or for any further action by the court or other entity which issued the order.

(b) With respect to a support order issued or modified in this state, an obligor shall become subject to income withholding and the income withholding may be initiated by the department:

(1) When the obligor has failed to make a support payment in full within fourteen (14) days of the due date for the support payment, notwithstanding that payment of the arrearage may be made subsequent to the obligor's receipt of notice of income withholding or prior to the date of the hearing; or

(2) The date on which the obligor requests, in writing, that the income withholding begin, whichever is earliest.

(c) With respect to an order issued or modified in this state, the department may initiate income withholding:

(1) Utilizing and relying on the information officially recorded on the CSE system as to support orders and arrearages; or

(2) After receipt of a certified copy of the support order with all modification, together with the sworn statement of the obligee as to support arrearages and stating the name and address of the obligor and his or her employer or withholding agent.

(d) With respect to a support order issued or modified in another jurisdiction, income withholding shall be initiated by the department when the support order has been filed and registered in accordance with § 15-16-13, and the department and/or the court shall apply the law of the other jurisdiction as to amount or duration of support arrearages necessary to commence income withholding. In all other respects, the provisions of this chapter and the laws of this state shall apply.

(e) The only basis for contesting income withholding initiated under this section is a mistake of fact. For purposes of this section, mistakes of fact shall be limited to the following:

(i) An error in the amount of current support or support arrearage;

(ii) The mistaken identity of the obligor;

(iii) An error in the amount of income to be withheld in payment of current support and arrearages; or

(iv) The amount to be withheld exceeds the maximum amount permitted under § 303(b) of the Consumer Credit Protection Act, 15 U.S.C. § 1673(b).

(2) The burden shall be on the obligor to establish a defense of mistake of fact.

(f) The department shall provide the obligor with notice required in § 15-16-6 regarding the income withholding initiated under this section and the procedures the obligor should follow if he or she desires to contest the income withholding on the grounds that the income withholding is not proper because of mistakes of fact. The notice shall be sent by regular mail at the obligor's most recent address of record.

(g) An obligor may contest the income withholding by filing or mailing a written statement with the department within fourteen (14) days of the mailing of the notice under § 15-16-6, which statement shall specify the mistake or mistakes of fact claimed by the obligor.

(h) Payment by an obligor of the support arrearage stated in the notice to the obligor is not a valid defense to income withholding.

§ 15-16-5.1 Immediate income withholding – Support orders issued or modified on or after January 1, 1994. –

(a) With respect to a support order issued, enforced, or modified on or after January 1, 1994, the income of an obligor shall be subject to immediate income withholding under this chapter on the effective date of the order, regardless of whether support payments by the obligor are in arrears; provided, that the income of the obligor shall not be subject to immediate income withholding:

(i) If a judge or magistrate of the family court finds that there is good cause not to require immediate income withholding; or

(ii) If the obligor and obligee, and the department in the case of an obligee subject to an assignment of support rights under § 40-6-9, enter into a written agreement or order which provides for an alternative arrangement for the timely payment of support due under the support order.

(2) In no event shall the court order wage withholding payable to the obligee directly from any wage withholding agent.

(b) The obligor shall be given advance notice, by way of the pleadings or otherwise, that his or her income is subject to immediate income withholding as provided in subsection (a) of this section, that the maximum amount of income to be withheld may not exceed the limit permitted under § 303(b) of the Consumer Credit Protection Act, 15 U.S.C. § 1673(b), and that he or she may contest immediate income withholding, and assert any defenses, exceptions, or exemptions to which he or she may be entitled at a hearing before a judge or magistrate of the family court.

(c) With the exception of those income withholding orders issued pursuant to § 15-23.1-501, an immediate income withholding order issued under this section shall be filed by the department or the obligee with the clerk of the family court or, as appropriate, with the reciprocal office of the family court and shall be subject to the provisions of §§ 15-16-9 – 15-16-13.

§ 15-16-6 Notice to obligor. –

The notice to the obligor required under § 15-16-5 shall inform the obligor:

(1) Of the amount of the support arrearage and the amount of income that has been withheld for payment of current support, arrearages, and any fees allowable under this chapter;

(2) That the provision for withholding of income applies to any current or subsequent employer or period of employment;

(3) Of the procedures available for contesting the withholding and that, in accordance with § 15-16-5, the grounds for contesting the withholding are limited to mistakes of fact;

(4) Of the period within which the obligor must file a statement contesting withholding with the department;

(5) Of the opportunity to contest the income withholding at a hearing before a master of the family court.

§ 15-16-7 Income withholding by withholding agency – Registry – Judicial review. –

(a) If an obligor or obligee requests income withholding or if the obligor fails to timely file his or her statement contesting income withholding as required under § 15-16-5, the income withholding shall become effective without the necessity for a hearing before a magistrate of the family court,

and the department shall issue an income withholding order to the withholding agent with notice of the order to the obligor, in accordance with § 15-16-9.

(b) The department shall maintain a central registry of all income withholding orders issued pursuant to this section and § 15-16-8, and it shall enter these orders on the CSE system.

(c) An obligor aggrieved by the issuance of an income withholding order by the department under this section shall be entitled to judicial review de novo by the family court.

§ 15-16-8 Contesting withholding. –

An obligor may request a family court hearing in writing within fourteen (14) days of the date of the mailing of the notice described in § 15-16-6. The family court shall notify the obligor by first class mail of the date, time, and place of the hearing within five (5) days of receipt of the written request for hearing. The only basis for contesting income withholding initiated under this section is mistake of fact as set forth in § 15-16-5.

§ 15-16-9 Income withholding order – Service – Effectiveness – Contents. –

(a) An income withholding order under this chapter shall be binding upon a withholding agent one week after service, by personal service or by certified or registered mail, of a true copy of the income withholding order. The income withholding order shall be binding upon the withholding agent until further notice to the withholding agent in accordance with this chapter. Concurrently with the service of a true copy of the income withholding order upon a withholding agent, the department shall mail a true copy of the income withholding order by regular mail to the obligor.

(b) Any income withholding order under this chapter shall have priority over any prior attachment, execution, garnishment, or wage or income assignment against the income of the obligor. An income withholding order under this chapter shall not be subject to any specific or statutory exemption or limitation prohibiting levy, execution, assignment, or attachment process or limiting the amount subject to income withholding under this chapter, except the exemptions or limitations as provided by federal law.

(c) Every income withholding order issued pursuant to this chapter shall include the following:

(1) That the income withholding order shall be binding upon a withholding agent one week after the service upon the withholding agent;

(2) The total amount to be withheld from the obligor's income for support and support arrearages;

(3) The amount of fees a withholding agent may withhold from the income of an obligor in addition to support and support arrearages;

(4) That the total amount to be withheld for support, support arrearages, and fees may not be in excess of the maximum amounts permitted under § 303(b) of the Consumer Credit Protection Act, 15 U.S.C. § 1673(b);

(5) That withholding is binding upon the withholding agent until notice by the department or the court;

(6) That the withholding agent is subject to the duties and liabilities as provided in § 15-16-10.

§ 15-16-10 Duties and liabilities of withholding agent. –

(a) An income withholding agent shall remit to the clerk of the family court, or any other remittee as directed in the income withholding order, all amounts withheld from the income of an obligor within seven (7) days of the date the income was paid or payable to the obligor, and the income withholding agent shall specify the date and amount of each withholding included in the remittance, the social security number of the obligor, the child support account number, the employee's name, and any other information as required if electronic transfer is utilized. The withholding agent may combine withheld amounts from two (2) or more obligors into a single payment, provided that the withholding agent separately identifies the individual obligors and the amount attributable to each obligor.

(b) An income withholding agent may deduct a fee of two dollars (\$2.00) from the obligor's remaining income for each payment made pursuant to an income withholding order under this chapter.

(c) The income withholding agent must notify the department, in writing, of the termination of the obligor's employment within ten (10) days of the termination. Notice shall include the last known address of the obligor and the name and address of the obligor's new employer, if known.

(d) Any withholding agent failing to comply with any of the requirements of this chapter may be punished by the family court or its magistrate for civil contempt. The court or its magistrate shall first afford the withholding agent a reasonable opportunity to purge itself of the contempt.

(e) Any withholding agent who fails or refuses to deliver income pursuant to an income withholding order issued under this chapter, when the withholding agent has had in its possession the income, shall be personally liable for the amount of the income which the withholding agent failed or refused to deliver, together with costs, interest, and reasonable attorney's fees.

(f) Any withholding agent who dismisses, demotes, disciplines, refuses to hire, or in any way penalizes an obligor on account of any income withholding order issued under this chapter shall be liable to the obligor for all damages, together with costs, interest thereon, and reasonable attorney's fees resulting from the action, and shall be subject to a fine not to exceed one hundred dollars (\$100). The withholding agent shall be required to make full restitution to the aggrieved obligor, including reinstatements and back pay.

(g) A withholding agent may be enjoined by a court of competent jurisdiction from continuing any action in violation of this chapter.

(h) Compliance by a withholding agent with an income withholding order issued under this chapter operates as a discharge of the withholding agent's liability to the obligor as to that portion of the obligor's income affected.

§ 15-16-11 Duration – Modification or revocation of order. –

(a) An income withholding order issued pursuant to this chapter shall remain in full force and effect until modified or revoked.

(b) The order may be modified or revoked by the court upon application and for good cause shown, provided that the payment by the obligor of all support arrearages shall not be the sole basis for modification or revocation of the income withholding order.

§ 15-16-12 Allocation of amounts withheld – Refunds – Distribution. –

(a) In the event that there are two (2) or more income withholding orders against the same income of an obligor, the department shall allocate and distribute the amount remitted by the withholding agent between or among the separate income withholding orders giving priority to current support obligations as follows:

(1) Each obligee shall be allocated an amount in the proportion which each obligee's current support order under income withholding bears relative to the total of all amounts for current support under income withholding orders; and

(2) Any remaining withheld income shall be allocated to each obligee in an amount proportional to which each obligee's arrearage order under income withholding bears relative to the total of all amounts ordered to be paid on arrearages under income withholding orders.

(b) The department shall promptly refund to an obligor the amounts, if any, which may have been improperly withheld.

(c) The department shall promptly distribute amounts received under income withholding orders in accordance with § 457 of the federal Social Security Act, 42 U.S.C. § 657.

§ 15-16-13 Registering support orders of another jurisdiction for purposes of income withholding. –

(a) A party seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this state.

(2) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce an income-withholding order. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order.

(3) At any hearing contesting proposed income withholding based on a support order registered under this section, the registered order, accompanying sworn or certified statement, and a certified copy of an income withholding order, if any, still in effect shall constitute prima facie proof, without further proof or foundation, that the support order is valid, that the amount of current support payments and arrearages is as stated, and that the obligee or agency would be entitled to income

withholding under the law of the jurisdiction which issued the support order. Once a prima facie case has been established, the obligor may only raise the defense of mistake of fact as stated in § 15-16-5.

(b) The following documentation is required for the registration of a support order of another jurisdiction:

- (1) A letter of transmittal requesting registration and enforcement;
- (2) Two (2) copies, including one certified copy, of all orders to be registered, including any modification of an order;
- (3) A sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage;
- (4) The name of the obligor and, if known:
 - (i) The obligor's address and social security number;
 - (ii) The name and address of the obligor's employer and any other source of income of the obligor; and
 - (iii) A description and the location of property of the obligor in this state not exempt from execution; and
- (5) The name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

(c) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of their form.

(d) A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state. Except as otherwise provided in this section, a tribunal of this state shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

§ 15-16-14 Voluntary income withholding. –

The obligor of a support order of another jurisdiction may obtain voluntary income withholding by filing with the department a request for withholding and a certified copy of the support order. The department shall issue an income withholding order under § 15-16-7.

§ 15-16-15 Initiation of income withholding with other jurisdictions. –

(a) With respect to a state that has not adopted the Uniform Interstate Family Support Act (UIFSA), on behalf of any client for whom the department is already providing services, or on application of a resident of this state who is an obligee or obligor of a support order issued by this state, or of an agency to whom the obligee has assigned support rights, the department shall promptly request the agency of another jurisdiction in which the obligor of a support order derives income to enter the order for the purpose of obtaining income withholding against that income.

(b) The department shall compile and promptly transmit to the agency of the other jurisdiction all documentation required to enter a support order for this purpose.

(c) The department also shall immediately transmit to the agency of the other jurisdiction a certified copy of any subsequent modifications of the support order.

§ 15-16-16 Severability. –

If any provision of this chapter or the application of it shall for any reason be judged invalid, that judgment shall not affect, impair, or invalidate the remainder of the chapter, but shall be confined in its effect to the provision or application directly involved in the controversy giving rise to the judgment.

CHAPTER 15-17 Uniform Premarital Agreement Act

§ 15-17-1 Definitions. –

As used in this chapter:

- (1) "Premarital agreement" means an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage.

(2) "Property" means an interest, present or future, legal or equitable, vested or contingent, in real or personal property, including income and earnings.

§ 15-17-2 Formalities. –

- (a) A premarital agreement must be in writing and signed by both parties.
- (b) It is enforceable without consideration.

§ 15-17-3 Content. –

- (a) Parties to a premarital agreement may contract with respect to:
 - (1) The rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located;
 - (2) The right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of, or otherwise manage and control property;
 - (3) The disposition of property upon separation, marital dissolution, death, or the occurrence or nonoccurrence of any other event;
 - (4) The modification or elimination of spousal support;
 - (5) The making of a will, trust, or other arrangement to carry out the provisions of the agreement;
 - (6) The ownership rights in and disposition of the death benefit from a life insurance policy;
 - (7) The choice of law governing the construction of the agreement; and
 - (8) Any other matter, including their personal rights and obligations, which are not in violation of public policy or a statute imposing a criminal penalty.
- (b) The right of a child to support may not be adversely affected by a premarital agreement.

§ 15-17-4 Effective upon marriage. –

A premarital agreement becomes effective upon marriage.

§ 15-17-5 Amendment – Revocation. –

- (a) After marriage, a premarital agreement may be amended or revoked only by a written agreement signed by the parties.
- (b) The amended agreement or the revocation is enforceable without consideration.

§ 15-17-6 Enforcement. –

- (a) A premarital agreement is not enforceable if the party against whom enforcement is sought proves that:
 - (1) That party did not execute the agreement voluntarily; and
 - (2) The agreement was unconscionable when it was executed and, before execution of the agreement, that party:
 - (i) Was not provided a fair and reasonable disclosure of the property or financial obligations of the other party;
 - (ii) Did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided; and
 - (iii) Did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.
- (b) The burden of proof as to each of the elements required in order to have a premarital agreement held to be unenforceable shall be on the party seeking to have the agreement declared unenforceable and must be proven by clear and convincing evidence.
- (c) If a provision of a premarital agreement modifies or eliminates spousal support and that modification or elimination causes one party to the agreement to be eligible for support under a program of public assistance at the time of separation or marital dissolution, a court, notwithstanding the terms of the agreement, may require the other party to provide support to the extent necessary to avoid that eligibility.
- (d) An issue of unconscionability of a premarital agreement shall be decided by the court as a matter of law.

§ 15-17-7 Enforcement – Void marriage. –

If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

§ 15-17-8 Limitation of actions. –

Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage of the parties to the agreement. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

§ 15-17-9 Applicability and construction. –

This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

§ 15-17-10 Short title. –

This chapter may be cited as the "Uniform Premarital Agreement Act".

§ 15-17-11 Severability. –

If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

CHAPTER 15-18 Commission on Child Support

§ 15-18-1 Legislative findings. –

The general assembly finds and declares that:

- (1) An increasingly large percentage of children in this state live in single parent households;
- (2) Almost one-half (1/2) of single parent households have income below the poverty level;
- (3) In excess of forty thousand (40,000) children in the state are receiving state aid through the Aid to Families with Dependent Children (AFDC) program;
- (4) Children in families where parents are separated or divorced are at greater risk of economic deprivation than in two (2) parent families.

§ 15-18-2 Establishment – Purpose. –

There is established a commission on child support to study all aspects of child support. The study shall include, but not be limited to, the following:

- (1) The number of children eligible for and/or receiving child support;
- (2) The amount of support being ordered paid by the courts and the actual amount being paid;
- (3) The methods used in determining the amount of child support;
- (4) The methods used in enforcing support orders.

§ 15-18-3 Membership. –

(a) The commission shall consist of fifteen (15) members: three (3) of whom shall be members of the house of representatives, not more than two (2) from the same political party, to be appointed by the speaker; two (2) of whom shall be from the senate, not more than one from the same political party, to be appointed by the president of the senate; one of whom shall be the chief judge of the family court, or his or her designee; one of whom shall be the chairperson of the supreme court advisory committee on women in the courts; one of whom shall be a magistrate of the family court to be appointed by the chief judge of the family court; one of whom shall be the director of the department of human services or his or her designee; two (2) of whom shall be

attorneys who are members of the family court bench bar committee to be appointed by the chairperson of the committee; one of whom shall be the chief counsel of the legal aid society; one of whom shall be a member of a child support advocacy group to be appointed by the governor; and two (2) members of the general public who, at their time of appointment, are custodial parents to be appointed by the governor. Members from the family court bench bar committee, members from the general public, and the member from the child support advocacy group shall serve two (2) year terms.

(b) Any vacancy on the commission shall be filled by the appointing authority in the same manner as the original appointment.

(c) The members shall annually elect, by majority vote, one of the members as chairperson, one of the members as vice-chairperson, and one of the members as secretary.

§ 15-18-4 Technical assistance. –

All departments and agencies of the state shall furnish any advice and information, documentary and otherwise, to the commission and its agents that is deemed necessary or desirable by the commission to facilitate the purposes of this chapter.

§ 15-18-5 Reports and recommendations. –

The commission shall report to the general assembly at least every two (2) years its findings and the results of its studies, and shall make such recommendations to the general assembly as it deems advisable.

§ 15-18-6 Place of meeting. –

The speaker of the house shall provide adequate space in the state house for the use of the commission; provided, that the commission may conduct hearings and hold meetings elsewhere when doing so will better serve its purpose.

CHAPTER 15-19 Child Support Security Deposit Act

§ 15-19-1 Short title. –

This chapter may be cited as the "Child Support Security Deposit Act".

§ 15-19-2 Order for deposit of assets to secure future support payments. –

(a) Subject to subsections (b) and (c) of this section, in any proceeding where the court has ordered either or both parents to pay any amount of the support of a minor child, upon an order to show cause or notice of motion, application, and declaration signed under penalty of perjury by the person to whom support has been ordered to have been paid stating that the parent or parents so ordered is in arrears in payment in a sum equal to the amount of sixty (60) days of payments, the court shall issue to the parent or parents ordered to pay support, following notice and opportunity for a hearing, an order requiring that the parent or parents deposit assets to secure future support payments with the family court clerk or any other trustee designated by the court. Upon request of any party the court may also issue an ex parte restraining order as specified in subsection (d) of this section. Upon deposit of any asset which is not readily convertible into money, the court may, not less than twenty (20) days after serving the obligor parent or parents with written notice and a hearing, order the sale of that asset or assets and the deposit of the proceeds with the person designated under this subsection. For purposes of the provisions of title 34, the date of the issuance of the order to deposit assets shall be construed as the date notice of levy on an interest in real property was served on the judgment debtor. When the asset ordered to be deposited is real property, the order shall be certified as judgment in accordance with the provisions of titles 8, 9, 10, and 34. A deposit of real property is made effective by recordation of a mortgage deed running to the family court clerk with the city or town recorder of deeds. The deposited real property and the rights, benefits, and liabilities attached to that property shall continue in the possession of the legal owner.

(2) Upon an obligor parent's failure, within the time specified by the court, to make reasonable efforts to cure the default in child support payments or to comply with a court approved payment

plan, if payments continue in the arrears, the family court clerk or trustee designated by the court shall, not less than twenty-five (25) days after providing the obligor parent or parents with a written notice served personally or with return receipt requested, unless a motion or order to show cause has been filed to stop the use or sale, use the money or sell or otherwise process the deposited assets for an amount sufficient to pay the arrearage and the amount ordered by the court for the support, maintenance, and education of the minor child currently due.

(3) Assets which have been deposited pursuant to an order issued in accordance with subdivision (1) of this subsection shall be construed as being assets subject to levy pursuant to the provisions of title 34. The sale of assets shall be conducted in accordance with the provisions of title 34.

(4) The family court clerk or trustee designated by the court may deduct from the deposited money the sum of one dollar (\$1.00) for each payment made pursuant to subdivision (2) of this subsection.

(5) An obligor parent alleged to be in arrears under this chapter may employ any of the following grounds as a defense to the motion filed pursuant to subdivision (1) of this subsection, or as a basis for filing a motion to stop a sale or use of assets under subdivision (2) of this subsection:

- (i) Child support payments are not in arrears;
- (ii) There has been a change in the custody of the children;
- (iii) Illness or disability;
- (iv) Unemployment;
- (v) Serious adverse impact on the immediate family of the obligor parent residing with the obligor parent that outweighs the impact of denial of the motion or stopping the sale on obligee;
- (vi) Serious impairment of the ability of the obligor parent to generate income; or
- (vii) Other emergency conditions.

(6) An obligor parent must rebut the presumptions that nonpayment of child support was willful, without good faith, and that the obligor had the ability to pay the support.

(7) An obligor parent may file a motion to stop the use of the money or the sale of the asset pursuant to subdivision (2) of this subsection within fifteen (15) days after service of notice on him or her pursuant to subdivision (2) of this subsection. The clerk of the court shall set the motion for a hearing not less than twenty (20) days after service on the person or county officer to whom support has been ordered to have been paid.

(b) The court shall issue an order pursuant to subdivision (1) of subsection (a) upon a determination that one or more of the following conditions exists:

(1) The obligor parent is not receiving salary or wages subject to an assignment pursuant to § 15-5-16.2; and there is reason to believe that he or she has earned income from some source of employment;

(2) An assignment of a portion of salary or wages pursuant to § 15-5-16.2 would not be sufficient to meet the amount of the support obligation, for reasons other than a change of circumstances which would qualify for a reduction in the amount of child support ordered;

(3) The job history of the obligor parent shows that an assignment of a portion of salary or wages pursuant to § 15-5-16.2 would be difficult to enforce or would not be a practical means for securing the payment of the support obligation, due to circumstances including, but not limited to, multiple concurrent or consecutive employers.

(c) The designation of assets subject to an order pursuant to subdivision (1) of subsection (a) shall be based upon concern for maximizing the liquidity and ready conversion into cash of the deposited asset. In all instances, the assets shall include a sum of money up to or equal in value to one year of support payments or six thousand dollars (\$6,000), whichever is less, or any other assets, personal or real, designated by the court which equal in value up to one year of payments for support of the minor child, or any other amount in the discretion of the family court. In lieu of depositing cash or other assets as provided above, the obligor parent may, if approved by the court, provide a performance bond secured by any real property or other assets of the parent and equal in value to one year of payments.

(d) During the pendency of any proceeding pursuant to this chapter, and upon the application of either party in the manner provided by the provisions of title 34, the court may, without a hearing, issue ex parte orders restraining any person from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, except in the usual course of business or for the necessities of life, and if the order is directed against a party, requiring him or her to notify the other party of any proposed extraordinary expenditures and to account to the court for all such extraordinary expenditures. The matter shall be made returnable not later than twenty (20) days, or if good cause appears to the court twenty-five (25) days, from the date of the order, at which time the ex parte order shall

expire. Any order issued pursuant to this chapter shall state on its face the date of expiration of the order, which shall expire in one year or upon deposit of assets or money pursuant to subdivision (1) of subsection (a), whichever occurs first. The court, at the hearing, shall determine for which property the obligor parent shall be required to report extraordinary expenditures and shall specify what is deemed an extraordinary expenditure for purposes of this subsection.

(e) The family court clerk or trustee designated by the court pursuant to subsection (a) of this section, who is responsible for any money or property and for any disbursements under this chapter, shall not be held liable for any action undertaken in good faith and in conformance with this chapter.

(f) The family court clerk or trustee designated by the court shall return all assets subject to court order under subdivision (1) of subsection (a) to the obligor parent or parents when both of the following occur:

(i) One year has elapsed since the court issued the order described under subdivision (1) of subsection (a); and

(ii) The obligor parent or parents have made all support payments on time during that one year period.

(2) When the above criteria have been satisfied and when the deposited asset was real property, the family court clerk or trustee designated by the court shall prepare a release, and shall request the clerk of the court where the order to deposit assets was rendered to certify the release and record it in the office of the recorder of deeds in the city or town where the property is located.

(g) The family court clerk or trustee shall, if requested by the obligor parent, prepare a statement setting forth disbursements and receipts made under this chapter.

(h) If the family court clerk, trustee, or person designated under subsection (a) of this section incurs fees or costs under this chapter which are not compensated by the deduction under subdivision (3) of subsection (a), including, but not limited to, fees or costs incurred in any sale of assets pursuant to subsection (a) of this section and in the preparation of a statement pursuant to subsection (g) of this section, the court shall hear not less than twenty (20) days after service upon the obligor parent of the notice of motion or order to show cause by the family court clerk, trustee, or person designated under subsection (a) of this section incurring the fees or costs, and order the obligor parent or parents to pay reasonable fees and costs. Fees and costs ordered to be paid by the court under this subsection shall be in addition to any deposit made under subsection (a) of this section, but shall not exceed five percent (5%) of one year's child support obligation or the total amount ordered deposited under subdivision (1) of subsection (a), whichever is less.

(i) The purpose of this chapter is to provide an extraordinary remedy for cases of bad faith failure to pay child support obligations.

CHAPTER 15-20 Child Support Notification

§ 15-20-1 Notification to and by employer. –

(a) With respect to any support order maintained and enforced under the Rhode Island Family Court/Department of Administration, division of taxation, Child Support Enforcement System ("CSE System"), the clerk of the family court and/or the department of administration, division of taxation shall notify the current employer of the obligor parent of the existence of such order. The director of the department shall, by regulation, prescribe the timing and the form of the notice and the information to be provided in the notice, and the form, timing, and content of all other notices required under this chapter.

(b) Within ten (10) days of the termination of an obligor parent employee, the employer shall notify the department of administration, division of taxation, child support enforcement, of the termination of the employee, and the date of the termination.

§ 15-20-2 Duty of obligor parent to notify department. –

(a) When the obligor parent changes employers, the obligor parent shall promptly notify his or her subsequent employer of his or her order for child support and/or health insurance and shall notify the department of administration, division of taxation, child support enforcement, of his or her new employment, and the department shall transfer the assignment, garnishment, or the order for child support and/or health insurance to the subsequent employer.

(b) If an assignment, garnishment, or order for child support and/or health insurance is in effect under this section but cannot be executed because the obligor parent has no employer, the

department shall send the assignment, garnishment, or order for child support or health insurance to any employer who later employs the obligor as soon as the new employment is ascertained; provided, that the obligor parent's obligation on the order shall continue, regardless of employment or lack of it, unless suspended by order of the family court.

§ 15-20-3 Penalties. –

Failure by an obligor parent to comply with the provisions of this section shall be a misdemeanor and shall be punishable by imprisonment for a term not exceeding one year, or by a fine of not more than one thousand dollars (\$1,000), or both.

§ 15-20-4 Duty of parent to notify department – Residence. –

(a) When the obligor parent and/or custodial parent change residence it shall be the duty of this parent to notify the department of the change of residence within ten (10) days.

(b) This section applies to all cases brought pursuant to the Rhode Island state plan for child and spousal support, in conformance with title IV-D, part D of the Federal Social Security Act, 42 U.S.C. § 651 et seq.

(c) The procedures set forth in § 15-5-16.2(h) relative to notice shall apply to all cases recorded with the Rhode Island family court/department of administration, division of taxation, child support enforcement system where services are not being provided under the state plan.

(d) All notices and pleadings shall be mailed and/or served to the appropriate party at the most recent address of record.

CHAPTER 15-21 Child Support Lien Act

§ 15-21-1 Arrearages – Collection procedures. –

(a) The department of administration, division of taxation, child support enforcement, in accordance with Title IV, Part D of the Social Security Act, 42 U.S.C. § 651 et seq., is authorized to institute collection procedures for all arrearages which accrue against child support payments owed pursuant to a court judgment or support order.

(b) These collection procedures shall include, but not be limited to, notification to employers that a wage assignment is in effect and not suspended; notification to obligors; demand letters; use of state and federal tax refund intercept programs; initiation of contempt proceedings; use of lien, levy, and foreclosure of lien as provided in this chapter; garnishment or attachment of or lien against property; trustee process; civil actions; and any other civil remedy including body attachment, where appropriate, available for the enforcement of judgments or for the enforcement of child support orders.

§ 15-21-2 Creation of lien. –

(a) A child support obligation or reimbursement order which is enforceable by the department of administration, division of taxation, child support enforcement, in accordance with Title IV Part D of the Social Security Act, 42 U.S.C. § 651 et seq., and which is unpaid in whole or in part shall, as of the date on which it was due, be a lien in favor of the obligee or assignee in an amount sufficient to satisfy unpaid child support, whether the amount due is a fixed sum or is accruing periodically. Once a child support lien arises, the lien shall incorporate any unpaid child support which may accrue in the future and shall not terminate except as provided in 15-21-4(f) [§ 15-21-4(g)]. The lien shall encumber all tangible and intangible property, whether real or personal, and rights to property, whether legal or equitable, belonging to the obligor including, but not limited to, the obligor's interest in any jointly held property. An interest in personal property acquired by the obligor after the child support lien arises shall be subject to the lien. Without limiting the foregoing, "property" as used in this chapter shall also include insurance and workers' compensation payments.

(b) In any case where a lien arises in jointly held property, a non-obligor joint party whose interest appears of record or is otherwise known to the department shall receive notice of intent to lien and may request an administrative hearing with the department to contest the scope of the property interests of the lien or may seek judicial review by motion to the family court. Service of the notice shall be made by first class mail.

§ 15-21-3 Notice. –

(a) Notice. When the department of administration, division of taxation, child support enforcement, determines that child support is unpaid, it shall send written notice of intent to lien to the obligor by first class mail at his or her most recent address of record.

(2) The notice of intent shall specify the amount unpaid as of the date of the notice or other date certain and the obligor's right to request a hearing by filing a written request with the department within thirty (30) days of the date of the notice. The notice shall identify the property, real or personal, which is subject to the lien. In addition, the notice shall:

(i) State that the obligor has the right to a hearing on the issue of whether, and how much, child support is unpaid, and that the obligor may request a hearing within thirty (30) days of the date of the notice. The notice shall explain the procedure for requesting a hearing. If the obligor requests a hearing, the administrator or his or her designee shall conduct the hearing expeditiously and the department shall not conduct further lien enforcement action until the director or his or her designee makes a final determination that the obligor is in arrears in the payment of a child support obligation.

(ii) State that certain property and funds, whether in cash or in bank accounts, may be from a lien exempt by law. The notice shall include a list of appropriate exemptions.

(iii) Inform the obligor of the right to claim that part or all of the funds subject to the lien that may be exempt by law and provide the obligor with the opportunity to have an immediate hearing on the exemption issue. The notice shall explain the procedure for requesting an exemption hearing, and provide the obligor thirty (30) days from the date of the notice of intent to lien in which to do so. Hearing procedures must include a method for requesting a hearing in person, by mail or by telephone.

(b) Exemption hearings. The department shall schedule and conduct the exemption hearing promptly. The department shall issue a written decision making specific findings of an obligor's exemption claim(s), and, if it finds part or all of the funds held by the financial institution or other similar organization to be exempt, shall promptly notify that institution or organization of its determination.

(c) Effect of notice. The notice of intent to lien directed to any financial institution, or other similar institution or organization, shall operate as a hold on any and all accounts specified in the notice. Neither the obligor or non obligor joint owner shall be permitted to withdraw from those accounts until the earlier of:

(1) The date of the decision in obligor's favor with regard to exemptions; or

(2) Until the administrative hearing and/or judicial process as described in this chapter, is completed and a determination is made.

(d) Recording of notice. If the property subject to the lien is real property or personal property, the title to which is maintained as a public record, the department may record a copy of the notice of intent to lien in the recorder of deeds, division of motor vehicles, or other place where the title to the property is recorded. Any person taking title to the property subsequent to the recording does so subject to the interest of the department, as it may be determined. The notice of intent shall be recorded no more than ten (10) days prior to the mailing of the notice to the obligor under subsection (a) of this section.

§ 15-21-4 Notice of lien. –

(a) To perfect a lien with respect to real property, the department shall file a notice of lien with the recorder of deeds for the city or town in which the property is located. The recorder of deeds shall index the notice of intent under the name of the obligor in the grantors index. The filing of a notice of intent of the lien or of a waiver or release of the lien shall be received and registered or recorded without payment of a fee.

(b) To perfect a child support lien with respect to personal property, the department shall file a notice of lien with the secretary of state's office, the administrator of the division of motor vehicles, or any other office or agency within the state responsible for the filing or recording of liens. The filing of a notice of intent of the lien or of a waiver or release of the lien shall be received and registered or recorded without payment of a fee.

(c) If any obligor against whom a notice of intent to create a child support enforcement lien has been filed according to this section:

(1) Fails to request a hearing within the time frame provided;

(2) Fails to appear; or

(3) Neglects or refuses to pay the sum due after the expiration of thirty (30) days after a hearing is conducted by the department pursuant to § 15-21-3, at which the determination is made the obligor parent is in arrears.

(d) The notice of intent as filed shall be deemed and operate as a lien which is perfected by the department by the filing of a notice of lien. The notice of lien shall specify the property to be attached and the amount of the arrearage due and shall be filed in the office or city or town where the notice of intent was originally filed.

(e) The lien shall have priority over all subsequent liens or other encumbrances, subject to the provisions of § 6A-9-322 and with the exception of any lien for taxes. A child support lien that has been perfected shall encumber after acquired personal property or proceeds.

(f) If the collection of any unpaid child support will be jeopardized by delay or exigent circumstances, as defined by rules promulgated by the director, the department may apply to the family court for an order to restrain the obligor parent from encumbering, moving, selling, or in any way transferring any real or personal property which may be subject to the provisions of this section.

(g) The lien shall expire upon either termination of a current child support obligation and payment in full of unpaid child support or release of the lien by the department. In any event, a lien under this chapter shall not expire until satisfied and discharged. Expiration of the lien shall not terminate the underlying order or judgment of child support. The department may issue a full or partial waiver or partial release or full discharge of any lien imposed under this section and shall file the waiver, release, or discharge without fee in the city or town or office where the original lien was filed within ten (10) days of the obligor's compliance with this section. The waiver or release or partial release or full discharge shall be conclusive evidence that the lien upon the property covered by the waiver or release is extinguished.

§ 15-21-5 Levy of personal property. –

(a) In any case where the department has perfected a lien pursuant to § 15-21-4, the department may collect unpaid child support and levy upon all property as provided in this section. The department shall have the authority to issue an administrative notice of levy or administrative writ of execution to effectuate a levy under this chapter of the law. The term "levy" includes the power of seizure by any means authorized by law. The department may seize and sell any property that is subject to levy. Any person in possession of property upon which a lien has been imposed shall, upon demand, surrender the property to the department.

(b) A levy on property held by an organization with respect to a life insurance or endowment contract shall, without necessity for the surrender of the contract document, constitute a demand by the department for payment of the amount of the lien and the exercise of the right of the obligor to the advance of that amount. The organization shall pay the amount within ninety (90) days after service of notice of levy. The levy shall be deemed to be satisfied if the organization pays over to the department the full amount which the obligor could have had advanced to him or her, provided that the amount does not exceed the amount of the lien.

(c) Whenever any property upon which levy has been made is not sufficient to satisfy the claim of the state for which levy is made, the department may thereafter, as often as necessary, proceed to levy, with notice, upon any other personal property of the obligor liable to levy, until the amount due from him or her, together with expenses, is fully paid. In all cases, any support obligations shall be fully satisfied prior to payments for expenses.

(d) Upon demand by the department, a person who fails or refuses to surrender personal property subject to levy shall be liable in his or her own person and estate to the state in a sum equal to the value of the property not so surrendered, but not exceeding the amount of the lien, together with costs and interest, at the rate authorized for civil judgments, from the date of the levy. In addition, any person required to surrender property who fails or refuses to surrender the property without reasonable cause shall be liable for a penalty equal to twenty-five percent (25%) of the amount recoverable. The interest or penalty incurred under this subsection shall be paid to the general fund and shall not be credited against the child support liability. Any non-obligor party aggrieved by a decision of the department may, within ten (10) days of receipt of notice of demand, request an administrative hearing with the department.

§ 15-21-6 Release from liability. –

(a) Any person in possession of, or obligated with respect to, personal property who upon demand by the department surrenders the property or discharges the obligation to the department, or who pays a liability under this section, shall be discharged from any obligation or liability to the obligor arising from the surrender or payment.

(b) In the case of a levy on an organization with respect to a life insurance or endowment contract, which is satisfied pursuant to this section, the organization shall also be discharged from any obligation or liability to any beneficiary arising from the surrender of payment.

§ 15-21-7 Foreclosure of lien against real property. –

(a) If the department has perfected a lien on real property in accordance with § 15-21-4, then it shall be lawful for the department or its assigns to sell the real property of any defaulting obligor and the benefit and equity of redemption of the defaulting obligor and his or her heirs, executors, administrators, and assigns, at public auction upon the premises or at any other place that may be designated for that purpose by the department or its assigns, by:

(1) Mailing written notice of the time and place of sale to the defaulting obligor, at his or her last known address, by certified mail, return receipt requested, at least twenty (20) days prior to publishing the notice;

(2) Publishing the notice at least once each week for three (3) successive weeks in a public newspaper published daily in the city or town in which the real property is situated; and if there is no public newspaper published daily in the city or town where the real property is situated, or if the real property is not situated in a city, then:

(i) If the real property is situated in the city of Central Falls, in a public newspaper published daily in the city of Pawtucket;

(ii) If the real property is situated in the town of North Providence, in a public newspaper published daily in the city of Providence;

(iii) If the real property is situated in any of the towns of Cumberland, Lincoln, Smithfield, or North Smithfield, in a public newspaper published daily in either the city of Pawtucket, Woonsocket, or Providence;

(iv) If the real property is situated in the county of Providence elsewhere than in the above named cities and towns, in a public newspaper published daily in the city of Providence;

(v) If the real property is situated in the county of Newport, in a public newspaper published daily in the city of Newport; but if there is no such newspaper published, then in some public newspaper published anywhere in the county of Newport;

(vi) If the real property is situated in any of the counties of Bristol, Kent, or Washington:

(A) In a public newspaper published daily in the city or town in which the real property is situated; or

(B) If there is no public newspaper published, then in a public newspaper published in the city or town in which the real property is situated, or in some public newspaper published daily in the county in which the real property is situated, or in a public newspaper published daily in the city of Providence; with powers to adjourn the sale from time to time, provided that publishing of the notice shall be continued, together with a notice of the adjournment or adjournments, at least once each week in the same newspaper; and

(3) By mailing written notice of the sale to any person or entity having an interest of record in the real property, who records not later than thirty (30) days prior to the date originally scheduled for the sale including, without limitation, the holder of any mortgage or deed of trust with respect to the real property, to the address of the person or entity provided for this purpose in the land evidence records or at any other address that the person or entity may have provided the department in writing, the notice to be given by regular or certified mail, return receipt requested, at least twenty (20) days prior to the date originally scheduled for the sale; and in his or her or their own name or names, or as the attorney or attorneys of the defaulting obligor (for that purpose by these presents duly authorized and appointed with full power of substitution and revocation) to make, execute, and deliver to the purchaser or purchasers at the sale a good and sufficient deed or deeds of the defaulted real property, in fee simple, and to receive the proceeds of the sale or sales, and from these proceeds to retain all sums secured by the lien in favor of the department as of the date of the sale together with all expenses incident to the sale or sales, or for making deeds under this chapter, and for fees of counsel and attorneys, and all costs or expenses incurred in the exercise of these powers, and all taxes, assessments, and premiums for insurance, if any, either paid by the department, or its assigns, or remaining unpaid upon the defaulted real property, rendering and paying the surplus of the proceeds of sale, if any, over and above the

amounts to be retained as previously provided, together with a true and particular account of the sale or sales, expenses, and charges, to the defaulting obligor, or his or her heirs, executors, administrators, or assigns; which sale or sales made as previously provided shall forever be a perpetual bar against the defaulting obligor and his or her heirs, executors, administrators, and assigns, and all persons claiming the defaulted real property, so sold, by, through, or under him or her, them, or any of them.

(b) Any foreclosure sale held by the department pursuant to subsection (a) of this section, and the title conveyed to any purchaser or purchasers pursuant to the sale, shall be subject to any lien or encumbrance entitled to a priority over the lien of the department pursuant to § 15-21-4.

§ 15-21-8 Civil actions not precluded. –

(a) In any case where there has been a refusal or neglect to pay any child support or to discharge any liability in respect to child support, whether or not a levy has been made, the department, in addition to other modes of relief, may file an action in the family court.

(b) The filing of a civil action shall not preclude the department from enforcing the child support order through the use of any administrative means permitted by federal or state law.

§ 15-21-9 Written notice to obligor. –

At the time of perfecting a lien, executing a levy, or seizing any property, the department shall send written notice to the obligor by first class mail of the action taken.

§ 15-21-10 Judicial review. –

Any person aggrieved by a determination of the department pursuant to this chapter may seek judicial review within thirty (30) days of the department's decision on exemptions or within thirty (30) days of the department's final determination by filing a motion with the court. Commencement of the review shall not, unless specifically ordered, stay enforcement of the child support collection procedures described in § 15-21-1.

§ 15-21-11 Full faith and credit of liens. –

A lien procured by another jurisdiction, in accordance with the provisions of this chapter, shall be accorded full faith and credit without the requirement of a hearing.