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Interstate Collection of Child Support and Federalism: Why the States Have Authority and What They Need to Do to Keep It*

I. INTRODUCTION

Failure to collect child support has become a nation-wide problem, and costs taxpayers billions in federal welfare funding.¹ Many attempts have been made to improve collection methods, particularly through the drafting of uniform state laws. Still, a large amount of child support goes uncollected. Interstate cases, in which a delinquent noncustodial parent lives in a different state than his or her children, are the most severe.

Traditionally, states have had primary authority in collecting child support. Because states have failed to adequately resolve the child support problem, some are advocating more federal involvement. In 1992 Congress passed the Child Support Recovery Act (CSRA),² which criminalized a parent's failure to pay child support. However, *United States v. Schroeder*,³ a recent federal court decision in Arizona, struck down CSRA as unconstitutional.

* Copyright © 1996 Eric S. Lind. I would like to thank Professor Kif Augustine Adams and Attorney Eugene Gammon for their direction and helpful insights.

1. Janelle T. Calhoun, Comment, *Interstate Child Support Enforcement System: Juggernaut of Bureaucracy*, 46 MERCER L. REV. 921, 923 (1995). In addition to the \$12.7 billion in federal government expenditures, states are currently paying about \$10.5 billion annually. *Id.*

2. 18 U.S.C. § 228 (1995). The text of the act is as follows:

(a) Offense.—Whoever willfully fails to pay a past due support obligation with respect to a child who resides in another State shall be punished as provided in subsection (b).

(b) Punishment.—The punishment for an offense under this section is—

(1) in the case of a first offense under this section, a fine under this title, imprisonment for not more than 6 months, or both; and

(2) in any other case, a fine under this title, imprisonment for not more than 2 years, or both.

(c) Restitution.—As used in this section—

(1) the term "past due support obligation" means any amount—

(A) determined under a court order or an order of an administrative process pursuant to the law of a State to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living; and

(B) that has remained unpaid for a period longer than one year, or is greater than \$5,000; and

(2) the term "State" includes the District of Columbia, and any other possession or territory of the United States.

3. 894 F. Supp. 360 (D. Ariz. 1995).

This comment analyzes the arguments for and against state-controlled interstate child support. Part II discusses the background of interstate child support including state collection efforts such as the Uniform Reciprocal Enforcement of Support Act (URESA);⁴ the Uniform Interstate Family Support Act (UIFSA);⁵ federal involvement through Aid to Families with Dependent Children (AFDC)⁶; and traditional *in personam* jurisdictional problems. Part III examines *Schroeder*, and its arguments in favor of state control of child support. Part IV recommends two courses of action that states should take to be more effective: first, states must more boldly and more frequently enforce their criminal non-support statutes by sending delinquent parents to prison; second, states must enact laws that expand personal jurisdiction over non-resident parents. Part V concludes that interstate child support is best left to the states, while recognizing that if the states do not significantly improve their interstate child support collection, more federal regulation is inevitable. In order to be more effective at collecting child support, states should enact laws that expand personal jurisdiction over non-resident parents. Additionally, states must more boldly, and more frequently, enforce their criminal nonsupport statutes by sending delinquent parents to prison. Finally, the Appendix lists a table of current state long arm statutes and state criminal nonsupport legislation.

II. BACKGROUND

Interstate child support has a history of problems stemming from lack of jurisdiction, conflicts of laws between states and general state non-cooperation. For some time, efforts have been made to improve the enforcement of interstate child support. Acts such as the URESA, and the more recent UIFSA have attempted to unite the states in their efforts to collect child support in interstate cases. Still, "a shocking two-fifths of custodial parents are unable to obtain and enforce child-support awards, and the prospects worsen if the non-custodial parent lives out of state."⁷ Today approximately 10 million children receive public assistance at a federal price tag of \$12.7 billion dollars.⁸

4. 9B U.L.A. 148 (West Supp. 1996); see also RURESA at 9B U.L.A. 91 (West Supp. 1996).

5. 9 U.L.A. 225, *pt. I* (Supp. 1996).

6. 42 U.S.C.A. § 666 (Supp. 1996).

7. Patrick J. Borchers, *Jurisdictional Pragmatism: International Shoe's Half-Buried Legacy*, 28 U.C. Davis L. Rev. 561, 588 (1995).

8. Janelle T. Calhoun, Comment, *Interstate Child Support Enforcement System: Juggernaut*

A. *Uniform Acts and Jurisdiction*

1. *The Uniform Reciprocal Enforcement of Support Act*

In 1950, Congress enacted the Uniform Reciprocal Enforcement of Support Act (URESAs).⁹ The Commission for Uniform State Laws drafted URESA, and the American Bar Association approved it. URESA was intended to "improve and extend by reciprocal legislation the enforcement of the duties of support and to make uniform the law with respect thereto."¹⁰ In 1952 and 1958 URESA was amended, and in 1968 a revised version of URESA was drafted (RURESAs). All states have adopted some form of URESA.¹¹ Although URESA has been helpful in improving interstate collection of child support, many improvements are still needed.

2. *The Uniform Interstate Family Support Act*

In 1992, a committee for the National Conference of Commissioners on Uniform State Laws drafted the Uniform Interstate Family Support Act (UIFSA).¹² The committee intended UIFSA to supersede URESA. Specifically, they hoped to overcome some of UIFSA's inefficiencies, and to expand long arm jurisdiction. Unfortunately, neither URESA nor UIFSA can be effective unless states adopt the act. Currently, only twenty-six states have adopted UIFSA.¹³ UIFSA is the result of an intensive effort which included the advice of the U.S. Commission on Interstate Child Support, which studied the situation for four years.¹⁴ In its report, "[t]he Commission recommended 120 changes to current state law and practice to be accomplished by mandates from the federal government."¹⁵ Despite improvements, UIFSA has not yet revolutionized the interstate child support problem as is needed.

of Bureaucracy, 46 MERCER L. REV. 921, 923 (1995). The states are currently paying about \$10.5 billion. *Id.*

9. 9B U.L.A. 148 (West Supp. 1996).

10. Unif. Reciprocal Enforcement of Support Act § 1, 9B U.L.A. 553, 568 (1987); *See also* Tina M. Fielding, Note, *The Uniform Interstate Family Support Act: The New URESA*, 20 U. DAYTON L. REV. 425, 428 (1994).

11. 9 U.L.A. 255-56, *pt. I* (West Supp. 1996).

12. *Id.*

13. *Id.* at 255.

14. Janelle T. Calhoun, Comment, *Interstate Child Support Enforcement System: Juggernaut of Bureaucracy*, 46 MERCER L. REV. 921 (1995).

15. *Id.* at 923.

3. *In Personam Jurisdiction*

Thus far, courts have been unwilling to depart from the traditional *International Shoe* type jurisdictional tests in child support cases.¹⁶ Under *International Shoe* jurisdiction can only be asserted if: 1) the defendant has “minimum contacts” with the state, and 2) the assertion of jurisdiction does not offend notions of “fair play and substantial justice.”¹⁷ Unfortunately “minimum contacts” do not always allow personal jurisdiction in child support cases, especially when the forum state is not the last marital domicile.¹⁸ This makes it impossible for a court to assert jurisdiction over a parent who has no contacts with the forum state. Consequently, UIFSA considered the jurisdictional problem, and listed specific instances where jurisdiction can be asserted. Additionally, states have enacted long arm statutes in order to maximize their jurisdictional power;¹⁹ however, neither UIFSA nor state long arm statutes afford jurisdiction in all situations. As a result, many custodial parents are unable to recover delinquent child support in interstate cases.

B. Federal Involvement: Aid to Families with Dependent Children

Due to the large amount of funding that the federal government provides the states in Aid to Families with Dependent Children (AFDC), the efficiency of child support collection interests the federal government greatly. The federal government has imposed guidelines that states must follow in order to qualify for federal funding. In this way, the federal government has indirectly regulated states by threatening loss of federal funding. This federal pressure on the states has been helpful and needed.²⁰

As stated previously, approximately ten million children receive public assistance at a federal price tag of \$12.7 billion dollars.²¹ An increase in child support collection would radically reduce the amount of AFDC funds expended by the federal government.

16. 326 U.S. 310 (1945).

17. *Id.* at 316.

18. Ann Bradford Stevens, *Is Failure to Support A Minor Child in the State Sufficient Contact with that State to Justify In Personam Jurisdiction?*, 17 S. ILL. U. L.J. 491 (1993).

19. See Appendix A for state-by-state long arm statutes.

20. From 1976 to 1988 collections rose from \$512 million to \$4.6 billion—a 328% increase. See *Schroeder*, 894 F. Supp. at 366.

21. Calhoun, *supra* note 14 at 923.

In order to force states to improve child support collection, the federal government has imposed specific guidelines that states must follow in order to qualify for AFDC funding. Title IV-D of the Social Security Act²² requires states to implement procedures such as the withholding of income or state income tax returns to offset past due support obligations. In short, the federal government has an interest in state collection of child support because such collection directly affects federal coffers.

III. COMMERCE, FEDERALISM, AND CHILD SUPPORT: *UNITED STATES V. SCHROEDER*²³

In *Schroeder*, the court relied heavily on the reasoning of the Supreme Court in *United States v. Lopez*.²⁴ In *Lopez* the Supreme Court struck down the Gun-Free School Zone Act (GFSZA)²⁵ as exceeding the commerce power. GFSZA made it a criminal offense to carry a gun within a school zone. The *Lopez* court outlined a three-part standard for determining whether an activity is legitimately regulated by the commerce power:

First, Congress may regulate the use of the channels of interstate commerce. . . . Second, Congress is empowered to regulate and protect the instrumentalities of interstate commerce, or persons or things in interstate commerce, even though the threat may come only from intrastate activities. . . . Finally, Congress' commerce authority includes the power to regulate those activities having a substantial relation to interstate commerce . . . i.e., those activities that substantially affect interstate commerce.²⁶

The Court then found that the Gun-Free School Zone Act was primarily criminal in nature and did not "substantially affect interstate commerce."²⁷

Similarly, the *Schroeder* court held that CSRA did not have a substantial relation to interstate commerce.²⁸ The court held that criminal law is normally a matter for state, not federal legislation.²⁹ Moreover, the

22. 42 U.S.C.A. § 666 (West Supp. 1996).

23. 894 F. Supp. 360 (D. Ariz. 1995).

24. 115 S. Ct. 1624 (1995).

25. 18 U.S.C. § 922(q) (1995).

26. *Lopez*, 115 S. Ct. at 1629-30 (internal citations omitted).

27. *Id.* at 1631.

28. *United States v. Schroeder*, 894 F. Supp. 360, 367 (D. Ariz. 1995).

29. *Id.*

court declared that CSRA violated the Tenth Amendment, stating that those powers not delegated to Congress by the Constitution should remain with the States.³⁰

If the reasoning in *Schroeder* is upheld in higher courts, many questions arise for interstate child support.

A. Commerce Clause and the Tenth Amendment

Schroeder emphasized the limits imposed on Congress by the Commerce Clause and by the Tenth Amendment. According to *Schroeder*, criminalization of child support does not "substantially affect interstate commerce," and cannot be regulated by the commerce power under the Supreme Court's reasoning in *Lopez*. Furthermore, under *Schroeder* CSRA violates the Tenth Amendment: "[p]owers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively."³¹ Referring to Madison's Federalist No. 45, the court notes that constitutionally granted powers to the federal government are "few and defined," while those that remain with state governments are "numerous and indefinite."³²

Schroeder raises difficult questions regarding the scope of federal involvement in the nationwide problem of interstate child support collection. Until recently, states have legislated child support with minimal federal involvement, but a growing debate centers around whether the interstate child support problem should be federalized.

Increased attention to the interstate child support problem stems from the fact that the government and its taxpayers are tired of bearing the financial responsibility of noncustodial parents who fail to fulfill their responsibility to support their children. *Schroeder* cited the legislative history of CSRA which states, in part, that:

[A] child should be able to expect the most basic support from those who chose to bring the child into the world. That expectation should not end at the state line . . . [and] the taxpayers of America should be able to expect that the burden of caring for these children will be placed on the shoulders of the parents—where it rightfully belongs.³³

30. *Id.* at 368.

31. U.S. CONST. amend. X.

32. THE FEDERALIST No. 45.

33. H.R. Rep. No. 771, 102d Cong., 2d. Sess., pt. 5, at 5 (1992) (cited in *Schroeder*, 894 F. Supp. at 367).

Since the federal government has a financial interest in interstate child support, it is arguable that it should be involved in some degree. Nevertheless, *Schroeder* rejects this kind of federal coffers argument.

Although *Schroeder* may be detrimental to direct federal regulation room does exist for federal involvement. For example, the government might be able to distinguish the legislation under attack in *Schroeder* from other non-criminal legislative attempts. Since states have traditionally dictated the criminal law, and since the federal government has recognized general state sovereignty in criminal law, it was not difficult for the court in *Schroeder* to declare CSRA unconstitutional.

Even if non-criminal federal legislation could be distinguished from *Schroeder*, drafters of such legislation have a more difficult task of getting around the *Lopez* "substantial affects" test. The government argued that interstate child support collection meets the test. Since a parents failure to make child support payments affects federal coffers, and since federal coffers provide for families, there is sufficient justification for use of the commerce power.³⁴ The court rejected this contention as "insufficient to establish that delinquent child support payments substantially affect interstate commerce."³⁵ *Schroeder* demonstrates the difficulty in arguing that direct federal regulation of child support meets the "substantial affects" test. Still, the government might argue, on behalf of its non-criminal child support legislation, that interstate economic deprivation caused by delinquent child support is a substantial effect on interstate commerce. But if *Schroeder* is to have its way, the government is unlikely to win with such reasoning.

In addition to constitutional questions, *Schroeder* revises the question of who is best suited to regulate interstate child support. In this area the federal government may have the stronger argument. For years child support regulation has been primarily left to the states, and some claim that the states have failed.

B. Federalism Concerns

Since the 1950 enactment of URESA (and before) great efforts have been made to improve the status of interstate child support collection. When URESA did not satisfactorily solve the interstate child support problem, Congress created the U.S. Commission on Interstate Child

34. *Schroeder*, 894 F. Supp. at 366.

35. *Id.* at 366.

Support which studied the child support problem from 1988 to 1992.³⁶ With the benefit of the U.S. Commission's work, a Committee for the National Conference of Commissioners on Uniform State Laws drafted a much changed version of URESA, named the Uniform Interstate Family Support Act (UIFSA).³⁷ Four years after the creation of UIFSA only 26 states³⁸ have adopted the act. Because the states have not discovered an effective solution, the federal government has begun to withhold and to intercept tax refunds. Federal involvement has improved interstate collection of child support, but because of state inefficiency, and the drain on federal funding, Congress decided to expand the role of the federal government by coercing state compliance with the threat of AFDC funding loss.³⁹ This measure has improved state collection of child support has improved. From 1976 to 1988 collections rose from \$512 million to \$4.6 billion—a 328% increase.⁴⁰ Thus, based on the states' failure to sufficiently handle interstate collection of child support, and the federal government's success in improving interstate collection, one might conclude that federal interference is desirable. Additionally, some feel that vesting control of interstate child support regulation into one organization—the federal government—will create a more centralized, efficient way of administering and enforcing support obligations.

Nevertheless, there are strong arguments and much sentiment for keeping child support enforcement regulation within the states. One argument against federalization of interstate child support is that the majority of the U.S. Commission on Interstate Child Support did not feel that the federal government could do any better than the states.⁴¹ Furthermore, there are strong balance of powers arguments, and fears shared by many that the federal government has already penetrated too deeply into state and individual matters. Some feel that federalization of child support will open the door for more federal intervention into states' rights:

A more serious worry of many is that Congress will use child support as the means to move into other areas that have traditionally been the

36. Calhoun, *supra* note 1 at 932.

37. 9 U.L.A. 255, 256-57, *pt. 1* (Supp. 1996).

38. *Id.* At 255.

39. Calhoun, *supra* at 928-29.

40. *Schroeder*, 894 F. Supp. at 366.

41. Calhoun, *supra* at 941. The Commission was created by Congress in 1988 "to report on ways to improve enforcement of child support awards in cases in which the parents live in different states." See Patrick J. Borchers, *Jurisdictional Pragmatism: International Shoe's Half-Buried Legacy*, 28 U. C. Davis L. Rev. 561, 589 (1995).

province of the state, such as custody and visitation issues . . . Lawyers, judges, legislators, and others involved in these domestic issues must begin to address effectively problem areas surrounding these issues before Congress moves more domestic relations areas from state control and individual advocacy.⁴²

Because child support enforcement has become such a problem, some have looked for more federal involvement. Perhaps federalization of interstate child support is a practical answer; however, some Americans are deeply concerned about the long term effects of increased federal power.

The federal threat is healthy for the child support dialogue because it puts pressure on the states to improve their child support collection methods in the hope of maintaining their autonomy in this area. In my opinion, there are two significant ways in which states can improve the status of their child support collection: (1) stricter enforcement of criminal nonsupport statutes, and (2) expansion of state long arm jurisdiction.

IV. PROPOSED AREAS OF STATE IMPROVEMENT

A. Nonsupport Criminalization and Federalism

In 1910, the Commissioners on Uniform State Laws proposed the Uniform Desertion and Non-Support Act (UDNA).⁴³ UDNA's remedies were criminal, and were viewed as unsuccessful at collecting child support because people thought that a man who was put into jail could not work or was branded a criminal and was subsequently unable to get a job.⁴⁴ In today's discrimination-conscious society a job applicant is less likely to be denied a job due to jail time for failure to pay child support. Employer's today have less freedom to inquire into such matters. As to the inability of a person to work while in jail, it is arguable that if non-custodial parents do not pay child support while they have a job, it makes no difference whether the parent is in jail without a job. Furthermore, the deterrence factor of a criminal statute that is strictly enforced may have a

42. Dana E. Prescott, *Family Law Financial Forms and Floundering Federalism*, 8 Me. B.J. 156 (1993) (quoting Elrod, *The Federalization of Child Support Guidelines*, AM. ACAD. MATR. LAW. at 130).

43. Tina M. Fielding, Note, *The Uniform Interstate Family Support Act: The New URESA*, 20 U. DAYTON L. REV. 425, 427 (1994).

44. *Id.* at 428.

huge impact in increasing payment of child support. One possible explanation for the impact is that many noncustodial parents are generally not criminals. The thought of going to jail as a criminal outweighs any desire to withhold child support.

Recent research confirms that imprisonment is an appropriate remedy. University of Michigan law professor David L. Chambers asserts that nothing affects the payment of child support more than "jail time."⁴⁵ According to Chambers, noncustodial parents serving time, will pay money to get out of jail. Others will be deterred as a result.⁴⁶ Another criminal enforcement advocate, Eleanor H. Landstreet,⁴⁷ suggests that there are some advantages to criminal prosecution over a civil trial including its deterrent value in addition to speedy and aggressive enforcement.⁴⁸

Despite expert validation, criminal penalties are not often used as a remedy for delinquent child support.⁴⁹ Many states have passed criminal nonsupport statutes.⁵⁰ However, when the states enforce these statutes in interstate cases problems arise through the extradition process.⁵¹ In interstate cases, criminalization on the state level is not always practical. Even so, extradition problems do not justify federalization; otherwise, one could argue that all criminal law should be federalized.

Clearly, CSRA purports to be a viable solution to state extradition problems in cases of delinquent child support. The legislative intent of CSRA states:

The bill is designed to target interstate cases . . . which state officials report to be clearly the most difficult to enforce, especially the "hard core" group of parents who flagrantly refuse to pay and whom traditional extradition procedures have utterly failed to bring to justice.⁵²

45. David L. Chambers, *Equitable Distribution in New York: Results and Reform*, 57 *Brook. L. Rev.* 769, 770 (1991).

46. *Id.*

47. Landstreet is the assistant staff director of the Child Support Project of the ABA Center on Children and the Law in Washington D.C.

48. Eleanor H. Landstreet, *State and Federal Criminal Nonsupport Prosecution*, 13 *No. 7 FAIRSHARE* 16, July 1993.

49. *Id.*

50. See Appendix A for a state-by-state list of criminal nonsupport statutes.

51. However, even though the extradition process is expensive and difficult, the majority of states have adopted the Uniform Extradition Act. See 11 *U.L.A.* 97 (1995).

52. H.R. Rep. No. 771, at 5 (interpreting H.R. 1241 [18 U.S.C. § 228], cited in *Schroeder*, 894 *F. Supp.* at 367).

Despite this intent, *Schroeder* held that extradition arguments do not warrant federal criminal legislation since they fail "to show a relation to interstate commerce."⁵³ The court further urged that extradition should be accomplished "via traditional extradition methods."⁵⁴

B. Interstate Child Support Jurisdiction

Along with criminal non support statutes, the states must expand jurisdiction. If interstate child support were federalized, jurisdictional problems could be more easily overcome. Because of *Kulko*,⁵⁵ jurisdiction has been extended about as far as possible on the state level, unless the federal courts decide to uphold expanding notions of long arm jurisdiction. Most states have a long arm statute that extends jurisdiction to its outer limits. These long arm statutes cover a great many activities that afford jurisdiction, but are still unable to extend jurisdiction in some circumstances.⁵⁶

The U.S. Commission on Interstate Child Support addressed this issue and considered what it termed a "child-state" model of jurisdiction.⁵⁷ This model would allow jurisdiction in support matters within the child's home state.⁵⁸ However, because of the *Kulko*⁵⁹ decision the Commission retreated from the child-state model. As a result, there are still jurisdictional loop holes.⁶⁰

Even without the child-state model, at least two arguments can be made by analogy for extending *in personam* jurisdiction in interstate child support situations: 1) the tort argument, and 2) the child custody argument.

Kulko allows an action against a person not physically connected with the state, as long as such action is tied with some economic

53. *Schroeder*, 894 F.Supp. at 366.

54. *Id.*

55. See *Kulko v. California Superior Court*, 436 U.S. 84 (1976).

56. See Appendix A for a state by state review of long arm statutes.

57. Patrick J. Borchers, *Jurisdictional Pragmatism: International Shoe's Half-Buried Legacy*, 28 U.C. DAVIS L. REV. 561, 588 (1995).

58. According to Borchers this is a quite reasonable approach, and one that is used worldwide, including in the Hague Convention, and the recent Organization of American States Convention. *Id.* at 588.

59. *Kulko v. California Superior Court*, 436 U.S. 84 (1976).

60. Patrick J. Borchers, *Jurisdictional Pragmatism: International Shoe's Half-Buried Legacy*, 28 U.C. DAVIS L. REV. 561, 589 (1995). Borchers argues that the Commission backed off despite the arguments of many academics that parents inability to collect support from out of state noncustodial parents coupled with Congress's special powers under section five of the Fourteenth Amendment would allow the Commission's "child-state" model for jurisdiction. *Id.*

interest⁶¹. State long arm statutes often confer jurisdiction over nonresident tortfeasors who commit their tort within the state.⁶² In *Kulko*, Justice Marshall was not willing to extend tortious liability to the offending parent because it involved his personal life, and not some economic interest.⁶³ The *Kulko* decision strikes a blow to interstate child support. "[T]he siring of a child, the failure to support illegitimate children, or the failure to pay a share of the pregnancy expenses can be considered a tort."⁶⁴ It is questionable whether jurisdiction should be conferred over a person whose only contacts with the state are his failure to support his or her minor child, but such a proposition is not untenable. Many states have statutes that confer personal jurisdiction over a person who commits a tortious act or omission in the state.⁶⁵ Therefore, if the tort of failing to pay child support is seen as occurring within the state, then jurisdiction is appropriate.⁶⁶

In addition, an argument for jurisdiction can be made based on a states propensity to hold a parent liable for the acts of his/her minor child. For example, many state shoplifting statutes hold a parent responsible for the shoplifting committed by their minor child. Therefore, if it is reasonable to impose criminal and civil liabilities on a parent for the acts of their minor children, it is not unreasonable to impose jurisdiction on a parent in his/her child's home state. In essence, the minor child (legally speaking) is simply an extension of the parent. Consequently the parent has minimum contacts with the state through its minor child.

Another theory for extending jurisdiction in interstate child support stems from custody disputes. In custody disputes the home state of the

61. *Kulko*, 436 U.S. at 84.

62. Ann Bradford Stevens, *Is Failure to Support a Minor Child in the State Sufficient Contact with that State to Justify In Personam Jurisdiction*, 17 S. ILL. U. L.J. 491, 505 (1993).

63. *Kulko*, 436 U.S. at 96-97. However, the lower court in *Kulko* found jurisdiction based on the fact that Mr. Kulko had caused an effect in the state, by consenting to his children to move to California. 133 Cal. Rptr. 627, 628 (Ct. App. 1976).

64. Heather M. Lammers, Note, *Murphy v. Basile: Successful Abandonment by the Judicial System of a Mother Asserting In Personam Jurisdiction Against a Nonresident Putative Father*, 40 SAN DIEGO L. REV. 546, 558 (1995).

65. See Appendix A for a review of state long arm jurisdiction statutes.

66. Many states have two provisions regarding jurisdiction that is conferred though tort liability. The first usually grants jurisdiction over a nonresident for an act or omission committed within the state that results in tortious injury. The second confers jurisdiction over a person for an act or omission committed outside the state that causes injury inside the state. However, the second usually includes language conferring jurisdiction only when acts committed outside of the state are done in conjunction with solicitation, business, or regular and concerted economic activities wherein the individual derives an economic benefit from the state (a kind of *Kulko* analysis). See Appendix (long arm jurisdictional statutes).

child is the state of jurisdiction for binding custody orders according to the Uniform Child Custody Jurisdiction Act (UCCJA).⁶⁷ This home state jurisdictional determination has now been enacted in Title 28 of the United States Code.⁶⁸ If courts are willing to assert jurisdiction on the basis of the child's home state in custody disputes, it can be argued that the same jurisdictional determination should be cases of child support. If a "child-state" model of jurisdiction exists in a custody proceeding, it makes sense to allow the same "child-state" model in a child support case. In short, jurisdictional barriers should not exist where courts can reasonably assert jurisdiction over a noncustodial parent, using one or more of the above arguments.

Finally, some advocate more aggressive legislation as a solution to jurisdictional problems in child support. According to Carol S. Bruch,⁶⁹ legislatures need to assume an active role in changing and developing jurisdictional laws in the area of interstate child support, and to take advantage of "courts' deference to legislative will."⁷⁰ Bruch further argues that "any child living in California and in need of support should be able to seek child support in a California courtroom, without regard to the [nonresident parent's] other contacts with [the] state."⁷¹ Normally the "minimum contacts" and "notions of fair play and substantial justice" tests take into account the burden on the nonresident of having to travel to the forum state. These jurisdictional tests are meant to protect nonresidents from unfairly being hauled into the court of some extra-residential state. In child support litigation, concern for the nonresident's inconvenience in the "minimum contacts" sense should be diminished. Since a child support action is occasioned by the nonresident's breach of his or her support obligation, it is unfair to expect the child, or the child's custodian, to travel elsewhere to litigate. We should give consideration to the innocent rather than the offending party. A child should be able to seek support from its parent in the child's state of residence. With this in mind, legislatures should more boldly enact legislation that will expand jurisdictional notions and allow parents to more effectively collect child support across state lines.

67. Unif. Child Cust. Juris. Act § 2, 9 U.L.A. 133, pt. 1 (1988).

68. 28 U.S.C.A. § 1738A (West Supp. 1995).

69. Bruch is a Professor of Law, University of California, Davis.

70. See Carol S. Bruch, *Fifty Years of International Shoe: The Past and Future of Personal Jurisdiction*, 28 U.C. DAVIS L. REV. 1047, 1054 (1995).

71. *Id.* at 1056 (cited in Ann Bradford Stevens, *Is Failure to Support a Minor Child in the State Sufficient Contact With That State to Justify In Personam Jurisdiction*, 17 S. ILL. U.L.J. 491 (1993)).

V. CONCLUSION

Interstate child support enforcement is far from resolved. However, financial concerns both at the governmental and familial level make it imperative that interstate collection methods improve. To date, states have had primary authority in the collection of child support. Some argue that it is time for the federal government to take a more active role in child support legislation. Others oppose increased federal involvement. If states want to maintain their autonomy and keep the federal government out of their child support affairs they must find better and more aggressive ways of collecting child support. If states are to succeed in this endeavor they must expand notions of jurisdiction in child support cases, and they must improve and enforce their criminal nonsupport provisions.

Eric S. Lind

APPENDIX A

ADDITIONAL INFORMATION ABOUT THE TABLE

- 1) In regard to criminal nonsupport, most states include provisions criminalizing nonsupport of a spouse, or have a separate statute concerning nonsupport of a spouse. However, because this appendix is concerned with the criminalization of child support, not spousal support, nonsupport of a spouse is not included.
- 2) In regard to criminal nonsupport, most states also include fines in addition to possible terms of imprisonment; however, this appendix is only concerned with jail time as a remedy for failure to support.
- 3) In regard to criminal nonsupport, many states define "child" as natural, adopted, illegitimate, etc., and some states have separate statutes regarding illegitimate children. However, this appendix has omitted that distinction for simplicity.
- 4) In regard to jurisdiction, I have left out some of the general grounds of jurisdiction often explicated in the statutes such as: submitting to jurisdiction, making an appearance in defense of a claim, or being a resident or domiciliary of the state.
- 5) Finally, some of the dates in the statutory citations are a few years old. Generally, this means that the pocket parts of the individual states contained no repealing, amending, or updating information regarding the law. Thus, with marginal room for error, and based on the materials I had to work with, the dates and laws shown below are current legislation.

Table completed in December of 1995

CRIMINAL STATUTE	LONG ARM STATUTE
ALABAMA	
<p>In Alabama, nonsupport is tried as other misdemeanors, allowing jail time or hard labor (the code does not specify what level misdemeanor, nor does the code specifically define the offense as a misdemeanor; ALA. CODE §§ 30-4-55, 3-4-61 (1989)) ALA. CODE § 30-4-52 (1989).</p> <p>A judge has discretion to suspend a sentence and set terms of probation and order support payments to the clerk of the juvenile court; ALA. CODE §§ 30-4-59, 30-4-60.</p> <p>Alabama deems the offense of nonsupport as committed in the county of the wife or child at the time the complaint is made; ALA. CODE § 30-4-56 (1989).</p>	<p>Jurisdiction obtains when an individual:</p> <p>(A) transacts business within the state;</p> <p>(B) contracts to supply goods or services within the state;</p> <p>(C) causes tortious injury or damage in the state by act or omission;</p> <p>(D) causes tortious injury or damage in the state by act or omission outside the state by a person who regular transacts business, or derives substantial revenue from the state;</p> <p>(E) causes injury or damage by breach of express or implied warranty;</p> <p>(F) has an interest in, uses, or possesses real property within the state;</p> <p>(G) contracts to insure any person, property, or risk within the state;</p> <p>(H) has lived in a marital relationship within the state (notwithstanding subsequent departure) for obligations of alimony, custody, child support, or property settlement so long as the other party to the marital relationship continues to reside in the state;</p> <p>(I) has other minimum contacts with the state and to the full extent the allowed by the constitution; ALA. RULES CIV. PROC. 4.2 (1990);</p>

ALASKA

(a) A person is guilty of criminal nonsupport if that person fails, without lawful excuse, to provide support to a child under 18 for which the person is responsible;
 (b) Criminal nonsupport is a class A misdemeanor. ALASKA STAT. § 11.51.120(a)(1989).

Jurisdiction is appropriate:

- 1) when a person is engaged in substantial and not isolated activities in the state;
 - 2) in an action for injury to person or property from an act or omission committed in the state;
 - 3) in an action claiming injury to person or property in or out of the state from act or omission in the state;
 - 4) in an action claiming injury to person or property in the state arising out of an act or omission out of the state when solicitation or service activities were carried on in the state by or on behalf of the defendant, or products, materials, or things processed, serviced, or manufactured by the defendant were used or consumed in the state in the ordinary course of trade;
 - 5) in an action that arises out of a promise, made anywhere to perform services in the state or to pay for services to be performed in the state, or if the action arises out of services actually performed if the performance was authorized and ratified by the defendant, and other actions involving goods, documents of title and other things of value;
 - 6) in actions involving agreements concerning real property situated in the state, or to recover the benefits derived from tangible property situated in the state at the time of first use;
 - 7) in certain actions to recover deficiency judgements;
 - 8) against officers or directors of domestic corporations;
 - 9) in actions to collect certain taxes levied;
 - 10) in certain actions relating to promises to insure;
 - 11) in claims against a personal representative for a deceased person;
 - 12) in an action for annulment, divorce, or separate maintenance when a personal claim is asserted against the nonresident party, if a) the parties resided in the state in a marital relationship for not less than six consecutive months within the six years preceding the commencement of the action, b) the party asserting the personal claim has continued to reside in the state, and c) the nonresident party receives notice according to law.
- ALASKA STAT. § 09.05.015 (Supp. 1995).

ARIZONA

(a) Any parent of a minor child who knowingly fails to furnish reasonable support

In a proceeding to establish, enforce, or modify a support order, jurisdiction obtains

for his or her child is guilty of a class 6 felony.

(B) inability to furnish reasonable support is an affirmative defense. ARIZ. REV. STAT. ANN. § 12-2458 (1994).

when an individual:

- 1) resided with the child in the state;
- 2) resided in the state and provided prenatal expenses or support for the child;
- 3) the child resides in the state as a result of the acts or directives of the individual;
- 4) engaged in sexual intercourse in the state and the child may have been conceived by that act of intercourse;
- 5) asserted parentage on a birth certificate filed in the state;
- 6) if there is any other basis consistent with the constitutions of the state and the United States for exercise of personal jurisdiction. ARIZ. REV. STAT. ANN. § 12-1723 (Supp. 1995).

ARKANSAS

(a) A person commits the offense of nonsupport if, without just cause, he fails to provide support to:

- (1) his spouse who is physically or mentally infirm, or financially dependent; or
- (2) his legitimate child who is less than 18 years; or
- (3) his illegitimate child who is less than 18 and whose parentage has been determined in a previous judicial proceeding; or
- (4) his dependent child who is physically or mentally infirm.

(b) Nonsupport is a Class A misdemeanor (up to one year imprisonment; Ark. Code Ann. § 5-4-401(b)(1) (Michie 1994)); however it is a class D felony (up to 6 years imprisonment; Ark. Code Ann. § 5-4-401(a)(5) (Michie 1994)) if:

- (1) the person leaves or remains without the State of Arkansas to avoid a legal support duty; or
- (2) the person has previously been convicted of nonsupport. ARK. CODE ANN. § 5-26-401 (Michie 1994).

In a proceeding to establish, enforce, or modify a support order, jurisdiction obtains when an individual:

- 1) resided with the child in the state;
- 2) resided in the state and provided prenatal expenses or support for the child;
- 3) the child resides in the state as a result of the acts or directives of the individual;
- 4) asserted parentage in the putative father registry;
- 5) engaged in sexual intercourse in the state and the child may have been conceived by that act of intercourse
- 6) asserted parentage in the putative father registry;
- 7) there is any other basis consistent with the constitutions of the state or the United States. ARK. CODE ANN. § 9-17-201 (Michie Supp. 1995).

Arkansas allows jurisdiction: 1) in the county where the nonsupport violation occurs; 2) in a county where the person can be apprehended; 3) in the county of the injured spouse or child at the time of the indictment; or 4) if nonsupport continues, the county where the spouse or child reside and continue to be injured. ARK. CODE ANN. § 5-26-410 (Michie 1994).

CALIFORNIA

A parent who omits, without lawful excuse, to furnish necessary clothing, food, shelter or medical or other care to his or her child is guilty of a misdemeanor and may be fined up to \$2,000, imprisoned in the county jail for up to one year, or both. CAL. PENAL CODE § 270 (West Supp. 1995).

In general, California courts exercise jurisdiction to greatest extent allowed by the constitution. In particular, California courts exercise jurisdiction based on:

- (1) presence
- (2) Domicil
- (3) Residence
- (4) Citizenship
- (5) Consent

- (6) Appearance
- (7) Doing business in the state
- (8) Doing an act in state
- (9) Causing an effect in the state by act or omission elsewhere
- (10) Ownership, use or possession of a thing in state
- (11) Other relationships

For more detail *see* CAL. CIVIL PROCEDURE CODE § 410.10 (West 1973 & West Supp. 1995).

COLORADO

A person is guilty of nonsupport when such a person willfully neglects, fails, or refuses to provide reasonable support and maintenance for his spouse or children under 18 years (whether natural, adopted, or whose parentage has been judicially determined). Physical incapacity, or other good cause showing that the defendant was unable to furnish support is an affirmative defense. Nonsupport is a class 5 felony (one to three years imprisonment; COLO. REV. STAT. § 18-1-105 (Supp. 1995)) COLO. REV. STAT. § 14-6-101(1) (Supp. 1995).

Jurisdiction obtains when an individual:

- (a) transacts any business within the state;
- (b) commits a tortious act within the state;
- (c) owns, uses, or possesses property within the state that is the subject of a cause of action;
- (d) contracts to insure any person, property, or risk within the state at the time of contracting;
- (e) an action arises for maintenance of a matrimonial domicile within this state with respect to all issues relating to obligations for support to children in any action for dissolution of marriage, legal separation, declaration of invalidity of marriage, or support of children in one of the parties of the marriage continues without interruption to be domiciled within the state;
- (f) engages in sexual intercourse within the state as to an action brought under article 4 or article 6 of title 19, C.R.S., with respect to a child that may have been conceived by that act of intercourse. COLO. REV. STAT. § 13-1-124 (Supp. 1995).

CONNECTICUT

(a) Any person who neglects or refuses to furnish reasonably necessary support to his spouse, child under the age of eighteen or parent under the age of sixty-five is guilty of nonsupport and shall be imprisoned not more than (1) year, unless such person can show that, due to physical incapacity or other good cause, he is unable to furnish support. CONN. GEN. STAT. ANN. § 53-304(a) (West Supp. 1995).

Jurisdiction obtains when an individual:

- (1) transacts any business in the state; or
- (2) commits any tortious act within the state; or
- (3) commits a tortious act outside the state that injures person or property inside the state, if such person:
 - (A) regularly does or solicits business or derives substantial revenue from such within the state; or
 - (B) expects or should reasonably expect the act to have consequences in the state and derives substantial revenue from interstate commerce; or
- (4) owns, uses possesses any real property situated within the state. CONN. GEN. STAT.

ANN. § 52-59b(a) (West 1991 & Supp. 1995).	
DELAWARE	
Any person who, without just cause, deserts or willfully neglects or refuses to provide for the support of a spouse or minor child in necessitous circumstances (whether the child was born in or out of wedlock) shall be fined up to \$500 and imprisoned for up to 6 months or both. DEL. CODE ANN. tit. 13, § 521 (1993).	Jurisdiction obtains when an individual: <ol style="list-style-type: none"> (1) transacts any business within the state; or (2) contracts to supply services or things in this state; or (3) causes tortious injury in the State by an act or omission in this State; or (4) causes tortious injury in the State or outside of the State by an act or omission outside the State if he regularly does or solicits business or engages in any other persistent conduct within the state or derives substantial revenue related to the state; or (5) has an interest in, uses or possesses real property in the State; or (6) Contract to insure or act as surety for or on any property risk, contract, obligation, or agreement located executed or to be performed within the state at the time of contracting. DEL. CODE ANN. tit. 10, § 3104 (Supp. 1994).
D.C.	
The District of Columbia does not seem to have a criminal statute for nonsup-port.	Jurisdiction obtains when an individual: <ol style="list-style-type: none"> (1) transacts any business in District; or (2) contracts to supply services in the District; or (3) causing tortious injury in the District by an act or omission in the District; (4) causing tortious injury in the District by an act or omission outside the District if the person regularly does or solicits business, engages in any other persistent course of conduct, or derives substantial revenue from such in the District; or (5) has an interest in, uses, or possesses real property within the District; or (6) contracts to insure or act as surety for or on any person, property, or risk, contract, obligation, or agreement located, executed, or to be performed within the District at the time of contracting; or (7) Marital or parent and child relationship in the District if: <ol style="list-style-type: none"> (A) the plaintiff resides in the District at the time suit is filed; (B) such person is personally served with process; (C) in the case of a claim arising from the marital relationship: <ol style="list-style-type: none"> (i) the District was the matrimonial domicile of the parties immediately prior to separation; (ii) the cause of action to pay spousal support arose under the laws of the District or under an agreement executed by the parties in the District; or

- (D) in the case of a claim affecting the parent and child relationship:
 - (i) the child was conceived in the District and such person is the parent or alleged parent of the child;
 - (ii) the child resides in the District as a result of the acts directives, or approval of such person; or
 - (iii) such person has resided with the child in the District. D.C. CODE ANN. § 13.423(a) (1995).

FLORIDA

A person who, after notice, fails to provide support which he is able to provide to children or spouse whom he knows he is legally obligated to support, and over whom no court has jurisdiction in any proceedings for child support or dissolution of marriage, shall be guilty of a misdemeanor of the first degree (up to one year imprisonment; FLA. STAT. ANN. § 775.082 (West Supp. 1995)).

- Jurisdiction obtains when an individual:
- (a) operates, conducts, engages in, or carries on a business venture in the state;
 - (b) commits a tortious act within the state;
 - (c) owns, uses, possesses, or holds a mortgage or other lien on any real property within the state;
 - (d) contracts to insure any person, property, or risk located within the state at the time of contracting;
 - (e) with respect a proceeding for alimony, child support, or division of property in an action to dissolve a marriage, or independent actions for support of dependents, maintaining matrimonial domicile at the time of the actions commencement, or if the defendant resided in the state preceding the commencement of the action;
 - (f) Causes injury to persons or property within the state arising out of an act or omission outside the state if, at the time of injury:
 - (1) the defendant was engaged in solicitation or service activities within the state;
 - (2) Products or materials, etc. were used within the state in the ordinary course of commerce trade or use;
 - (g) breaches a contract to be performed in the state;
 - (h) with respect to a proceeding for paternity, engaging in the act of sexual intercourse within the state with respect to which a child may have been conceived. FLA. STAT. ANN. § 48.193 (West Supp. 1995).

GEORGIA

A parent who willfully and voluntarily abandons their child (either legitimate or born out of wedlock), leaving it in a dependent condition the parent is guilty of a misdemeanor (up to 12 months imprisonment; GA. CODE ANN. § 17-10-3 (Supp. 1995)). GA. CODE ANN. § 19-10-1 (1991).

- Jurisdiction obtains when an individual:
- (1) transacts any business within the state; or
 - (2) commits a tortious act or omission within the state; or
 - (3) commits a tortious injury in the state caused by an act or omission outside of the state if the tortfeasor regularly does or solicits business or other persistent conduct or derives substantial revenue from the state;

A Parent who willfully and voluntarily abandons their child (either legitimate or born out of wedlock), leaving it in a dependent condition, and leaves the state, the parent is guilty of a felony punishable by imprisonment for not less than 1 nor more than 3 years. However, the felony may be reduced to a misdemeanor (unless convicted for a third offense). GA. CODE ANN. § 19-10-1(b) (1991).

(4) owns, uses, or possesses any real property situated within the state; or
(5) respecting proceedings for alimony, child support or division of property in a divorce or an independent action for child support, maintains a matrimonial domicile in the state at the time of the commencement of the action or, if the defendant resided in the state proceeding the action. GA. CODE ANN. § 9-10-91 (Supp. 1995).

Jurisdictions also obtains when an act of sexual intercourse within the state while either parent was a resident of the state, and where the person on whom service is required is the alleged father of the child. Ga. Code Ann. § 19-7-41 (Supp. 1995).

HAWAII

A person commits persistent nonsupport if the person knowingly and persistently fails to provide support which the person can provide and which the person knows the person is legally obliged to provide to a spouse, child, or other dependent. Persistent nonsupport is a misdemeanor. HAW. REV. STAT. § 709-903(1),(3) (1993).

Jurisdiction obtains when an individual:
1) transacts any business within the state;
2) commits a tortious act within the state;
3) owns, uses, or possesses any real estate situated in the state;
4) contracts to insure any person, property, or risk located in the state at the time of contracting. Haw. Rev. Stat. § 634-35 (Supp. 1995).

A person who has sexual intercourse in the state submits to the jurisdiction of the state with respect to any action involving a child who may have been conceived by such act of intercourse. HAW. REV. STAT. § 584-8 (Supp. 1995).

IDAHO

Any person who willfully omits, without lawful excuse, to furnish necessary food, clothing, shelter or medical attentions is guilty of nonsupport. Nonsupport is a felony punishable by up to 14 years imprisonment. IDAHO CODE § 18-401(1), (2), & (3) (1987).

Jurisdiction obtains when an individual:
(a) transacts any business in the state;
(b) commits a tortious act within the state;
(c) owns, uses, or possesses any real property within the state;
(d) contracts to insure any person, property, or risk located within the state at the time of contracting;
(e) maintains within the state of matrimonial domicile at the time of the commission of any act giving rise to a cause of action for divorce or separate maintenance;
(f) engages in sexual intercourse within the state giving rise to a cause of action for paternity under chapter 11, title 7 Idaho code. IDAHO CODE § 5-514 (1990).

ILLINOIS

An person who, without lawful excuse, deserts or neglects or refuses to provide support or maintenance for his or her minor

Jurisdiction obtains when an individual:
(1) transacts any business within the state; or
(2) commits a tortious act within the state; or

child in need of such support is guilty of a class A misdemeanor (up to 1 year imprisonment); ILL. ANN. STAT. ch. 730, para. 5/5-8-3 (Smith-Hurd 1992).

- (3) owns, uses, or possesses real estate situate in the state; or
- (4) contracts to insure any person, property, or risk located within the state at the time of contracting; or
- (5) with respect to actions relating to dissolution of marriage, maintenance of a matrimonial domicile within the state at the time the cause of action arose or the commission in the state of any act giving rise to the cause of action; or
- (6) the act of sexual intercourse within the state during the time of possible conception (*see* Illinois Parentage Act); or
- (7) making or performance of any contract or promise substantially connected with the state; or
- (8) sexual intercourse within the state which is claimed to have resulted in the conception of a child who resides in this state; or
- (9) failure to support a child, spouse or former spouse who has continued to reside in the state since the person either formerly resided with them in the state or directed them to reside in the state; or
- (10) acquires ownership, possession, or control of any asset or thing of value present within the state when ownership, possession, or control was acquired; or
- (11) breaches any fiduciary duty within the state; or
- (12) performs duties as a director or officer of a corporation organized under the laws of the state or having its principle place of business within the state; or
- (13) owns any interest in any trust administered within the state; or
- (14) exercises powers granted under the authority of the state as a fiduciary. ILL. ANN. STAT. ch. 735, para. 5/2-209(a) (Smith-Hurd 1992).

INDIANA

(a) A person who knowingly or intentionally fails to provide support to his dependent child commits nonsupport of a child, a class D felony (up to 3 years imprisonment; IND. CODE ANN. § 35-50-2-7(a) (Burns 1994)).

It is a defense that:

- (b) the child has abandoned the home without parental fault or consent;
- (c) a person, according to his religion, provided care through spiritual means instead of medical care;
- (d) a person was unable to provide support.

Jurisdiction obtains when an individual:

- 1) conducts any business within the state;
 - 2) causes personal injury or property damage by at or omission done within the state;
 - 3) causes personal injury or property damage in the state by occurrence, act, or omission outside that state if he regularly does or solicits business or engages in some other persistent course of conduct or derives substantial revenue therefrom;
 - 4) has supplied or contracted to supply services rendered, or goods or materials to be supplied in the state;
-

IND. CODE ANN. § 35-46-1-5 (Burns 1994).

5) owns, uses, or possesses any real property or interest in such within the state;
 6) contracts to insure or act as surety for any person, property, or risk located within the state at the time of contracting;
 7) living in the marital relationship within the state notwithstanding subsequent departure from the state, as to all obligations for alimony, custody, child support, or property settlement, if the other party to the marital relationship continues to reside in the state.
 IND. RULES OF TR. PROC. Rule 4.4 (Burns 1995).

IOWA

A person who fails to provide support, when able to do so, for their child under 18 years of age commits nonsupport, a class D felony (up to five years imprisonment; IOWA CODE ANN. § 902.9(4) (West Supp. 1995)). This does not apply if the minor child has left the home without the consent of the legal parent of ward. IOWA CODE ANN. § 726.5 (West 1993).

In a child support action, jurisdiction may be obtained when:

- 1) the necessary minimum contacts are met consistent with the constitution of the United States;
- 2) the affected child was conceived in the state while at least one of the parents was a resident of the state, and the nonresident is the parent, or alleged parent of the child;
- 3) the affected child resides in the state as a result of the acts or directives or with the approval of the nonresident;
- 4) the nonresident has resided with the affected child in the state. IOWA CODE ANN. § 252B.12 (West 1994).

KANSAS

Nonsupport of a child is a parents failure, neglect, or refusal, (without lawful excuse) to provide support and maintenance for the parents child under 18 years of age. KAN. STAT. ANN. § 21-3605(a)(1), (2) (Supp. 1994).

Nonsupport of a child is a severity level 10, nonperson felony. KAN. STAT. ANN. § 21-3605(7) (Supp. 1994).

In a proceeding to establish, enforce or modify a support order, jurisdiction obtains when and individual:

- 1) resided with the child in the state;
- 2) resided in the state and provided prenatal expenses or support for the child;
- 3) the child resides in the state as a result of the acts or directives of the individual;
- 4) engages in sexual intercourse in the state and the child may have been conceived by that act of intercourse;
- 5) asserted parentage in the putative father registry;
- 6) any other basis consistent with the constitution of the state of the United States. KAN. STAT. ANN. § 23-9-201 (Supp. 1994).

KENTUCKY

(1) A person is guilty of nonsupport:
 (a) when the person persistently fails to provide support which he can reasonably provide and which he knows he has a duty to provide to a minor; or
 (b) when a person is 2 months delinquent upon a court order to pay such support.
 Nonsupport is a class A misdemeanor (up to twelve months imprisonment; KY. REV.

Jurisdiction obtains when an individual:

- (1) transacts any business within the state; or
- (2) contracts to supply services or goods in the state; or
- (3) causes tortious injury by act or omission in the state; or
- (4) causes tortious injury in the state by act or omission outside the state if he regularly does or solicits business, or engages in any other

STAT. ANN. § 532.090 (Michie/Bobbs-Merrill 1990)). For a second offense there is a minimum jail sentence of (7) days. For a third offense there is a minimum jail sentence of (30) days. KY. REV. STAT. ANN. § 530.050(1)(a),(b) & (5) (Michie/Bobbs Merrill 1990).

(2) A person is guilty of flagrant nonsupport when the person persistently fails to provide support ordered by a court or administrative agency, and which the person can reasonably provide and knows he has a duty to so provide, when the failure results in:

- (a) a \$1,000 or more arrearage; or
- (b) six consecutive months without support; or
- (c) destitute circumstances for the dependent (such as receiving public assistance).

(6) Flagrant nonsupport is a class D felony. (between 1 and 5 years imprisonment; KY. REV. STAT. ANN. § 532.060(2)(d) (Michie/Bobbs-Merrill 1990)).

- persistent course of conduct or derives substantial revenue from activities with the state; or
- (5) Causing injury within the state by breach of warranty express or implied; or
- (6) has an interest in, uses, or possesses real property in the state; or
- (7) contracts to insure any person, property, or risk within the state at the time of contracting; or
- (8) has sexual intercourse causing birth when:
 - (a) parents are domiciled in the state;
 - (b) there is repeated intercourse;
 - (c) the intercourse is a tort or a crime. KY. REV. STAT. ANN. § 454.2 (Michie/Bobbs-Merrill Supp. 1995).

LOUISIANA

Criminal neglect of family is the desertion or intentional non-support:

(A)(1)(b) by either parent of his or her minor child who is in destitute or necessitous circumstances, there being a duty established by this Section for either parent to support his or her child. LA. REV. STAT. ANN. § 14.74(A)(1)(b) (West 1986).

A person guilty of criminal neglect of family may be imprisoned for up to six months. LA. REV. STAT. ANN. § 14.74(D)(1) (West 1986).

- Jurisdiction obtain when an individual:
- (1) transacts any business within the state;
 - (2) contracts to supply services or things in the state;
 - (3) causes injury or damage by act or omission;
 - (4) causes injury or damage in the state by an act or omission outside of the state if he regularly does or solicits business, or engages in any other persistent course of conduct or derives revenue related to the state;
 - (5) has interest in, uses or possesses a real right on immovable property;
 - (6) non-support of a child, parent, or spouse or a former spouse domiciled in the state to whom an obligation of support is owed and with whom the nonresident formerly resided in the state;
 - (7) parentage and support of a child who was conceived by the nonresident while he resided in or was in the state;
 - (8) injury caused by products put into the stream of commerce, which for seeably could cause injury in the state. LA. REV. STAT. ANN. § 13:3201A (West 1991).

MAINE

A person is guilty of nonsupport of dependents if he knowingly fails to provide support which he is able by means of property or capacity for labor to provide and which he knows he is legally obliged to provide to a spouse, child or other person declared by law to be his dependant. ME.

- Jurisdiction obtains when an individual:
- (A) transacts business within the state;
 - (B) causes a tort of its consequences to occur within the state;
 - (C) owns, uses, or possesses any real estate within the state;
 - (D) contracts to insure any person, property

REV. STAT. ANN. tit. 17-A, § 552 (Supp. 1995). Nonsupport of dependents is a Class E crime.

or risk located within the state at the time of contracting;
 (E) Conception resulting in paternity (*see* title 19, chapter 5 subchapter III);
 (F) contracts to supply services or things within the state;
 (G) maintains domicile in the state while subject to a marital or family relationship involving a claim for alimony, child support, etc., or the commission in the state of an act giving rise to such a claim;
 (H) acts as a director, manager, trustee of a corporation incorporated in the state or having the state as its principle business place;
 (I) any other relation to the state or persons or property affording jurisdiction consistent with the state and federal constitution. ME. REV. STAT. ANN. tit. 14, § 704A(2) (1980).

MARYLAND

A parent who willfully fails to provide support for his or her minor child is guilty of a misdemeanor and subject to imprisonment for up to three years. MD. CODE ANN., FAM. LAW § 10-203 (1991).

Jurisdiction obtains when an individual:
 (1) transacts any business within the state;
 (2) contracts to supply goods, food, services, or manufactured products;
 (3) causes tortious injury by an act or omission in state;
 (4) causes tortious injury by act or omission out of state if he regularly does or solicits business, engages in any other persistent course of conduct in the state or derives substantial revenue therefrom;
 (5) Has interest in, uses, or possesses real property in the state;
 (6) contracts to insure or act as surety for, or on, any person, property, risk, contract, obligation, or agreement located, executed or to be performed within the state at the time of contracting. MD. CTS. & JUD. PROC. CODE ANN. § 6-103(b) (1995).

MASSACHUSETTS

Nonsupport occurs when a parent:
 (1) abandons his child without making reasonable provisions for the child's support; or
 (2) leave the state without making reasonable provisions for the child's support; or
 (3) enters the state from another state without making reasonable provisions for the child's support; or
 (4) willfully and while having financial ability and earning capacity to comply, he fails to comply with an order or judgment for support. MASS. GEN. LAWS ANN. ch. 273, § 1 (West Supp. 1995).

Jurisdiction obtains when an individual:
 (a) transacts any business in the state;
 (b) contracts to supply services or things in the state;
 (c) causes tortious injury by act or omission in the state;
 (d) causes tortious injury in the state by act or omission outside the state if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue related therewith;
 (e) has an interest in, uses, or possesses real property in the state;
 (f) contracts to insure any person, property, or risk located within the state at the time of contracting;

Nonsupport is a felony (up to 5 years

imprisonment). MASS. GEN. LAWS. ANN. ch. 273, § 15A(2) (West Supp. 1995).

The penalties are greater for nonsupport when the spouse leaves the state or enters the state from another while failing to give support (up to 10 years imprisonment). See MASS. GEN. LAWS. ANN. ch. 273, § 15A(3) (West Supp. 1995).

(g) maintains a domicile in the state while a party to a personal or marital relationship out of which arises a claim for divorce, alimony child support, etc., or the commission of any act giving rise to such a claim;
(h) has been subject to jurisdiction in the state for an order of alimony, child support, etc., and subsequently departs, when the action involves modification or enforcement of such orders. MASS. GEN. L. ANN. ch. 223A, § 3 (West Supp. 1995).

MICHIGAN

A person who deserts or abandons his or her children under 17 years of age, without providing necessary and proper shelter, food, care, and clothing for them, and a person who being of sufficient ability fails, neglects, or refuses to provide necessary and proper shelter, food, care, and clothing for his or her children is guilty of a felony, punishable by imprisonment for between 1 and 3 years in a state correctional facility, or by imprisonment in the county jail for between 3 months and 1 year. MICH. COMP. LAWS ANN. § 750.161(1) (West 1991).

Jurisdiction obtains when an individual:
(1) transacts any business in the state;
(2) does or causing a tort in the state;
(3) owns, uses, or possesses real or tangible personal property in the state;
(4) contracts to insure a person, property, or risk within the state at the time of contracting;
(5) contracts to furnish materials or render services in the state by the defendant;
(6) acts as a director, manager, trustee, or other officer of a corporation incorporated in the state or having its principle place of business therein;
(7) maintaining domicile in the state while subject to marital or family relationship in claim for divorce, alimony, child support, etc. MICH. COMP. LAWS. ANN. § 600.705 (West 1991).

MINNESOTA

A person who is legally obligated to provide care and support to a child in necessitous circumstances, and who knowingly omits and fails without lawful excuse to so provide is guilty of a misdemeanor and imprisonment for up to 90 days. MINN. STAT. ANN. § 609.375 Subd. 1 (West Supp. 1995).

If nonsupport continues for more than 90 days but less than 180 days, the person is guilty of a gross misdemeanor for up to one year of imprisonment. MINN. STAT. ANN. § 609.375 Subd. 2 (West Supp. 1995).

If nonsupport continues for more than 180 days the person is guilty of a felony for up to two years imprisonment. MINN. STAT. ANN. § 609.375 Subd. 3 (West Supp. 1995).

Jurisdiction obtains when an individual:
(1) owns, uses, or possesses real or personal property in the state;
(2) transacts any business in the state;
(3) commits any act in the state causing injury or property damage;
(4) commits any act outside the state causing injury or property damage in state, unless:
(a) the state has no substantial interest in providing a forum; or
(b) the burden on the defendant violates fairness and substantial justice; or
(c) the cause of action lies in defamation. MINN. STAT. ANN. § 543.19 (West 1988).

Additionally, a person guilty on nonsupport may be prosecuted in the county in which the obligor resides in the county in which the obligee or child resides. MINN. STAT. ANN. § 609.375 Subd. 5 (West Supp. 1995).

MISSISSIPPI

Any parent who deserts, willfully neglects, or refuses to provide for the support and maintenance of his or her child under 16

Jurisdiction obtains when an individual:
1) does any business within the state;
2) contracts with a resident of the state to be

years of age in destitute or necessitous circumstances, is guilty of a felony and up to 2 years imprisonment in the penitentiary. MISS. CODE ANN. § 97-5-3 (1995).

Mississippi's nonsupport law above includes desertion of an illegitimate child where paternity has been established by law or when the natural parent has acknowledged paternity in writing. MISS. CODE ANN. § 97-5-3 (1995).

performed in whole or in part by any party in the state;
3) commits a tort in whole or in part within the state against a resident or nonresident of the state. MISS. CODE ANN. § 13-3-57 (1995).

MISSOURI

A parent commits nonsupport if he knowingly fails to provide, without good cause, adequate support which the parent is legally obligated to provide. MO. ANN. STAT. § 568.040(1) (Vernon Supp. 1995).

Nonsupport is a class A misdemeanor (up to one year imprisonment; MO. ANN. STAT. § 558.011(5) (Vernon Supp. 1995)). However, if the parent has failed to provide support in six months within any twelve month period, or if the total support arrearage exceeds \$5,000 nonsupport is a class D felony (up to five years imprisonment; MO. ANN. STAT. § 558.011 (Vernon Supp. 1995)). MO. ANN. STAT. § 568.040 (Vernon Supp. 1995).

Jurisdiction obtains when an individual:
(1) transacts any business within the state;
(2) makes any contract within the state;
(3) commits a tortious act within the state;
(4) owns, uses, or possesses any real property in the state;
(5) contracts to insure any person, property, or risk within the state at the time of contracting;
(6) engages in sexual intercourse within the state with the mother of a child on or near the probable period of conception of the child;
(7) Any person who has lived in lawful marriage within the state is subject to all civil actions for dissolution of marriage, child support etc. MO. ANN. STAT. § 506.500(1)-(2) (Vernon Supp. 1995).

Additionally, a person accused of nonsupport may be prosecuted in:
(1) the county in which the child resided during the period for which the defendant was charged; or
(2) in any county the defendant resided during the period for which the defendant is charged. MO. ANN. STAT. § 568.040(6) (Vernon Supp. 1995).

MONTANA

A person commits nonsupport if the person fails to provide a person support that the person can provide and that the person knows the person is legally obliged to provide to a spouse, child, or other dependent. MONT. CODE ANN. § 45-5-621(1) (1995).

A person commits aggravated nonsupport if:
(i) the offender has left the state without making reasonable provisions for the support of a child, spouse, or other dependent;
(ii) the offender has been previously convicted of the offense of nonsupport. MONT. CODE ANN. § 45-5-621(2) (1995).

Jurisdiction obtains when an individual:
(a) transacts any business in the state;
(b) commits any act resulting in a tort action within the state;
(c) owns, uses, or possesses any property in the state;
(d) contracts to insure any person, property, or risk located in the state at the time of contracting;
(e) contracts for services or materials to be furnished in the state by such person;
(f) acts as director, manager, trustee, or other officer of a corporation incorporated in the state, or whose principle place of business is in the state. MONT. RULES CIV. PROC. Rule

A person convicted of nonsupport may be imprisoned in the county jail for up to 6 months. Mont. Code Ann. § 45-5-621(7)(a) (1995).

A person convicted of nonsupport who has failed to provide support under a court or administrative order for 6 months or more, or whose delinquency is a cumulative amount equal to 6 months or more, may be imprisoned in state prison for up to 2 years. Mont. Code Ann. § 45-5-621(7)(b) (1995).

A person convicted of aggravated nonsupport may be imprisoned in the state prison for up to 10 years. Mont. Code Ann. § 45-5-621(7)(c) (1995).

4B (1995).

Additionally, Montana afford jurisdiction in child support cases when:

- (3) the individual resided with the child in the state;
- (4) the individual resided in the state and provided prenatal expenses;
- (5) the child resides in the state because of the acts or directives of the individual;
- (6) the individual engaged in sexual intercourse in the state and the child may have been conceived by that act. MONT. CODE ANN. § 40-5-145 (1995).

NEBRASKA

Any person who intentionally fails, refuses, or neglects to provide proper support which he or she knows or reasonably should know he or she is legally obliged to provide to a spouse, minor child, minor stepchild, or other dependent commits criminal nonsupport. NEB. REV. STAT. § 28-706 (Supp. 1994).

Criminal nonsupport is a Class II misdemeanor. NEB. REV. STAT. § 28-706 (Supp. 1994).

Criminal nonsupport is a Class IV felony if it is in violation of any order of any court. NEB. REV. STAT. § 28-706 (Supp. 1994).

Jurisdiction obtains when an individual:

- a) transacts any business within the state;
- b) contracts to supply services or things in the state;
- c) causes tortious injury by act or omission in the state;
- d) causes tortious injury in the state by act or omission outside the state if the person regularly does or solicits business, engages in any other persistent course of conduct, or derives substantial revenue therefrom;
- e) has an interest in, uses, or possesses real property in the state;
- f) contracts to insure any person, property, or risk located in the state at the time of contracting;
- g) who has any other contact or relation with the state to afford jurisdiction consistent with the Constitution of the United States. NEB. REV. STAT. § 25-536 (1990).

NEVADA

A parent who, without lawful excuse, deserts or willfully neglects or refuses to provide for the support and maintenance of his minor child shall be punished:

- (1) by a misdemeanor (up to six months imprisonment; NEV. REV. STAT. § 193.150(1) (1993)) if the behavior persisted for less than 6 months; or
- (2) by a gross misdemeanor (up to one year imprisonment; NEV. REV. STAT. § 193.140 (1993)) if the behavior persisted for more than 6 months; or
- (3) by imprisonment not less than one year nor more than six. NEV. REV. STAT. § 201.020(1) (1993).

Nevada affords jurisdiction in a civil action on any basis not inconsistent with the constitution of the state or of the United States. NEV. REV. STAT. § 14.065 (1994).

NEW HAMPSHIRE

There does not appear to be a criminal

Jurisdiction obtains when and individual:

statute, but New Hampshire declares as its public policy that all children should be supported by their parents. N.H. REV. STAT. ANN. § 161-C (Supp. 1994).	(1) transacts any business in the state; (2) commits a tortious act within the state; (3) owns, uses, or possesses any real or personal property in the state. N.H. REV. STAT. ANN. § 510.4 (1983).
NEW JERSEY	
A person who willfully fails to provide support which he can provide and which he knows he is legally obligated to provide commits a crime in the fourth degree. N.J. REV. STAT. §	The place of residence at the time of desertion confers jurisdiction for the offense of nonsupport until the deserted party establishes a residence in some other county or state. N.J. REV. STAT. ANN. § 2C:62-1(e) (West 1995).
NEW MEXICO	
A person is guilty of abandonment of a dependent when such person has the ability and means to provide for his spouse or minor child's support and abandons or fails to provide support for the dependent. Abandonment of a dependent is a fourth degree felony (up to 18 months imprisonment; N.M. STAT. ANN. § 31-18-15 (Michie 1994)). N.M. STAT. ANN. § 30-6-2 (Michie Supp. 1995).	Jurisdiction obtains when an individual: (1) transacts any business in the state; (2) operates a motor vehicle upon the state's highways; (3) commits a tortious act within the state; (4) contracts to insure any person, property, or risk within the state at the time of contracting; (5) with respect to actions for divorce, separate maintenance or annulment, the circumstance of living in the marital relationship within the state, notwithstanding subsequent departure from the state, as to all obligations arising from alimony, child support, or real or personal property settlements if one party to the marital relationship continues to reside in the state (see chapter 40, Article 4 NMSA 1978). N.M. STAT. ANN. §38-1-16(A) (Michie 1987).
NEW YORK	
A person who willfully fails to obey an order for support may be imprisoned for up to six months. N.Y. JUD. LAW § 454(3)(a) (McKinney Supp. 1995). Failure to pay support, as ordered, is prima facie evidence of a willful violation. N.Y. JUD. LAW § 454(3)(a) (McKinney Supp. 1995).	Jurisdiction obtains when an individual: (1) transacts any business in the state; (2) contracts to supply services or goods in the state; (3) commits a tortious act within the state; (4) commits a tortious act without the state causing injury to person within the state, if he: (i) regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue there from; (ii) should reasonably expect the act to have consequences in the state deriving substantial revenue from interstate commerce; (5) owns, uses, or possesses any real property situated within the state; (6) in any matrimonial action for support, alimony, etc., even if the person is no longer a resident or domiciliary of the state as long as the party seeking support is a resident or domiciliary when the state was the

matrimonial domicile before separation, or the defendant abandoned the plaintiff in the state, or the claim for support accrued under the laws of the state. N.Y. CIV. PRAC. L. & R. § 302 (McKinney Supp. 1995).

NORTH CAROLINA

Any parent who shall willfully neglect or refuse to provide adequate support for that parent's child, whether natural or adopted, shall be guilty of a misdemeanor. N.C. GEN. STAT. § 14-322(d) (Supp. 1995). A first offense is a Class 2 misdemeanor (up to). A second or subsequent offense is a Class 1 misdemeanor (up to).

Any parent who willfully neglects or who refuses to provide adequate support and maintain his or her illegitimate child under 18 years of age is guilty of a misdemeanor (imprisonment determined by a sentence disposition method; N.C. GEN. STAT. § 15A-1340.20(b) (Supp. 1994)).

Jurisdiction obtains when an individual:

- 1) is engaged in substantial activity within the state, whether interstate, intrastate, or otherwise;
- 2) by act or omission in the state gives rise to an action for injury to person or property, or wrongful death within or without the state;
- 3) by act or omission outside the state causes injury to person or property, or wrongful death when such person is involved in solicitation or services activities, products, materials, or things processed services or manufactured by the defendant were used or consumed in the state;
- 4) contracts for goods and services;
- 5) situations involving real property;
- 6) is a director or officer of a domestic corporation;
- 7) contracts to insure;
- 8) is involved as a personal representative of a deceased's estate;
- 9) in any action arising out of the marital relationship within the state notwithstanding departure from the state, if the other party to the marital relationship continues to reside in the state. N.C. GEN. STAT. § 1-75.4 (Supp. 1995).

NORTH DAKOTA

A parent responsible for the care or support of a child who wholly abandons such child or willfully fails to furnish food, shelter, clothing, and medical attention reasonably necessary and sufficient, is guilty of a class C felony (up to five years imprisonment; N.D. CENT. CODE § 12.1-32-01 (Supp. 1995)). N.D. CENT. CODE § 14-07-15 (1991).

Jurisdiction obtains when an individual:

- 1) transacts any business within the state;
- 2) contracts to supply goods, services, or other things in the state;
- 3) commits a tort within or without the state causing injury to another person or property within the state;
- 4) commits a tort within the state, causing injury to another person or property without the state;
- 5) owns, has any interest in, uses, or possesses property in the state;
- 6) contracts to insure another person property or risk within the state;
- 7) acts as director, manager, etc of a corporation organized under the laws of, or having its principle place of business in the state;
- 8) enjoys any other legal capacity or status within the state;
- 9) engages in any other activity including

cohabitation or sexual intercourse within the state. N.D. RULES OF CIV. PROC. Rule 4 (1992).

In a proceeding to establish, enforce, or modify a support order, jurisdiction obtains when an individual:

- 1) resided with the child in the state;
- 2) resided in the state and provided prenatal expenses or support for the child;
- 3) the child resides in the state as a result of the acts or directives of the individual;
- 4) engaged in sexual intercourse in the state and the child may have been conceived by that act of intercourse;
- 5) any other basis consistent with the constitutions of the state or the United States. N.D. CENT. CODE § 14-12.2-04 (Supp. 1995).

A parent who willfully and intentionally fails to furnish support, while in another state, is deemed to have committed the crime within the state. N.D. CENT. CODE § 14-07-15 (1991).

OHIO

No person shall abandon or fail to provide adequate support to his or her child under age 18, or whom, by law or court order or decree, such a person is legally obligated to support. OHIO REV. CODE ANN. § 2919.21(A) (Anderson 1993).

It is an affirmative defense that the parent was unable to provide adequate support, but did provide such support as within his ability and means. OHIO REV. CODE ANN. § 2919.21(c) (Anderson 1993).

Nonsupport is a first degree misdemeanor (up to six months imprisonment; OHIO REV. CODE ANN. § 2929.21(B)(1) (Anderson 1993)). However, if the person has been previously convicted of nonsupport, or if the person has failed to provide support for a total of 26 weeks out of 124 weeks, then nonsupport is a fourth degree felony (up to five years imprisonment; OHIO REV. CODE ANN. § 2929.11(B)(7)). OHIO REV. CODE ANN. § 2919.21(E) (Anderson 1993).

Jurisdiction obtains when an individual:

- (1) transacts any business in the state;
- (2) contracts to supply services or goods in the state;
- (3) causes tortious injury by an act or omission in the state;
- (4) causes tortious injury in the state by act or omission out of state if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue therefrom;
- (5) causes injury in the state by breach of warranty express or implied;
- (6) causes tortious injury in the state by an act outside the state committed with the purpose of injuring persons;
- (7) causing tortious injury to any person by criminal act, any element of which takes place in the state;
- (8) has an interest in, uses, or possesses real property in the state;
- (9) contracts to insure any person, property, or risk located in the state at the time of contracting. OHIO REV. CODE ANN. § 2307.382 (Anderson 1995).
- (10) has committed sexual intercourse in the state that may have given rise to conception. OHIO REV. CODE ANN. § 3111.06 (Anderson Supp. 1995).

OKLAHOMA

Any parent who, without lawful excuse, fails

In a proceeding to establish, enforce, or

to furnish necessary food, clothing, shelter, monetary child support, or medical attendance is guilty of a misdemeanor.

OKLA. STAT. ANN. tit. 21, § 851(A) (West Supp. 1995).

A person who willfully, and without lawful excuse, fails to make child support payments for (1) year, or allows a \$5,000 arrearage to accrue, is guilty of a felony and subject to imprisonment for up to 4 years in the state penitentiary. OKLA. STAT. ANN. tit. 21, § 851(A) (West Supp. 1995).

Any person who leaves the state to avoid providing necessary food, clothing, shelter, court-ordered monetary child support, or medical attendance for a child is guilty of a felony, and subject to imprisonment for up to 4 years in the state penitentiary. OKLA. STAT. ANN. tit. 21, § 851(B) (West Supp. 1995).

modify a support order, jurisdiction obtains when an individual:

- 1) resided with the child in the state;
- 2) resided in the state and provided prenatal expenses or support for the child;
- 3) the child resides in the state as a result of the acts or directives of the individual;
- 4) engaged in sexual intercourse in the state and the child may have been conceived by that act of intercourse;
- 5) asserted parentage in the putative father registry;
- 6) there is any other basis consistent with the constitution of the state or of the United States. OKLA. STAT. ANN. tit. 43, § 601-201 (Supp. 1996).

Jurisdiction is appropriate over a person who lived within the state in a marital relationship as to all obligations for alimony and child support where the other party to the marital relationship continues to reside in the state. OKLA. STAT. ANN. tit. 43, § 104 (Supp. 1995).

OREGON

Nonsupport occurs when a parent or person lawfully charged with support of a child under 18 years of age refuses or neglects without lawful excuse to provide support. OR. REV. STAT. § 163.555(1) (1993).

It is a defense, in regard to medical attention, that a person provided medical attention through prayer according to their religious belief. OR. REV. STAT. § 163.555(2)(b) (1993).

Criminal nonsupport is a class C felony. OR. REV. STAT. § 163.555(3) (1993).

Jurisdiction obtains when an individual:

- 1) is a corporation created under the state's laws;
- 2) commits a local act or omission in the state that results in an action for injury to person or property;
- 3) commits an act or omission outside the state that results in injury to person or property within the state if the person is involved in solicitation or service activities in the state, or products, materials, or things are distributed processed serviced or manufactured and used or consumed within the state;
- 4) promises relating to services within the state or to pay for such services;
- 5) owns, uses, or possesses real property in the state;
- 6) promises to insure any person, property, or risk in the state;
- 7) in actions to enforce certain marital obligations where marital partners have maintained a domicile within the state for at least 6 months;
- 8) as far as the constitution of the state and the United States allows. OR. RULES OF CIV. PROC. Rule 4 (1993).

In a proceeding to establish, enforce, or modify a support order, jurisdiction obtains when an individual:

- 1) resided with the child in the state;
 - 2) resided in the state and provided prenatal expenses or support for the child;
 - 3) the child resides in the state as a result of the acts or directives of the individual;
 - 4) engaged in sexual intercourse in the state and the child may have been conceived by that act of intercourse;
 - 5) any other basis consistent with the constitution of the state and United States.
- OR. REV. STAT. § 110.318 (1993).

PENNSYLVANIA

Pennsylvania's nonsupport law has been repealed. See PA. STAT. ANN. tit. 18, § 4324 (Supp. 1995).

- Jurisdiction obtains when an individual:
- (1) transacts any business in the state;
 - (2) contracting to supply services or things in the state;
 - (3) causing harm or tortious injury by act or omission in the state;
 - (4) causing harm or tortious injury by act or omission outside the state;
 - (5) has an interest in, Uses, or possesses real property in the state;
 - (6) contracts to insure any person, property, or risk within the state at the time of contracting;
 - (7) accepting an appointment as personal representative, guardian, etc., or executing a bond in relation thereto;
 - (8) apply for a certificate, license, permit;
 - (9) violating any statute rule etc. within the state. 42 PA. CONS. STAT. ANN. § 5322(a) (Supp. 1995).

Additionally, courts extend jurisdiction in support when:

- (3) the individual resided with the child in the state;
 - (4) the individual resided in the state and provided prenatal expenses;
 - (5) the child resides in the state as a result of the acts or directives of the individual;
 - (6) the individual engages in sexual intercourse in the state and the child may have been conceived by that act;
 - (7) the individual asserted parentage as a result of Vital Statistics Law of 1953. 23 PA. CONS. STAT. ANN. § 4342 (Supp. 1995).
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RHODE ISLAND

Any person who abandons his or her children leaving them in danger of becoming a public charge, or who neglects to provide according to his or her means for the support of his or her children is deemed guilty of a misdemeanor and shall be punished by imprisonment for up to six months. R.I. GEN. LAWS § 11-2-1 (1994).

Rhode Island does not appear to have a long arm statute.

SOUTH CAROLINA

Any able-bodied person capable of earning a livelihood who, without just cause, abandons or fails to provide reasonable support to his or her spouse or minor unmarried legitimate or illegitimate child dependent upon him or her for support, is guilty of a misdemeanor, and upon conviction shall be imprisoned for up to 1 year. S.C. CODE ANN. § 20-7-90 (Law. Co-op 1985).

Jurisdiction obtains when an individual:

- (1) transacts any business in the state;
- (2) contracts to supply services or things in the state;
- (3) commits a tortious act the state;
- (4) causes tortious injury or death in the state by an act or omission outside the state if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue therefrom;
- (5) has an interest in, uses, or possesses real property in the state;
- (6) contracts to insure any person, property, or risk within the state at the time of contracting;
- (7) enters a contract to be performed in whole or part by either party in the state;
- (8) produces goods with reasonable expectation they will be consumed in the state. S.C. CODE ANN. § 36-2-803 (Law. Co-op. 1977).

SOUTH DAKOTA

A parent of a minor child who intentionally omits without lawful excuse to furnish necessary means of support is guilty of a class 1 misdemeanor (up to one year imprisonment; S.D. CODIFIED LAWS ANN. § 22-6-2(Supp. 1995)). S.D. CODIFIED LAWS ANN. § 25-7-16 (Supp. 1995).

If a parent, during a violation, leaves the state and is absent for more than 30 days, nonsupport is a class 6 felony (up to two years imprisonment; S.D. CODIFIED LAWS ANN. § 22-6-1 (1988)). S.D. CODIFIED LAWS ANN. § 25-7-16 (Supp. 1995).

Unemployment without justifiable excuse, or without verifiability of searching for employment is not a lawful excuse for noncompliance. S.D. CODIFIED LAWS ANN. § 25-7-16 (Supp. 1995).

Jurisdiction obtains when and individual:

- (1) transacts any business within the state;
- (2) commits any act within the state that results in a tort action;
- (3) owns, uses, or possesses any property, or interest therein, situated in the state;
- (4) contracts to insure any person, property, or risk located in the state at the time of contracting;
- (5) enters a contract for services to be rendered, or materials to be furnished within the state;
- (6) acts as director, manager, trustee or other officer of a corporation organized under the laws of the state, or having its principal place of business in the state;
- (7) fails to support a minor child residing in the state;
- (8) has sexual intercourse in the state, which act creates an action for paternity determination for a child who may have been conceived from such act;
- (9) with respect to any action in divorce, separate maintenance, or spousal support, the maintenance of a matrimonial domicile in the state at the time the claim arose;
- (10) enters into negotiations with any person within the state with the objective of contracting for goods or services;
- (11) commences or participating in negotiations, mediation, arbitration, or litigation involving subject matter located in whole or in part within the state;

- (12) doing any act for the purpose of influencing legislation, administrative rule-making or judicial or administrative decision-making by any local, state or federal official whose official function is being performed within the state, providing that an appearance to contest personal jurisdiction shall not be included;
- (13) commits any act which results in the accrual of an action in the state for violation of antitrust laws;
- (14) commits any act, the commission of which is not inconsistent with the Constitution of the state or with the Constitution of the United States. S.D. CODIFIED LAWS ANN. § 15-7-2 (Supp. 1995).

TENNESSEE

A person commits nonsupport who fails to provide support which that person is able to provide and knows he has a duty to provide to his minor child. Nonsupport is a class A misdemeanor (up to 11 months 29 days imprisonment; TENN. CODE ANN. § 40-35-111(e)(1)). TENN. CODE ANN. § 39-15-101(a) (1991).

A person commits flagrant nonsupport who:

- (1) leaves or remains without the state to avoid a legal duty of support; or
- (2) is convicted more than once for nonsupport or flagrant nonsupport.

Flagrant nonsupport is a class E felony (between one and six years imprisonment; TENN. CODE ANN. § 40-35-111(b)(5)). TENN. CODE ANN. § 39-15-101(d),(e) (1991).

Jurisdiction obtains when an individual:

- (1) transacts any business in the state;
- (2) commits any tortious act or omission in the state;
- (3) owns or possesses any interest in property within the state;
- (4) enters a contract of insurance, indemnity, or guarantee covering any person, property, or risk located within the state at the time of contracting;
- (5) contracts for services or materials to be furnished in the state;
- (6) Any action of divorce, annulment etc. where the parties lived in the marital relationship within the state, notwithstanding one parties subsequent departure, regarding all obligations of alimony, child support etc. TENN. CODE ANN. § 20-2-214(a) (1994).

TEXAS

(a) Criminal nonsupport occurs when a person intentionally or knowingly fails to provide support for his child under 18 years of age.

(d) It is an affirmative defense that a person could not provide support to his child.

Criminal nonsupport is a state jail felony (between 180 days and two years imprisonment; TEX. PENAL CODE ANN. § 12.35(a) (West 1994)). TEX. PENAL CODE ANN. §25.05 (West 1994).

Texas does not have a particular long arm statute but has traditional jurisdictional laws spread over a number of sections.

UTAH

(1) A person commits criminal nonsupport if, having a spouse, a child, or children under the age of 18 years, he knowingly fails to provide for the support of the spouse, child, or children when any one of them is in needy circumstances.

(2) Except as provided in Subsection (3) criminal nonsupport is a class A

Personal jurisdiction obtains when an individual:

- (1) transacts business within the state;
- (2) contracts to supply goods or services within the state;
- (3) causes an injury within the state whether tortious or by breach of warranty;
- (4) owns, uses or possesses any real estate

misdemeanor (up to 1 year imprisonment Utah Code Ann. § 76-3-204(1) (1995)).

(3) Criminal nonsupport is a felony of the third degree (up to 5 years imprisonment Utah Code Ann. § 76-3-203(3) (Supp. 1995)) if the actor:

(a) has been convicted one or more times of nonsupport, whether in this state, any other state, or any court of the United States; or

(b) committed the offense while residing in another state.

(5) In a prosecution under this section, it is no defense that the person to be supported received necessary support from a source other than the defendant.

(6)(a) In a prosecution for criminal nonsupport under this section, it is an affirmative defense that the accused is unable to provide support. Voluntary unemployment or underemployment by the defendant does not give rise to that defense. UTAH CODE ANN. § 76-7-201 (Supp. 1995).

within the state;

(5) contracts to insure any person, property, or risk located within the state at the time of contracting;

(6) with respect to actions of divorce, separate maintenance, or child support, having resided, in the marital relationship, within this state notwithstanding subsequent departure from the state; or the commission in this state of the act giving rise to the claim, so long as that act is not a mere omission, failure to act, or occurrence over which the defendant had no control; or

(7) commits sexual intercourse within this state which gives rise to a paternity suit under Title 78, Chapter 45a, to determine paternity for the purpose of establishing responsibility for child support. UTAH CODE ANN. § 78-27-24 (Supp. 1995).

VERMONT

A married-person who, without just cause, deserts or willfully neglects or refuses to provide for the support and maintenance of his or her spouse and children, leaving them in necessitous circumstances shall be imprisoned for up to 2 years. VT. STAT. ANN. tit. 15, § 202 (1989).

Vermont does not appear to have a long arm statute.

VIRGINIA

Any parent who deserts or willfully neglects or refuses or fails to provide for the support and maintenance of his or her child under 18 years of age and in necessitous circumstances is guilty of a misdemeanor and up to twelve months in jail. VA. CODE ANN. § 20-61 (Michie 1995).

Jurisdiction obtains when an individual:

(1) transacts any business in the state;

(2) contracts to supply services or things in the state;

(3) causes tortious injury by act or omission in the state;

(4) causes tortious injury in the state by act or omission outside the state if he regularly does or solicits business, or engages in any other persistent course of conduct from which he derives substantial revenue;

(5) causing injury in the state by breach of warranty express or implied;

(6) has interest in, uses, or possesses real property in the state;

(7) contracts to insure any person, property, or risk within the state;

(8) has executed an agreement (or by court order) in the state for child support to a domiciliary or resident of the state, or by alleged personal conduct that the person conceived or fathered a child in the state;

(9) has maintained matrimonial domicile within the state at the time of a divorce (etc.)

	proceeding. VA. CODE ANN. § 8.01-328.1 (Michie Supp. 1995).
WASHINGTON	
<p>(1) Any person who is able to provide support, or has the ability to earn the means to provide support and who:</p> <p>(a) Willfully omits to provide necessary food, clothing, shelter, or medical attendance to his dependent child, is guilty of nonsupport.</p> <p>(2) Family nonsupport is a gross misdemeanor (up to one year imprisonment; Wash. Rev. Code Ann. § 9A.20.021(2) (West 1988)). WASH. REV. CODE ANN. § 26.20.035 (West 1986).</p>	<p>Jurisdiction obtains when an individual;</p> <ol style="list-style-type: none"> (1) transacts any business in the state; (2) commits a tortious act in the state; (3) owns, uses, or possesses any real or personal property in the state; (4) contracts to insure any person, property or risk in the state at the time of contracting; (5) has sexual intercourse in the state in which a child may have been conceived; (6) lives within a marital relationship in the state notwithstanding subsequent departure. WASH. REV. CODE ANN. § 4.28.185 (West 1988).
WEST VIRGINIA	
<p>West Virginia has repealed their nonsupport statute.</p>	<p>Jurisdiction obtains when an individual:</p> <ol style="list-style-type: none"> 1) transacts any business in the state; 2) contracts to supply services or things in the state; 3) causes tortious injury by act or omission in the state; 4) causes tortious injury in the state by act or omission outside the state if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed in the state; 5) causes in jury in the state by breach of warranty; 6) has an interest in, uses, or possesses real property in the state; 7) contracts to insure any person, property, or risk located in the state at the time of contracting. W.VA. CODE § 56-3-33 (Supp. 1995).
WISCONSIN	
<p>Any person who fails for 120 or more consecutive days to provide spousal, grandchild, or child support which the person knows or reasonably should know the person is legally obligated to provide is guilty of a Class E felony (up to). WIS. STAT. ANN. § 948.22(2) (West Supp. 1995).</p> <p>Any person who intentionally fails for less than 120 consecutive days to provide spousal, grandchild, or child support which the person knows or reasonably should know the person is legally obligated to provide is guilty of a Class A misdemeanor (up to). WIS. STAT. ANN. § 948.22(3) (West Supp. 1995).</p> <p>It is an affirmative defense that a person</p>	<p>In a proceeding to enforce or modify a support order, jurisdiction obtains when an individual:</p> <ol style="list-style-type: none"> 1) resided with the child in the state; 2) resided in the state and provided prenatal expenses or support for the child; 3) the child resides in the state as a result of the acts or directives of the defendant; 4) engaged in sexual intercourse in the state and the child may have been conceived by that act of intercourse; 5) asserted parentage with the department of health; 6) any other basis consistent with the constitutions of the state and the United States. WIS. STAT. ANN. § 769.201 (West Supp. 1995).

demonstrate inability to provide the support. However, it is not an affirmative defense that the person is employable, but, without reasonable excuse, either fails to diligently seek employment, terminates employment, or reduces his or her earnings or assets. WIS. STAT. ANN. § 948.22(c)(6) (West Supp. 1995).

WYOMING

Any person who, without just cause or legal excuse intentionally fails, refuses or neglects to provide adequate support which the person knows or reasonably should know the person is legally obligated to provide to a child under 18 years of age is guilty of a misdemeanor and up to six months imprisonment. WYO. STAT. § 20-3-101(b)(l) (1994).

If the defendant has previously been convicted of nonsupport, or if support has been court ordered and the defendant has failed to pay the obligation within 60 days of the date the obligation was due, then the defendant is guilty of a misdemeanor and between 7 days and 1 year of imprisonment. WYO. STAT. § 20-3-101(b)(ii) (1994).

It is an affirmative defense that a person was not able to provide adequate support but did provide such support as was within the person's ability and means, but a person may not demonstrate inability to provide support if the person is employable but, without lawful excuse, fails diligently to seek employment, terminates employment or reduces earnings or assets. WYO. STAT. § 20-3-101(c) (1994).

Wyoming exercises jurisdiction on any basis not inconsistent with the Wyoming or United States constitution. WYO. STAT. § 5-1-107 (1992).

Wyoming has jurisdiction over an offense under section 20-3-101 if conduct constituting any element of the offense or a result of that conduct occurs within the state. WYO. STAT. § 20-3-101(h) (1994).
