

## **CHAPTER SIX EXPEDITED JUDICIAL AND ADMINISTRATIVE PROCESSES**

### **INTRODUCTION**

As Child Support Enforcement (CSE) efforts have evolved over the years, so have State processes for establishing paternity and establishing and enforcing obligations. Most began in the judicial system, growing out of divorce or abandonment cases. As CSE efforts expanded, however, handling these cases through purely judicial means became unwieldy in many areas. Seeking to speed up the process of getting support to children, State legislatures authorized administrative and quasi-judicial means to handle typically judicial functions.<sup>1</sup>

### **Definitions**

**Expedited judicial processes.** Expedited judicial processes are systems in which judge surrogates make judicial decisions. Judge surrogates are referred to by various titles, including masters, referees, commissioners, magistrates, and hearing officers. The decision-making occurs within the traditional judicial system as an extension or tier of the court. Judge surrogates examine evidence, take testimony, and enter findings or make recommendations for case disposition. In many jurisdictions, a judge must approve the order.

**Administrative processes.** Administrative processes are statutory systems granting authority to an administrative agency to determine paternity and to establish, modify, and enforce child support orders. The administrative agency must be created by statute, and is usually given rulemaking authority to further define its operations. To operate effectively, administrative agencies performing CSE processes must have authority to both issue orders and enforce them.

### **Advantages and Disadvantages**

States using successful expedited judicial or administrative procedures often cite the following advantages:

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<sup>1</sup> The increasing role of administrative agencies in establishing and enforcing support orders is recognized by the Federal Full Faith and Credit for Child Support Orders Act, 28 U.S.C. § 1738B (1994 & Supp. V 1999), and the Uniform Interstate Family Support Act (1996) (superceded by the Unif. Interstate Family Support Act (2001)), 9 Pt. 1B U.L.A. 235 (1999). The former defines "court" to include "a court or administrative agency of a State that is authorized by State law to establish the amount of child support payable by a contestant or make a modification of a child support order." 28 U.S.C. § 1738B(b) (1994 & Supp. 1999). The latter uses the word "tribunal," which is defined as "a court, administrative agency, or quasi-judicial entity authorized to establish, enforce or modify support orders or to determine paternity." Unif. Interstate Family Support Act (1996) [hereinafter UIFSA] § 101 (renumbered in 2001 as § 102), 9 Pt.1B U.L.A. 256 (1999).

- child support obligations can be established more quickly than through regular court process; operating costs are generally lower than those in a regular court system;
- total collections have increased because of the ready availability of collection-oriented enforcement remedies and techniques;
- decision-makers have more expertise because child support determinations are the focal point of their work;
- flexibility is greater in that the process can be placed where the State or political subdivision determines it is most effective; and
- judicial time is more effectively used to resolve complex issues.

Implicit in the creation and design of an expedited process is speed in case processing. Competing with this goal of more quickly handling case activities is the need to ensure that the procedures designed to meet the timeframes are constitutional and protect the due process rights of the individuals involved. Parties in child support cases, even if the cases are handled administratively, are entitled to notice and an opportunity to be heard.<sup>2</sup>

## **FEDERAL MANDATES FOR EXPEDITED PROCESS**

Steady increases in caseload volumes and resultant delays as these cases were all funneled into backlogged courts prompted Congress to direct States to develop alternatives for quicker resolution. In response to a growing belief that the traditional scheme for establishing paternity, determining support awards, and enforcing obligations was too slow, too expensive, and inadequate to meet growing caseloads, Congress began passing a series of laws that increased the requirements to use expedited procedures.

### **Pre-PRWORA**

The Child Support Enforcement Amendments of 1984<sup>3</sup> required States, as a condition of receiving Federal funds, to have in effect by October 1, 1985, laws providing for expedited processes to establish and enforce child support obligations.<sup>4</sup> Federal regulations were promulgated that defined expedited processes as “administrative or expedited judicial processes or both which . . . meet specified processing times and under which the presiding officer is not a judge of the court.”<sup>5</sup> The decision to institute expedited administrative procedures

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<sup>2</sup> See, e.g., *Bostic v. Dep’t of Revenue*, 968 P.2d 564 (Alaska 1998).

<sup>3</sup> P.L. No. 98-378 (1984).

<sup>4</sup> 42 U.S.C. § 666(a)(2) (Supp. IV 1998 & Supp. V 1999).

<sup>5</sup> 45 C.F.R. § 303.101(a) (2000). This regulation was revised in 1994 to delete the reference to the nonjudicial status of the presiding officer.

for paternity establishment was left to the individual States; some States chose to continue to have judicial hearings to establish paternity, while others moved to administrative processes.

The Family Support Act of 1988<sup>6</sup> encouraged States to adopt simple civil procedures for voluntarily acknowledging paternity. In 1993, Congress mandated such procedures, including hospital-based programs, as part of the Omnibus Budget Reconciliation Act (OBRA '93).<sup>7</sup> OBRA '93 required States to include paternity establishment in their expedited processes. Thus, for paternity cases that remained contested, the new statutory provisions mandated adoption of streamlined procedures, including expedited decision-making processed for IV-D paternity cases. Federal regulations were revised to reflect this mandate.<sup>8</sup>

### Post-PRWORA

With the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA),<sup>9</sup> Congress further refined what it meant by expedited processes and greatly enhanced the authority of administrative child support agencies.

**Administrative procedures.** As a condition of receiving Federal funds, a State must have in effect laws requiring the use of specified administrative procedures for establishing paternity and establishing, modifying, and enforcing support obligations. The State IV-D agency must be authorized to take these actions without a court order. The State must also recognize the similar authority of IV-D agencies of other States.<sup>10</sup>

- **Genetic testing.** States must have procedures that allow the IV-D agency to order genetic testing for paternity establishment in contested cases.<sup>11</sup>
- **Administrative subpoenas.** The IV-D agency must have administrative subpoena power, for financial or other information necessary to establish, modify, or enforce support, as well as authority to impose penalties for failure to respond to its subpoena.<sup>12</sup>
- **Response to State agency requests.** All entities in the State, whether for-profit, nonprofit, or government, must promptly provide responses to inquiries from the IV-D agency as to the employment, benefits, and

<sup>6</sup> P.L. No. 100-485 (1988).

<sup>7</sup> P.L. No. 103-66 (1993).

<sup>8</sup> 45 C.F.R. § 302.70 (2000), and deleting 45 C.F.R. § 303.101(b)(3) (2000), which gave States the option of including paternity establishment in their expedited processes.

<sup>9</sup> P.L. No. 104-193 (1996).

<sup>10</sup> 42 U.S.C. § 666(c)(1) (Supp. V 1999).

<sup>11</sup> 42 U.S.C. § 666(c)(1)(A) (Supp. V 1999).

<sup>12</sup> 42 U.S.C. § 666(c)(1)(B) (Supp. V 1999).

compensation of any employee or contractor, or face sanctions for failing to do so.<sup>13</sup>

- **Access to State records and certain private records.** The IV-D agency must have access to information contained in certain State records, including records of vital statistics agencies, tax agencies, licensing agencies, property recordation agencies, employment security agencies, motor vehicle agencies, and corrections agencies.<sup>14</sup> Certain records held by private entities, such as public utilities and cable television companies, must be available to access name and address information of individuals and their employers, as well as information on assets and liabilities held by financial institutions.
- **Change payee or payment amount.** For cases in which support has been assigned to the State, the IV-D agency must have authority to direct the payor to pay support to the proper government agency. The agency must also be able to increase the amount of the monthly payment, when necessary to satisfy an arrearage.<sup>15</sup>
- **Income withholding.** The IV-D agency must be able to initiate income withholding in accordance with the statute.<sup>16</sup>
- **Imposing liens.** The IV-D agency must be able to impose liens arising by operation of law. The agency must also be able, in appropriate cases, to force the sale of property and the distribution of the proceeds to satisfy the child support obligation.<sup>17</sup>
- **Securing assets.** In cases with an arrearage, the IV-D agency must be able to seize or intercept assets or payments due to the obligor, to satisfy both arrearages and current support obligations. Assets that can be taken include bank accounts, various government compensation payments, judgment proceeds, lottery winnings, and retirement funds.<sup>18</sup>

**Expedited procedures.** With enactment of PRWORA, Congress also required, as a condition of receiving Federal funds, that a State have certain substantive and procedural rules regarding expedited procedures.<sup>19</sup>

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<sup>13</sup> 42 U.S.C. § 666(c)(1)(C) (Supp. V 1999).

<sup>14</sup> 42 U.S.C. § 666(c)(1)(D) (Supp. V 1999).

<sup>15</sup> 42 U.S.C. § 666(c)(1)(E) and (H) (Supp. V 1999).

<sup>16</sup> 42 U.S.C. § 666(c)(1)(F) (Supp. V 1999). For more information on income withholding, see Chapter Ten: Enforcement of Support Obligations.

<sup>17</sup> 42 U.S.C. § 666(c)(1)(G)(iv) (Supp. V 1999).

<sup>18</sup> 42 U.S.C. § 666(c)(1)(G) (Supp. V 1999)

<sup>19</sup> 42 U.S.C. § 666(c)(2) (Supp. V 1999).

- **Locator information.** After entry of an order, every party involved is required to file with the State case registry—and update as needed—specified information concerning his or her location.<sup>20</sup>
- **Presumption of notice.** Upon a showing of diligent efforts to locate a party in any subsequent child support enforcement action involving the same parties, notice to the most recent address filed with the State shall be deemed sufficient service.<sup>21</sup>
- **Statewide jurisdiction.** The IV-D agency, as well as any tribunal (administrative or judicial) with authority to hear paternity establishment and child support enforcement cases, must have statewide jurisdiction over the parties. In addition, if the State issues orders through such a tribunal, a case must be able to be transferred between jurisdictions, without the need for additional filing or service, in order to retain jurisdiction over the parties.<sup>22</sup>

The Federal Office of Child Support Enforcement (OCSE) has issued regulations to provide additional guidance to States regarding required expedited processes.<sup>23</sup> In addition to setting time frames for various actions,<sup>24</sup> the regulations specify the functions to be performed by presiding officers in expedited processes and lay out required safeguards.

The presiding officer must:

- take testimony and establish a record;<sup>25</sup>
- evaluate evidence and make recommendations or decisions to establish paternity and to establish and enforce support orders;<sup>26</sup>
- accept voluntary acknowledgments of paternity or support liability and agreements regarding the amount of support to be paid;<sup>27</sup>
- enter default orders after showing that the defendant was properly served and failed to respond (as well as any additional showing required by State law);<sup>28</sup> and

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<sup>20</sup> 42 U.S.C. § 666(c)(2)(A)(i) (Supp. V 1999).

<sup>21</sup> 42 U.S.C. § 666(c)(2)(A)(ii) (Supp. V 1999).

<sup>22</sup> 42 U.S.C. § 666(c)(2)(B) (Supp. V 1999).

<sup>23</sup> 45 C.F.R. § 303.101 (2000).

<sup>24</sup> 45 C.F.R. § 303.101(b)(2) (2000).

<sup>25</sup> 45 C.F.R. § 303.101(d)(1) (2000).

<sup>26</sup> 45 C.F.R. § 303.101(d)(2) (2000).

<sup>27</sup> 45 C.F.R. § 303.101(d)(3) (2000).

<sup>28</sup> 45 C.F.R. § 303.101(d)(4) (2000).

- order genetic tests in contested paternity cases.<sup>29</sup>

States must provide the following safeguards:

- any orders established by means other than full judicial process (including paternity acknowledgments) must have the same force and effect as those established judicially;<sup>30</sup>
- parties must be afforded due process;<sup>31</sup>
- parties must receive copies of the order or paternity acknowledgment;<sup>32</sup> and
- any administrative action taken must be reviewable under the State's general administrative or judicial procedures rules.<sup>33</sup>

## **EMERGENCE OF ADMINISTRATIVE PROCESS**

States have taken alternative routes in fashioning their expedited processes. Several jurisdictions were pioneers in the field, and served as models for other States seeking ways to meet the Federal requirements. Some States created their expedited systems within the judiciary, while others have developed an administrative scheme within an executive department, usually the IV-D agency itself. Some States have characteristics of both types.

All State legislatures have the authority to set up executive agencies or boards to resolve disputes and claims. These agencies or boards are governed by administrative law, the branch of public law that deals with the limits placed on the powers and actions of administrative agencies or boards. These procedures, which vary from State to State and from agency to agency, constitute administrative processes.

The use of administrative processes for establishing and enforcing support obligations is a relatively new occurrence. The general concept, however, is as old as the country itself. The First Congress of the United States, meeting in 1789, enacted legislation authorizing administrative officers to regulate imports and determine import duties, and to adjudicate claims to military pensions for invalids who were wounded and disabled during the Revolutionary War. By the Nation's 1976 bicentennial, the Federal administrative process had achieved considerable status, embracing more than 60 independent regulatory agencies and several hundred administrative agencies in the Executive branch. The

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<sup>29</sup> 45 C.F.R. § 303.101(d)(5) (2000).

<sup>30</sup> 45 C.F.R. § 303.101(c)(1) (2000).

<sup>31</sup> 45 C.F.R. § 303.101(c)(2) (2000).

<sup>32</sup> 45 C.F.R. § 303.101(c)(3) (2000).

<sup>33</sup> 45 C.F.R. § 303.101(c)(4) (2000).

administrative process also has been applied within State governments. The Workers' Compensation and State tax enforcement programs illustrate state-level applications of this concept.

Significant parallels can be drawn between these two historic examples and the use of administrative processes to resolve child support disputes. Increasing compensation claims, long court delays, and disparate awards for similar injuries plagued injured workers; child support obligees suffer from similar problems. Because child support caseloads have expanded dramatically, child support cases have become bogged down in the courts. States have developed administrative procedures as a way to handle the large volume of cases and expedite the flow of money to families. By placing the responsibility for resolving child support cases in a specialized Executive agency with limited scope, obligations can be determined systematically and uniformly and enforced efficiently when they are not met.

### **Constitutionality**

The movement from judicial processes for CSE to administrative processes has raised issues of constitutionality. These are generally issues of separation of powers and due process.

**Separation of powers.** The separation of powers issue raised by the advent of administrative processes is whether the legislature can delegate a traditionally judicial area to the Executive branch of Government. The answer depends, in large part, on State constitutional law. Generally, State legislatures have broad authority to determine the right and responsibilities of citizens and to establish processes for enforcing those responsibilities. PRWORA did not mandate the administrative establishment of child support orders, leaving the decision as to whether to remove this function from the Judicial branch and place it with the Executive branch up to the States.

The Supreme Court of Minnesota recently held the administrative child support process created by its legislature to be a violation of the separation of powers doctrine.<sup>34</sup> Minnesota's administrative process included procedures for uncontested and contested cases. In uncontested cases, the agency prepared a proposed support order for the parties' signature and the administrative law judge's ratification. If either party contested the proposed order, the case moved into the contested process. In the contested process, the case was presented by a child support officer (CSO) who was not an attorney. The administrative law judge (ALJ) had judicial powers, including the ability to modify judicial child support orders. While the ALJ could not preside over contested paternity and

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<sup>34</sup> *In re Marriage of Sandra Lee Holmberg v. Ronald Gerald Holmberg, and In re Marriage of Denise M. Kalis-Fuller v. Lee V. Fuller, and In re Marriage of Kristi Sue Carlson v. Steven Alan Carlson*, 588 N.W.2d 720 (Minn. 1999) [hereinafter referred to as *Holmberg v. Holmberg*]. See also *Drennan v. Drennan*, 229 Neb. 204, 426 N.W.2d 252 (1988).

contempt proceedings, he or she could grant stipulated contempt orders and uncontested paternity orders. While recognizing the importance of streamlining child support mechanisms, the Minnesota Supreme Court stated it could not ignore separation of powers constraints. It concluded that the administrative structure violated separation of powers for three reasons. First, the administrative process infringed on the district court's jurisdiction in contravention to the Minnesota Constitution. Second, ALJ jurisdiction was not inferior to the district court's jurisdiction, as mandated by the Minnesota Constitution. Third, the administrative process empowered nonattorneys to engage in the practice of law, infringing on the court's exclusive power to supervise the practice of law. The decision was stayed for several months to give the legislature time to amend Minnesota laws in accord with the decision.

**Due process.**<sup>35</sup> The question of due process raises a fundamental Federal constitutional protection. The 14<sup>th</sup> Amendment to the United States Constitution provides that a person "shall not be deprived of life, liberty, or property without due process of law." The U.S. Supreme Court has established some very important criteria for due process, falling into three general areas:

- **Right to notice.** A person has a right to be notified of any action being taken that concerns his or her liberty or property. All child support administrative processes require the executive agency to notify the responsible parent of the support amount and arrears, alleged to be due and owing, and the procedure for contesting the claim. These statutes further require that the executive agency serve the notice in a manner reasonably calculated to give the parties actual notice.
- **Right to a hearing.** Courts have also specified the type and quality of hearing necessary before a person is deprived of property. The hearing must be fair and impartial, and the person entitled to the hearing must have reasonable opportunity to present evidence through documents or witnesses, confront the opposing party, and refute any evidence. Administrative processes allow the obligor to present all evidence in his or her favor, with the aid of an attorney, if desired.
- **Right to judicial review of administrative action.** The administrative decision must be in writing and must be based solely on evidence submitted at the hearing. A proper hearing includes the right to appeal to a judicial authority.<sup>36</sup>

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<sup>35</sup> Federal regulations at 45 C.F.R. § 303.101(c)(2) (2000) require that the due process rights of the parties in any expedited process be protected.

<sup>36</sup> See, e.g., *Bostic v. Dep't of Revenue*, 968 P.2d 564 (Alaska 1998); *In re Soden*, 251 Kan. 225, 834 P.2d 358(1992).

## Role of the Attorney

In an uncontested administrative proceeding, an attorney has very limited, if any, involvement. Typically, the State agency prepares a notice of child support obligation, which it sends to the noncustodial parent. If the noncustodial parent does not respond or does not object to the proposed support amount, an administrative support order is entered without a hearing. In a contested administrative proceeding, the role of the attorney will depend on State law and regulations. In some States, nonattorneys are authorized to present evidence on behalf of the agency. In other administrative process States, an attorney represents the IV-D agency. The rules of evidence in an administrative hearing are less formal than in court. Most States have enacted a version of the Revised Model State Administrative Procedure Act (APA).<sup>37</sup>

## COEXISTENCE OF ADMINISTRATIVE AND JUDICIAL PROCESS

Throughout the history of the CSE program, the judiciary has been the focus of CSE processing activity. Judges have entered orders, established paternity, and provided the authority for all enforcement activity. The judiciary has been an important guiding force on the front lines of the CSE effort. In mandating that States implement expedited processes as a condition of receiving Federal funds, Congress has forced a change in the roles that judges play in the process. Of course, many traditional responsibilities remain the same. Even in quasi-judicial and administrative process States, judges enter support orders in divorce proceedings. Their contempt power also continues to be an important remedy against obligors who do not have readily identifiable income or assets.

As States implemented expedited processes, many chose to keep some aspects of judicial involvement in the process, creating hybrid systems. For example, in most States, paternity establishment can be accomplished through administrative means, by a paternity acknowledgment, or through judicial means. Although jury trials are no longer permitted in paternity cases,<sup>38</sup> States can still hold judicial proceedings for paternity determination.<sup>39</sup>

The State of Maine initiates some of its CSE cases with an administrative discovery process. Following notice to the obligor to appear, an administrative hearing is held. At the hearing, a CSE agent questions the delinquent obligor to discover information about his or her income and assets. The State agency attempts to resolve the cases with voluntary agreements from the obligors. In cases where that is not possible, there is a seamless transfer to court, with no

<sup>37</sup> Revised Model State Administrative Procedures Act, 15 U.L.A. 1 (2000) [hereinafter APA].

<sup>38</sup> 42 U.S.C. § 666(a)(5)(i) (Supp. V 1999).

<sup>39</sup> For more detailed discussion of means of paternity establishment, both administrative and judicial, see Chapter Eight: Paternity Establishment.

additional service of process necessary. Maine often simultaneously begins its administrative license revocation procedure.<sup>40</sup>

Colorado has broad administrative powers to establish paternity and support in uncontested cases. Following a negotiation conference, the parties sign a paternity acknowledgment form, upon which an administrative support order can be established. The administrative paternity and support order can form the basis for many types of enforcement actions, including income withholding and contempt proceedings. If the administrative paternity order conflicts with the birth certificate, a court must order issuance of a new birth certificate.<sup>41</sup>

South Carolina has moved from a purely judicial system to one in which the State IV-D agency has the authority to hear uncontested matters and enter consent orders, which are then filed with the court. The IV-D agency also has concurrent jurisdiction with the family court to modify existing orders.<sup>42</sup>

The coexistence of administrative and judicial processes has raised some interesting legal issues. For example, many administrative enforcement remedies, such as income tax refund intercept, are high volume computer-generated procedures where cases are automatically included in tape matches if they meet certain criteria. This action takes place regardless of the status of the obligor's compliance with an existing payment plan or income withholding. One question that has arisen is whether a State IV-D agency can proceed with administrative enforcement when there is already a judicial order with which the noncustodial parent is complying. State case law has upheld the dual enforcement in Connecticut, Massachusetts, and Ohio<sup>43</sup>, but the North Carolina court held that the Child Support Enforcement Division was not entitled to intercept taxes when the payor was complying with the current support order and payment towards accrued arrears.<sup>44</sup>

Challenges have arisen to the manner in which administrative process is invoked. An illustrative case is *Holmberg v. Holmberg*,<sup>45</sup> in which the Minnesota Supreme Court held that the State's administrative process for child support orders was unconstitutional. The legislature had put into place a system under which uncontested child support cases could be heard by administrative law

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<sup>40</sup> Office of Child Support Enforcement, U.S. Dep't of Health & Human Services, *Compendium of State Best Practices and Good Ideas* (5th edition, 2000).

<sup>41</sup> Office of Child Support Enforcement, U.S. Dep't of Health & Human Services, *Compendium of State Best Practices* (4th edition, 1998).

<sup>42</sup> S.C. Code Ann. §§ 20-7-9505 to -9575 (1997).

<sup>43</sup> *Palais v. Dep't of Admin. Servs.*, No. CV 960566803, 1997 Conn. Super. LEXIS 1588 (Conn. Super. Ct. June 10, 1997); *Gray v. Commissioner of Revenue*, 422 Mass. 666, 665 N.E.2d 17 (1996); *Fazio v. Fazio*, Medina App. No. 2719-M, 1998 Ohio App. LEXIS 4180 (Ohio Ct. App. Sept. 9, 1998) (unreported).

<sup>44</sup> *Davis v. Dep't of Human Resources, Child Support Enforcement Section*, 349 N.C. 208, 505 S.E. 2d 77 (1998).

<sup>45</sup> *Holmberg v. Holmberg*, 588 N.W.2d 720 (Minn. 1999)

judges, who had the power to set child support awards, and to modify awards previously set by circuit courts. The orders were directly appealable to the appellate court, without review by the district court. The Minnesota Supreme Court held that such a system is unconstitutional because it violates the separation of powers doctrine and usurps the original jurisdiction of the district court.

Another area of potential conflict between administrative and judicial processes concerns the modification of support orders. Just as Congress required expedited and administrative processes for the establishment of paternity and enforcement of support, it also allowed States flexibility in reviewing and adjusting support orders. PRWORA allows States to meet the Federal review and adjustment requirement by including a cost-of-living adjustment (COLA) in support orders.<sup>46</sup> If parties do not object to application of a COLA, the support order is automatically adjusted without the need for a court hearing. Thus, the question becomes whether an administrative agency can modify a judicial order. That possibility concerned both the Minnesota Court of Appeals and the Supreme Court and was cited in their decisions holding the Minnesota administrative process unconstitutional.<sup>47</sup> On the other hand, South Carolina has granted its agency concurrent jurisdiction with Family Court to modify support orders.<sup>48</sup> The answer most likely depends on each State's constitution. Certainly, with their definitions of "court" and "tribunal," the Full Faith and Credit for Child Support Orders Act (FFCCSOA) and the Uniform Interstate Family Support Act (UIFSA) contemplate the possibility of administrative modification of a judicial order.

## CONCLUSION

With the increase in expedited judicial and administrative processes, routine support establishment and enforcement should require significantly less judicial involvement. In States that use administrative processes, trial judges generally act in the traditional role of the appellate court. Judicial involvement in States that use expedited judicial processes is more extensive, with ratification and review aspects. The judiciary's role as manager and overseer of the process is most crucial in States with primarily judicial systems.

<sup>46</sup> 42 U.S.C. § 666(a)(10)(A)(i)(II) (Supp. V 1999).

<sup>47</sup> "As ALJs are empowered to modify support and maintenance order originating in district court, the court of appeals stated that the administrative process placed ALJs 'in the constitutionally untenable position of reviewing and modifying judicial decisions.' [citing *Holmberg v. Holmberg*, 578 N.W.2d 817, 821 (Minn. Ct. App. 1998)] ... With its creation of the administrative process, the legislature has delegated to an executive agency the district court's inherent equitable power. This delegation infringes on the district court's original jurisdiction. Not only are ALJs given responsibilities and powers comparable to a district court, but ALJs also have the power to modify district court decisions .... ALJ jurisdiction is not inferior to the district court's jurisdiction, as mandated by Minnesota Constitution article VI, § 3." *In Holmberg v. Holmberg*, 588 N.W.2d 720, 723-726 (Minn. 1999).

<sup>48</sup> S.C. Code Ann. §§ 20-7-9505 to -9575 (1997).

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