

**SENATE BILL REPORT**

**SHB 1560**

**AS REPORTED BY COMMITTEE ON LAW & JUSTICE, MARCH 30, 1993**

**Brief Description:** Adopting the uniform interstate family support act.

**SPONSORS:** House Committee on Judiciary (originally sponsored by Representatives Appelwick, Leonard, Karahalios and Johanson)

**HOUSE COMMITTEE ON JUDICIARY**

**SENATE COMMITTEE ON LAW & JUSTICE**

**Majority Report:** Do pass as amended.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; Hargrove, Nelson, and Roach.

**Staff:** Susan Carlson (786-7418)

**Hearing Dates:** March 24, 1993; March 30, 1993

**BACKGROUND:**

The Uniform Reciprocal Enforcement of Support Act (URESA) created a mechanism for the collection of child support or spousal maintenance when an obligor or obligee leaves the state in which the original order was entered. The act provides for both civil and criminal remedies to enforce support. Some version of this act has been adopted by every state.

Under URESA, the general procedure is to forward an order for child support to the state in which the obligor resides. The responding state then schedules a hearing and establishes support using their own support laws. This can result in an order which conflicts with that of the initiating state and often creates confusion for the parties because the order of the original state remains in effect. Enforcement of the order is also left to the responding state. The URESA procedures are often time-consuming, and it can be very difficult to locate and collect from an obligor who changes residence frequently.

Since adoption of URESA, states have been required to comply with many federal requirements in order to preserve federal funding for child support programs. To respond to the changes in state and federal laws, and improve enforcement of support orders across state lines, the Uniform Law commissioners have developed a new act entitled the Uniform Interstate Family Support Act (UIFSA). Federal legislation to require all states to enact UIFSA is being considered but has not been passed. The Uniform Law commissioners recommend that all states adopt the new uniform act.

**SUMMARY:**

The Uniform Reciprocal Enforcement of Support Act (URESA) is repealed and replaced with the Uniform Interstate Family Support Act (UIFSA) effective July 1, 1994. UIFSA makes a number of changes to the provisions governing interstate collection of child support or spousal maintenance.

**A. General Provisions**

Many definitions currently existing in URESA are retained. The term "tribunal" is substituted for "court". The superior court is designated the tribunal for judicial proceedings, and the Office of Support Enforcement is the tribunal for administrative proceedings.

Reciprocity of laws between states is no longer required. All substantially similar state laws are deemed equivalent to UIFSA for purposes of interstate actions and to assist in easing the transition to UIFSA.

**B. Long-Arm Jurisdiction**

Circumstances resulting in long-arm jurisdiction over a nonresident for purposes of establishing, enforcing, or modifying a support order are specified. These circumstances include personal service on the nonresident in this state, residing with or providing support for the child in this state, conception of the child in this state, and any other basis consistent with the state and U.S. Constitutions.

**C. Establishing a Support Order**

Family Support. UIFSA may be used for proceedings involving child support or spousal support. However, spousal support cannot be modified in the interstate context. Other issues such as visitation cannot be raised in UIFSA actions.

Local Law. The procedures and law of the forum state apply, with some exceptions. For example, the choice of law for the interpretation of registered orders is that of the state that issued the order.

Jurisdiction. A tribunal of this state issuing a child support order has continuing, exclusive jurisdiction over the order as long as the obligor, obligee, or the child continue to reside in the state or until each party has filed consent for another tribunal to assume jurisdiction.

Efficiency. Interstate proceedings are streamlined by the following provisions:

- (a) Proceedings may be initiated by administrative agencies rather than courts.
- (b) A petitioner may file an action for support directly in a tribunal of another state which has personal jurisdiction over the respondent.

- (c) The admission of documents transmitted by phone, fax machine, etc. is authorized.
- (d) A tribunal may permit an out-of-state party or witness to be deposed or to testify by telephone conference.
- (e) Tribunals are required to cooperate in the discovery process for use in a tribunal in another state.
- (f) A tribunal and a support enforcement agency providing services to a supported family must keep the parties informed about all important developments in a case.
- (g) A registered support order is confirmed and immediately enforceable unless the respondent files a written objection within 20 days after service.

Private Attorneys. Parties may proceed under UIFSA by retaining private legal counsel, or through the services of the state support enforcement agency.

Actions to Determine Paternity. Paternity may be established in an interstate proceeding, even if not coupled with a proceeding to establish child support.

#### **D. Enforcing A Support Order**

Direct Enforcement. The act provides two direct enforcement procedures that do not require assistance from a tribunal. The support order may be mailed directly to an obligor's employer in another state, which triggers wage withholding by that employer without the necessity of a hearing unless the employee objects. The act also provides for direct administrative enforcement by the support enforcement agency in the obligor's state.

Registration. All judicial enforcement activity must begin with the registration of the existing support order in the responding state. The registered order continues to be the order of the issuing state, and the role of the responding state is limited to enforcing that order except in very limited circumstances where modification is permitted.

Contesting the Validity of the Order. The tribunal of the responding state must notify the obligor of the support order by certified or registered mail or by personal service. The obligor may request a hearing to contest the order within 20 days, or within 60 days of receipt if the obligor lives outside the state. Failure to contest the validity of the order results in confirmation of the order.

#### **E. Modifying A Support Order of Another State**

A party seeking to modify an existing child support order must first register the order in the state where modification is sought. A child support order issued in another state cannot be modified in this state unless the parties no longer reside in the issuing state and this state has personal jurisdiction

over the respondent, or all parties have filed written consent to jurisdiction.

**F. Award of Costs and Fees**

The petitioner may not be required to pay a filing fee or other costs. If an obligee prevails in a support enforcement proceeding, a responding tribunal may assess against an obligor filing fees, reasonable attorneys' fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. In an action to establish or modify support, the court may award either party costs and reasonable attorneys' fees.

**SUMMARY OF PROPOSED SENATE AMENDMENT:**

Washington courts and the Office of Support Enforcement may not establish, enforce or modify an order for postsecondary education support in the context of an UIFSA proceeding.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** available

**Effective Date:** July 1, 1994

**TESTIMONY FOR:**

UIFSA would enhance the collection of support in situations where the parties reside in different states.

**TESTIMONY AGAINST:**

The bill has not had sufficient study and review by interested parties.

**TESTIFIED:** PRO: Rep. Marlin Appelwick, prime sponsor; Debbie Wilke, Washington Assn. of County Officials; CON: Bob Hoyden, Michele Delo, Washington Families for Non-Custodial Rights