

HOUSE BILL REPORT

HB 1631

As Reported By House Committee On:
Law & Justice

Title: An act relating to the uniform interstate family support act.

Brief Description: Revising the uniform interstate family support act.

Sponsors: Representatives Costa, Kenney, Dickerson, Ogden, Mason, Regala and Lantz;
by request of Washington Uniform Legislation Commission.

Brief History:

Committee Activity:

Law & Justice: 2/21/97, 3/4/97 [DPS].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz; Radcliff; Sherstad and Skinner.

Staff: Trudes Hutcheson (786-7384).

Background: The 1996 federal welfare reform legislation requires states to enact a variety of laws to remain eligible for federal funding. In particular, the federal law requires that, by January 1, 1998, states adopt the Uniform Interstate Family Support Act (UIFSA) and any recent amendments to the act.

The UIFSA was drafted by the National Conference of Commissioners on Uniform State Laws in the early 1990s. Washington adopted the UIFSA by 1994. The most recent amendments to the UIFSA were released in July 1996.

The UIFSA provides a uniform set of rules to govern the establishment, modification, and enforcement of support orders in cases where the parties reside in different states. The UIFSA contains certain sections in which states are allowed to insert language or cross-reference other parts of the statutes unique to that state, or in which states are allowed some discretion. For example, states are allowed some discretion in the time frame in which the state tribunal must send notice to a party. States are also allowed to designate what tribunals will be authorized to deal with interstate family support.

One primary purpose of the UIFSA is to prevent multiple states from issuing competing support orders for the same parties. The following is a general summary of the significant provisions in the UIFSA.

Jurisdiction and Establishing a Support Order

The UIFSA allows a state to obtain personal jurisdiction over a nonresident parent under certain circumstances. Under the UIFSA's long-arm jurisdiction- provision, a custodial parent residing in state A may commence proceedings in state A against a noncustodial parent residing in state B. State A would establish and issue the support order.

If the custodial parent's state cannot obtain personal jurisdiction over the noncustodial parent, the custodial parent may initiate proceedings in the noncustodial parent's state, either using that state's administrative agency or court system. The noncustodial parent's state would establish and issue the support order.

The state that issues the support order has continuing, exclusive jurisdiction over the matter. The state with continuing, exclusive jurisdiction is generally the only state that can modify the order. The state does not lose its continuing, exclusive jurisdiction unless all the individuals in the proceedings no longer reside in the state or unless the parties agree to let another state have continuing, exclusive jurisdiction.

The law of the state issuing the order generally governs the amount, extent, and duration of the support order.

Enforcing Existing Support Orders

A custodial parent may seek enforcement of an order either by (a) submitting the order directly to the child support enforcement agency in the noncustodial parent's state; or (b) registering the order with the appropriate tribunal in the noncustodial parent's state. The noncustodial parent's state must recognize and enforce a registered order, and cannot modify the order except under very narrow circumstances.

In addition, a parent may submit an income-withholding order directly to the noncustodial parent's employer. The employer must treat the income-withholding order as if it were an order issued from the employer's own state.

The UIFSA provides procedures for a person wishing to contest the validity or registration of any support order or income-withholding order.

Miscellaneous Provisions

One state may request another state to determine the parentage of a child.

States are encouraged to share information with each other. The UIFSA contains special evidentiary and discovery provisions to help states obtain the maximum amount of information available.

Visitation issues cannot be raised in support order proceedings.

Summary of Substitute Bill: To comply with the 1996 federal welfare reform legislation, Washington is required to adopt the latest amendments to the UIFSA. The amendments make the following substantive changes to the UIFSA:

Income-withholding Orders

The duties of employers receiving income-withholding orders from different states are clarified. The employer must honor an order that requires medical support for the child. The employer is immune from civil liability for honoring income-withholding orders. The employer may be subject to penalties, as provided under its own state's law, for willfully failing to honor such orders.

The income-withholding order must specify the duration of the order, the amount of support in a sum certain, and a payment location.

The law of the employer's state controls issues such as the amount the employer can charge as a processing fee, the maximum amount the employer is allowed to withhold from the employee's income, and the time period for remitting payments.

Modification of an Existing Order

When the state that issued the support order no longer has continuing, exclusive jurisdiction, and both parties now reside in the same state, the new resident state has jurisdiction to modify the order and assume continuing, exclusive jurisdiction.

Miscellaneous

Procedures are added to help states determine which order controls when there are multiple orders regarding the same obligor and the same child.

The requirement that notice be sent by first class mail is eliminated to provide parties flexible methods of notifying other parties or states.

The definition of "employer" is clarified. The time period in which the tribunal must send notice is increased. The Department of Social and Health Services (DSHS) is

added as the state tribunal where a person may register an order. The DSHS is authorized to promulgate rules.

Substitute Bill Compared to Original Bill: The substitute bill adopts the most recent federally approved amendments. The DSHS may promulgate rules. The time period in which the DSHS must send notice is increased. A party may register an order with the DSHS as well as the court.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: These changes are required by federal law, and noncompliance or substantive changes may affect federal funding.

Testimony Against: None.

Testified: Representative Appelwick, prime sponsor.