

HOUSE BILL REPORT

HB 2347

As Reported by House Committee On:
Juvenile Justice & Family Law

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

Brief Description: Modifying the uniform interstate family support act.

Sponsors: Representatives Darneille, Delvin and Dickerson; by request of Uniform Legislation Commission.

Brief History:

Committee Activity:

Juvenile Justice & Family Law: 1/23/02, 1/30/02 [DPS].

Brief Summary of Substitute Bill

- Incorporates the most recent Uniform Law Commissioner's amendments into Washington's Uniform Interstate Family Support Act.

HOUSE COMMITTEE ON JUVENILE JUSTICE & FAMILY LAW

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Dickerson, Chair; Darneille, Vice Chair; Delvin, Ranking Minority Member; Eickmeyer and Tokuda.

Minority Report: Do not pass. Signed by 1 member: Representative Carrell.

Staff: Trudes Hutcheson (786-7384).

Background:

The Uniform Interstate Family Support Act (UIFSA) addresses child support issues that arise when parties reside in different states. The act was drafted by the National Conference of Commissioners on Uniform State Laws in the early 1990s. Washington adopted the UIFSA by 1994.

In 1996 federal welfare reform legislation required states to enact the UIFSA and any recent amendments to the act. At the time, the most recent amendments were the

commissioner's 1996 amendments, and Washington adopted these as required. In 2001 the Uniform Law Commissioners adopted additional amendments to the act.

The UIFSA's purpose is to prevent multiple states from issuing competing support orders for the same parties. The UIFSA contains procedures for:

- obtaining jurisdiction over a nonresident for a support order in Washington;
- enforcing a support order and income-withholding order issued from another state;
- registering an order issued from another state for enforcement purposes;
- modifying an order issued from another state.

Obtaining Jurisdiction Over a Party

The UIFSA allows a state to obtain personal jurisdiction over a nonresident parent for the purposes of establishing, enforcing, or modifying a support order or to determine paternity. Some of the ways personal jurisdiction may be established under UIFSA include when: (a) the nonresident is served in Washington or consents to jurisdiction; (b) the nonresident resided in Washington with the child; (c) the child resides in Washington as a result of the acts or directives of the nonresident; and (d) the child was conceived in Washington.

A party may initiate a proceeding by either: (a) filing a petition in a court or enforcement agency in his or her state so it can be forwarded to the other party's state; or (b) filing a petition directly in the court or agency of the other state having personal jurisdiction over the other party.

Continuing Exclusive Jurisdiction

Generally, the state that issues the support order (the "issuing state") has continuing, exclusive jurisdiction over the order: (a) as long as the state remains the residence of either parent or the child; or (b) until the parties consent to have another state modify the order and assume continuing, exclusive jurisdiction.

In cases where there are multiple orders from multiple states, UIFSA creates procedures for a state court or support enforcement agency to determine which order is controlling and which state has continuing, exclusive jurisdiction.

If a support order issued by Washington is validly modified by another state, the courts of Washington lose their continuing, exclusive jurisdiction with regard to prospective enforcement of the order. Generally, the law of the issuing state governs the nature, extent, amount, and duration of the support obligation.

Registering an Order for Modification and Enforcement

A support order issued from another state may be filed in a court or support enforcement agency in Washington for enforcement purposes. The UIFSA establishes the notice that must be given to the parties, the registration process, and the defense that may be raised

to contest the order or the registration. The court or agency must file the order as a foreign judgment. Registering an order from another state does not authorize Washington to modify that order unless it can modify it under other provisions of UIFSA.

After a support order issued from another state has been registered, Washington courts may modify that order if all the parties reside in Washington and the child does not reside in the issuing state. In that case, the issuing state would have lost its continuing exclusive jurisdiction. In addition, a registered order may be modified by Washington if either: (a) the parties and the child do not reside in the issuing state, the petitioner who is a nonresident seeks modification and the respondent is subject to personal jurisdiction of Washington; or (b) the child or party is subject to personal jurisdiction of Washington and all the parties have filed written consents for Washington to modify the order and assume continuing, exclusive jurisdiction.

Support Enforcement Agreements with Other Countries

Washington's support enforcement agency has international agreements with Canada, Mexico, New Zealand, United Kingdom, Germany, and a number of other countries.

Summary of Substitute Bill:

In general, the 2001 amendments to UIFSA do the following:

- authorize the state to recognize support orders from foreign country jurisdictions if there is an agreement between the state and the country;
- update certain provisions to recognize the use of standard forms and electronic communications;
- clarify when a party may seek to modify an order registered in a state that is not the issuing state;
- allow the parties to voluntarily seek to have an order issued or modified in a state even if the parties do not reside in that state;
- clarify how to determine which order is controlling in cases of multiple orders from multiple states;
- clarify that a state obtaining jurisdiction over a person for support purposes does not automatically give that state jurisdiction over the person for other nonsupport issues;
- clarify that the local law of a responding state applies with regard to enforcement procedures and remedies; and
- fix the duration of a support order to the duration required under the law of the issuing state.

The act clarifies that the issuing state continues to have jurisdiction over the matter, absent specified reasons for its termination. The personal jurisdiction that is necessary to establish or enforce a support order persists as long as the order is in effect.

The modification provisions in UIFSA are clarified. A state may have personal jurisdiction over a nonresident for the purposes of establishing or enforcing a support order, but not necessarily to modify the order of a different state.

A state may continue to exercise jurisdiction over its order if the parties consent, even if all the parties have left the state. Likewise, under certain circumstances the parties may consent to have another state assume continuing, exclusive jurisdiction over an order and to modify that order.

The UIFSA is also clarified to provide that an issuing state may still be considered the parent's residence even if the parent was temporarily absent from the state.

Procedures are established for cases when two or more support orders exist and a party seeks to register an order for enforcement or modification. The party registering the order must provide a copy of all the other orders to the registering state, specify that the order to be registered is the controlling order, and specify the amount of consolidated unpaid support obligations, if any. In addition, Washington's support enforcement agency must make reasonable efforts to ensure that the support order it receives from another state is the controlling order.

The UIFSA explicitly provides that the law of the state that issued the controlling order is the law that applies to the consolidated unpaid obligations. That issuing state's law applies even if support orders from other states contributed to those past due obligations.

In addition, it is clarified that the law of the state that issued the controlling order governs the duration of the obligation. Therefore, when the party fulfills his or her obligation under the controlling order, another state may not impose further obligations of support under its own laws.

Substitute Bill Compared to Original Bill:

The substitute bill adds a contingent effective date. The act becomes effective six months after Congress amends the federal law mandating or authorizing states to adopt the new UIFSA.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date of Substitute Bill: The act takes effect six months following Congress' amendment to 42 USC ú666 (f) that authorizes or mandates states to adopt this version of UIFSA.

Testimony For: The bill clarifies confusion created by the older uniform laws. Without uniformity between the states, a parent is given the incentive to move from state to state to get different orders. Congress' requirement for all states to adopt UIFSA helps avoid messy and expensive litigation. States are still free to establish their own support levels and to enforce orders under their own laws. The new UIFSA recognizes our state's treaties with other countries.

Testimony Against: None.

Testified: Representative Darneille, prime sponsor; Judge Marlin Appelwick, Washington Uniform Law Commission; Gail Stone, Washington State Bar Association.