

HOUSE BILL REPORT

ESSB 5498

As Reported by House Committee On: Judiciary

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

Brief Description: Revising the uniform interstate family support act.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Pedersen and O'Ban; by request of Department of Social and Health Services and Uniform Law Commission).

Brief History:

Committee Activity:

Judiciary: 3/19/15, 3/26/15 [DP].

Brief Summary of Engrossed Substitute Bill

- Adopts the 2008 amendments to the Uniform Interstate Family Support Act.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 11 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Goodman, Hansen, Kirby, Klippert, Muri, Orwall, Stokesbary and Walkinshaw.

Minority Report: Do not pass. Signed by 2 members: Representatives Shea, Assistant Ranking Minority Member; Haler.

Staff: Edie Adams (786-7180).

Background:

The Uniform Interstate Family Support Act (UIFSA) is designed to address child support issues that arise when parties reside in different states. The UIFSA was drafted by the National Conference of Commissions on Uniform State Laws (NCCUSL) in the 1990s, and by 1996 the federal law required all states to enact the UIFSA as a condition of receiving federal funds for the state's child support enforcement program and the state's Temporary

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Assistance to Needy Families program. The NCCUSL has made various changes to the UIFSA over the years, and Washington has adopted the 2001 version of UIFSA.

The UIFSA addresses support orders. It does not authorize a court to address child custody issues. The UIFSA provides uniform rules and procedures for the establishment, modification, and enforcement of support where the parties reside in different states. The UIFSA addresses issues such as:

- which state's order controls when there are proceedings initiated in multiple states;
- when one state can modify an order issued in another state and to what extent modification is allowed;
- when a state can obtain jurisdiction over a person to establish an order; and
- how a party or enforcement agency registers, in this state, an order from a different state for purposes of enforcement.

In 2007 the United States signed the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (Convention). The Convention establishes uniform procedures for the processing of international child support cases. According to the NCCUSL, the Convention provisions were largely modeled after the UIFSA principles.

The NCCUSL amended the UIFSA in 2008 (UIFSA 2008) to incorporate changes required by the Convention. Provisions from the Convention that could not be readily integrated into the existing UIFSA were placed in their own stand-alone sections of the UIFSA.

In 2014 Congress passed federal legislation implementing the Convention (the 2014 Preventing Sex Trafficking and Strengthening Families Act). The federal legislation requires all states to enact the UIFSA 2008 by the end of their 2015 legislative sessions. Failure to enact UIFSA 2008 could result in the state's child support plan being found not in compliance federal requirements, which could jeopardize federal funding for the state's child support enforcement program. Once all states have enacted UIFSA 2008 and the President signs and deposits an instrument of ratification, the Convention will enter into force in the United States.

Summary of Bill:

The 2008 amendments to the UIFSA are adopted. The UIFSA 2008 incorporates the Convention provisions when possible by making changes throughout the statute to include foreign support orders, foreign tribunals, and parties to a support order that reside outside the United States. "Foreign country" means a foreign country in which the Convention is in force, or a foreign country that has been declared to be a foreign reciprocating country, that has an established a reciprocal arrangement with the state, or that has child support laws substantially similar to the UIFSA.

A new article of the UIFSA is created that applies only to support proceedings under the Convention. These new provisions applicable to Convention support orders address issues such as:

- procedures for a party to a Convention support order to register and seek recognition of the order in this state;
- procedures for a party to an order to contest the registration of an order in this state;
- authority of a state court to vacate the registration of a Convention order under certain circumstances;
- procedures for the recognition, enforcement, and vacation of foreign support agreements; and
- procedures for a party to file a direct request in state court to establish or modify a support order or determine parentage under the Convention.

Convention support orders registered in the state must be recognized and enforced except under specific listed exceptions, including if recognition and enforcement is manifestly incompatible with public policy, including failure to observe minimum standards of due process; the issuing tribunal lacked personal jurisdiction; the order is not enforceable in the issuing country; or the order was obtained by fraud in connection with a matter or procedure.

The act applies to proceedings begun on or after the effective date of the act to establish a support order or determine parentage of a child, or to register, recognize, enforce, or modify a prior support order whenever issued or entered.

A new section is added to chapter 4.24 RCW (special rights of action and special immunities) prohibiting Washington courts, administrative agencies, or any other Washington tribunal from recognizing or basing any ruling on an order issued under foreign law or by a foreign legal system that is manifestly incompatible with public policy. A foreign law or order is presumed manifestly incompatible with public policy when it does not grant the parties all of the same rights guaranteed by the constitutions of Washington or the United States.

If any part of the act is found in conflict with federal requirements that are a condition of federal funding to the state, the Department of Social and Health Services must request a waiver from the federal government, and if a waiver is not granted, the new provision added to chapter 4.24 RCW is inoperative with respect to the remainder of the act.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2015.

Staff Summary of Public Testimony:

(In support) This legislation will improve the ability of the state to enforce child support obligations in international cases. This is important because the children in Washington are the ones who suffer when parents leave the country to evade their child support obligations. The UIFSA has served this country well. Since its enactment, there has been excellent interstate collaboration and cooperation regarding support orders and this legislation will extend that to international cases. It was a landmark event getting other

countries to sign on to the Convention and it is important for the Convention to be implemented in the United States. This bill has been around for a number of years but has not been supported in the Senate. It is imperative that we act this year because failure to enact the bill will put at risk hundreds of millions of dollars of funding for our child support and temporary assistance for needy families programs. We are hopeful that the Senate amendment will not put us in violation of federal requirements for our state plan.

(Opposed) None.

Persons Testifying: Senator Pedersen, prime sponsor; Marlin Applewick, Washington Uniform Law Commission; and Wally McClure, Department of Social and Health Services.

Persons Signed In To Testify But Not Testifying: None.