

**SB**

**302**

# FISCAL NOTE

No. 2

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BIL Bill Version: SB 302

(S) Publish Date: 2-11-94

Revision Date:	Dept. Affected: Revenue
Title: <u>Uniform Interstate Family Support Act (UIFSA)</u>	BRU: <u>Child Support Enforcement Division</u>
Sponsor: <u>House Rules Committee</u>	Component: <u>Child Support Enforcement Division</u>
Requestor: <u>Governor</u>	COMPONENT SERIAL NO. <u>111</u>

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	277.4	272.5	273.2	0.0	0.0	0.0
TRAVEL	1.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	7.3	7.3	9.5	0.0	0.0	0.0
SUPPLIES	28.0	28.0	32.0	0.0	0.0	0.0
EQUIPMENT	73.2	73.2	83.5	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS				0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>387.9</b>	<b>382.2</b>	<b>399.2</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL</b>						
<b>REVENUE FUND SOURCE:</b>	<b>1,500.0</b>	<b>1,500.0</b>	<b>1,789.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

FUNDING: (Thousands of Dollars)

1002 Federal Receipts	256.0	252.3	262.8	0.0	0.0	0.0
1003 GF Match	63.3	62.3	65.0	0.0	0.0	0.0
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1016 Fed Incent	5.3	57.6	70.4	0.0	0.0	0.0
<b>TOTAL</b>	<b>327.9</b>	<b>382.2</b>	<b>398.2</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS:

FULL-TIME	7	7	8	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ 0.0

**ANALYSIS:** (Attach a separate page if necessary.)  
 UIFSA applies to those actions relating to the establishment, modification, and enforcement of support orders and the determining of parentage in situations where the parties reside in more than one state. The passage of this bill will improve service to case parties involved in interstate enforcement of child support orders. It simplifies the process and authorizes the movement to a one order system for child support obligations that is honored by all states which pass UIFSA. It will increase the caseload by making it easier for custodial parents to initiate and enforce interstate child support cases. Currently the interstate caseload is increasing at 16% per year. Many custodial parents have not sought enforcement due to the cumbersome interstate process, but with the ease of case processing with UIFSA, the already rapidly increasing caseload will accelerate. The caseload of 5,941 in 1990 has increased to 8,787 in 1993 cases. Assuming this trend continues the caseload will be approximately 14,000 in three years. This does not consider the increase resulting from this legislation. (continued)

Prepared by: <u>Mary Gay, Director</u>	Phone: <u>263-6270</u>
Division: <u>Child Support Enforcement Division</u>	Date: _____
Approved by Commissioner: <u>Darrel J. Rexwinkel</u>	Date: <u>1/31/94</u>
Agency: <u>Department of Revenue</u>	

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(Continuation of Fiscal Note)  
PERSONAL SERVICES:

The division will need an additional 22 positions over three years. The Division will need 7 additional positions in FY 95, 7 in FY 96 and 8 in FY 97. Positions required in FY 95:

One Child Support Enforcement Officer II, to manage and supervise assigned personnel in a interstate unit responsible for establishing paternity and/or support orders, and the modification and enforcement of these orders.

Two Child Support Enforcement Officer I's, work in a lead support position on an interstate unit responsible for establishing paternity and/or support orders, and the modification and enforcement of these orders.

Four Clerk IV's, work under the direction of a Child Support Enforcement Officer initiating actions on interstate support cases.

CONTRACTUAL:

Additional cost of long distance telephone service for new positions. Cost of paying for copies, photographs and other items required from other states in the processing of interstate cases where the other state's agencies charge for certain services.

SUPPLIES:

Interstate employees process approximately 4 times as much paper and mail as other CSED employees therefore they will require \$4,000 per year per employee for pens, pencils, paper, envelopes etc.

EQUIPMENT:

The following is a breakdown of equipment per new position:

Computer	\$ 5,760
Workstation furniture	\$ 3,506
Phone equip & service	\$ 1,191
Total	\$10,457

The seven additional positions would result in an additional \$1.5 million in revenue to the general fund through the collection of child support owed to the State previously given as AFDC grants to custodial parents. The additional positions would also collect \$3.7 million in child support owed directly to custodial parents. These monies would allow many custodial parents to live without the need to seek AFDC assistance.

Federal funding is provided at the rate of 66% on authorized expenditures. Federal incentives are calculated based on a cost effectiveness ratio of AFDC collections compared to expenditures.

The U.S Commission on Interstate Child Support recommends "verbatim" enactment of UIFSA under penalty of losing federal funding. Congress is currently considering several bills which make passage of this legislation mandatory.

FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

E Bill Version: SB 302  
(S) Publish Date: 2-11-94

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
Title: An Act relating to the Uniform BRU: Assistance Payments  
Interstate Family Support Act Component: AFDC  
Sponsor: \_\_\_\_\_  
Requestor: Governor COMPONENT SERIAL NO. 0220

Expenditures/Revenues:		(Thousands of Dollars)					
OPERATING	FY95	FY96	FY97	FY98	FY99	FY00	
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0	
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0	
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0	
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0	
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0	
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0	
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	- 0.0	0.0	
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0	
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0	
REVENUE FUND SOURCE	0	0	0	0	0	0	

FUNDING:		(Thousands of Dollars)					
1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0	
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0	
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0	
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0	
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0	
Other	0.0	0.0	0.0	0.0	0.0	0.0	
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	

POSITIONS:							
FULL-TIME	0	0	0	0	0	0	
PART-TIME	0	0	0	0	0	0	
TEMPORARY	0	0	0	0	0	0	

Estimate of current year (FY94) impact: NONE

ANALYSIS: (Attach a separate page if necessary)

This bill adopts the model Uniform Interstate Family Support Act drafted by the Uniform Law Commission. The bill is expected to make it easier for the State to establish and enforce interstate orders for the payment of child support and medical support, and to establish paternity for children whose putative fathers live outside of Alaska.

Applicants for AFDC assign to the state the right to collect child support paid on behalf of children who receive assistance. Support collected under assignment is applied toward the state and federal costs of AFDC cash assistance payments.

Prepared by: Jan L. Hansen, Director  
Division: Division of Public Assistance  
Approved by Commissioner: Margaret R. Lowe, M.Ed., Ed.S  
Agency: Department of Health & Social Services

Phone: 465-72680  
Date: 1-25-94  
Date: 1-25-94

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ANALYSIS (cont.):

Child support collections generally affect the funding sources, not the program costs, of AFDC. The state portion of child support collections made on behalf of AFDC recipients is budgeted as General Fund Program Receipts in the AFDC component of the Assistance Payments BRU.

The Child Support Enforcement Division expects the adoption of the Governor's bill to result in an increase in the number and amount of interstate support collections made on behalf of children who receive AFDC benefits. However, because the impacts of the legislation depend in large part on the adoption of similar legislation by the other states, and only eight states have so far adopted the model bill, CSED does not project a specific dollar amount of increased collections. We do not, therefore, project a measurable impact on the AFDC budget.

# FISCAL NOTE

**STATE OF ALASKA**  
**1994 LEGISLATIVE SESSION**

**BILL NO. SB 302**

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: Uniform Interstate Family Support Act (UIFSA) BRU: Child Support Enforcement Division  
 Component: Child Support Enforcement Division  
 Sponsor: Senate Rules Committee  
 Requestor: Senate State Affairs COMPONENT SERIAL NO. 111

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	170.2	170.2	170.2	170.2	170.2	170.2
TRAVEL	0.2	0.2	0.2	0.2	0.2	0.2
CONTRACTUAL	4.2	4.2	4.2	4.2	4.2	4.2
SUPPLIES	16.0	16.0	16.0	16.0	16.0	16.0
EQUIPMENT	41.8	41.8	41.8	41.8	41.8	41.8
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>232.4</b>	<b>232.4</b>	<b>232.4</b>	<b>232.4</b>	<b>232.4</b>	<b>232.4</b>

CAPITAL						
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REVENUE FUND SOURCE:	427.8	427.8	427.8	427.8	427.3	427.8
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts	153.4	153.4	153.4	153.4	153.4	153.4
03 GF Match	37.2	37.2	37.2	37.2	37.2	37.2
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1016 Fed Incent	41.8	41.8	41.8	41.8	41.8	41.8
<b>TOTAL</b>	<b>232.4</b>	<b>232.4</b>	<b>232.4</b>	<b>232.4</b>	<b>232.4</b>	<b>232.4</b>

POSITIONS:

FULL-TIME	4	4	4	4	4	4
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ 0.0

**ANALYSIS:** (Attach a separate page if necessary.)  
 UIFSA applies to those actions relating to establishment, modification, and enforcement of support orders and the determining of parentage in situations where the parties reside in more than one state. The passage of this bill will improve service to case parties involved in interstate enforcement of child support orders by clarifying which state has jurisdiction. It authorizes the movement to a one order system for child support obligations that is honored by all states which pass UIFSA. UIFSA reduces agency response time in some areas in an effort to provide support collections sooner. It will increase the caseload since custodial parents will believe the opportunity for collection has improved. Currently the interstate caseload is increasing at 16% per year. ( continued)

Prepared by: Mary Gay, Director Phone: 263-6270  
 Division: Child Support Enforcement Division Date: \_\_\_\_\_  
 Approved by Commissioner: Darrel J. Rexwinkel Date: 3/10/94  
 Agency: Department of Revenue

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(Continuation of Fiscal Note)

PERSONAL SERVICES:

The division will need an additional 4 positions :

Four Child Support Enforcement Officer I's, working in lead support positions on an interstate unit responsible for establishing paternity and/or support orders, and the modification and enforcement of those orders.

CONTRACTUAL:

Additional cost of long distance telephone service for new positions. Cost of paying for copies, photographs and other items required from other states in the processing of interstate cases where the other state's agencies charge for certain services.

SUPPLIES:

Interstate employees process approximately 4 times as much paper and mail as other CSED employees therefore they will require \$4 000 per year per employee for pens, pencils, paper, envelopes etc.

EQUIPMENT:

The following is a breakdown of equipment per new position:

Computers & Software	\$ 5,760
Workstation furniture	\$ 3,506
Phone equip & service	\$ 1,191
Total	\$10,457

The four additional positions would result in an additional \$855,900 in revenue to the general fund through the collection of child support owed to the State previously given as AFDC grants to custodial parents. Fifty (50) percent of the revenue collected will be returned to the Federal Government leaving a net revenue to the general fund of \$427,850. The additional positions would also collect \$2.1 million in child support owed directly to custodial parents. These monies would allow many custodial parents to live without the need to seek AFDC assistance.

Federal funding is provided at the rate of 66% on authorized expenditures. Federal incentives are calculated based on a cost effectiveness ratio of AFDC collections compared to expenditures.

The U.S. Commission on Interstate Child Support recommends "verbatim" enactment of UIFSA under penalty of losing federal funding. Congress is currently considering several bills which make passage of this legislation mandatory

A SUMMARY OF THE DIFFERENCES BETWEEN  
THE REVISED UNIFORM RECIPROCAL ENFORCEMENT  
OF SUPPORT ACT

AND

THE UNIFORM INTERSTATE FAMILY SUPPORT ACT

by

Linda Ann Hammond  
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Center on Children and the Law  
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Washington, DC 20447  
(202) 401-9383

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1800 M Street, N.W.  
Washington, D.C. 20036  
(202) 331-2250

# THE UNIFORM INTERSTATE FAMILY SUPPORT ACT THE NEXT STEP IN IMPROVING INTERSTATE FAMILY SUPPORT COLLECTIONS

## INTRODUCTION

In 1950, the Uniform Reciprocal Enforcement of Support Act (URESA) was a revolutionary effort to address the problem of nonpayment of family support by interstate obligors. After more than 40 years of experience in interstate collections, numerous technological advances, and three subsequent versions of URESA, a much different interstate law has been developed for State consideration.

The new interstate law is entitled the Uniform Interstate Family Support Act (UIFSA). It is intended to replace the original and Revised Uniform Reciprocal Enforcement of Support Acts (RURESAs).

The highlights of UIFSA are described below. Following the narrative account is a chart which briefly summarizes the differences between UIFSA and RURESAs. This Reference Chart can be quickly consulted to determine the variances between UIFSA and RURESAs. The highlights and chart are intended to be an introduction or an overview, not a replacement for exhaustive legal research and analysis. If one requires more detailed information, please refer to the model uniform acts found at Unif. Reciprocal Enforcement of Support Act (1950 Act)(amended 1952, 1958), 9B U.L.A. 553 (1987); Revised Unif. Reciprocal Enforcement of Support Act (1968 Act), 9B U.L.A. 381 (1987); Unif. Interstate Family Support Act, 9 Part 1 U.L.A. 77 (Supp. 1993).

## UIFSA HIGHLIGHTS

### The One Order Theory

Only One Order in a Case at One Time. Under RURESAs, most support proceedings are *de novo* (that is, treated as new cases), resulting in more than one valid, co-existing order in a case. This has often caused confusion when calculating arrearages or determining which order to enforce. To solve this dilemma, under UIFSA there is only one support order in effect in a case at any one time. This is referred to as the one order theory or the one order - one time concept.

Rules are set forth to determine which order should prevail if several orders were rendered prior to the enactment of UIFSA. See Section 207 of UIFSA for the specifics. Rules also exist for resolving actions pending in two or more States, which basically require that one State defer to another, taking into consideration where the child has lived for the prior six months. See Section 204 for details. Last, the Act requires that States treat interstate multiple order cases (for two or more families supported by the same obligor) as they would in-state multiple order cases.

Continuing, Exclusive Jurisdiction. The method used to enforce the one order theory is to allow only one State the right to change the order at any one time. The one State with this right has "continuing, exclusive jurisdiction" over the case. The State with continuing, exclusive jurisdiction to modify the order is the State that issued the order.

Continuing, exclusive jurisdiction endures so long as one party or child resides in the State unless the individual parties agree in writing to take their case to another State.

If the parties no longer reside in the issuing State or if a written agreement exists regarding jurisdiction, the Act establishes registration procedures for modification. See the section on "Registration for Modification" below.

## One State Procedures

Under URESA, interstate cases can only be pursued when both the initiating and responding jurisdictions take some action. UIFSA includes new remedies that allow a State to handle a case locally, even if the parties live in different States. Two important "one State procedures" are long-arm jurisdiction and direct income withholding.

Long-Arm Jurisdiction. One of the most important provisions contained in UIFSA is the addition of long-arm jurisdiction. Long-arm jurisdiction authorizes a State to extend its jurisdiction over an individual who may be outside the geographical boundaries of the State. In this context, jurisdiction means the State's power to bring a person before its own tribunals and to require compliance with its tribunals' orders. UIFSA defines jurisdiction to maximize the tribunal's power over nonresidents, while remaining within the confines of the United States Constitution. *See Kulko v. Superior Court*, 436 U.S. 84 (1978) for a full explanation of this issue. UIFSA's broad definition includes long-arm jurisdiction in a paternity case based upon the individual's conduct within the State (e.g., engaging in sexual intercourse within the State).

Direct Income Withholding. For the first time, the Act authorizes that an income withholding order may be mailed directly to an obligor's employer in another State, regardless of whether the issuing State has jurisdiction over the out-of-state employer. UIFSA requires the employer to comply with the order without the necessity of a tribunal or administrative hearing, unless the employee objects. (OCSE's current regulations require IV-D interstate income withholding requests to be sent to the central registry in the responding State).

## Two-State Procedures

Registration for Enforcement. The one order theory ends responding States' *de novo* hearings on new interstate petitions. If there is an existing order, UIFSA authorizes its enforcement in any State. The enforcement process begins by registering the order in the responding State (or States) for the purpose of enforcement only. Registration for enforcement only does not permit modification of the order in the responding State.

Administrative Enforcement. The responding State may choose to use administrative proceedings to enforce a support order or an income withholding order rather than formally registering the order for enforcement, if appropriate. If the obligor contests the administrative enforcement of the order, the agency must register the order pursuant to the Act.

Registration for Modification. A State may no longer have sufficient interest in maintaining the power to modify its order, because neither the child nor the parties continue to reside there. In such a situation, the responding State may assume the power to modify if certain requirements are met:

- Neither the child nor parties reside in the issuing State;
- the petitioner is a nonresident of the responding State; and
- the respondent is subject to the personal jurisdiction of the responding State.

or

- One party is subject to the personal jurisdiction of the tribunal; and
- all parties have consented to the tribunal's jurisdiction in writing.

The State modifying the order becomes the new State of continuing, exclusive jurisdiction. Note that the responding State's ability to modify the order is limited to the child support provisions only.

## Evidentiary Improvements

UIFSA takes advantage of technology which did not exist at the time URESA was originally enacted. For instance, facsimile materials may be placed in evidence. Depositions may be videotaped and sent interstate. Testimony and depositions may take place by telephone conference calling. It is now less likely that the petitioner's presence is required in the tribunal.

There is greater access to relevant evidence without the expense of transporting documents and witnesses from one State to another.

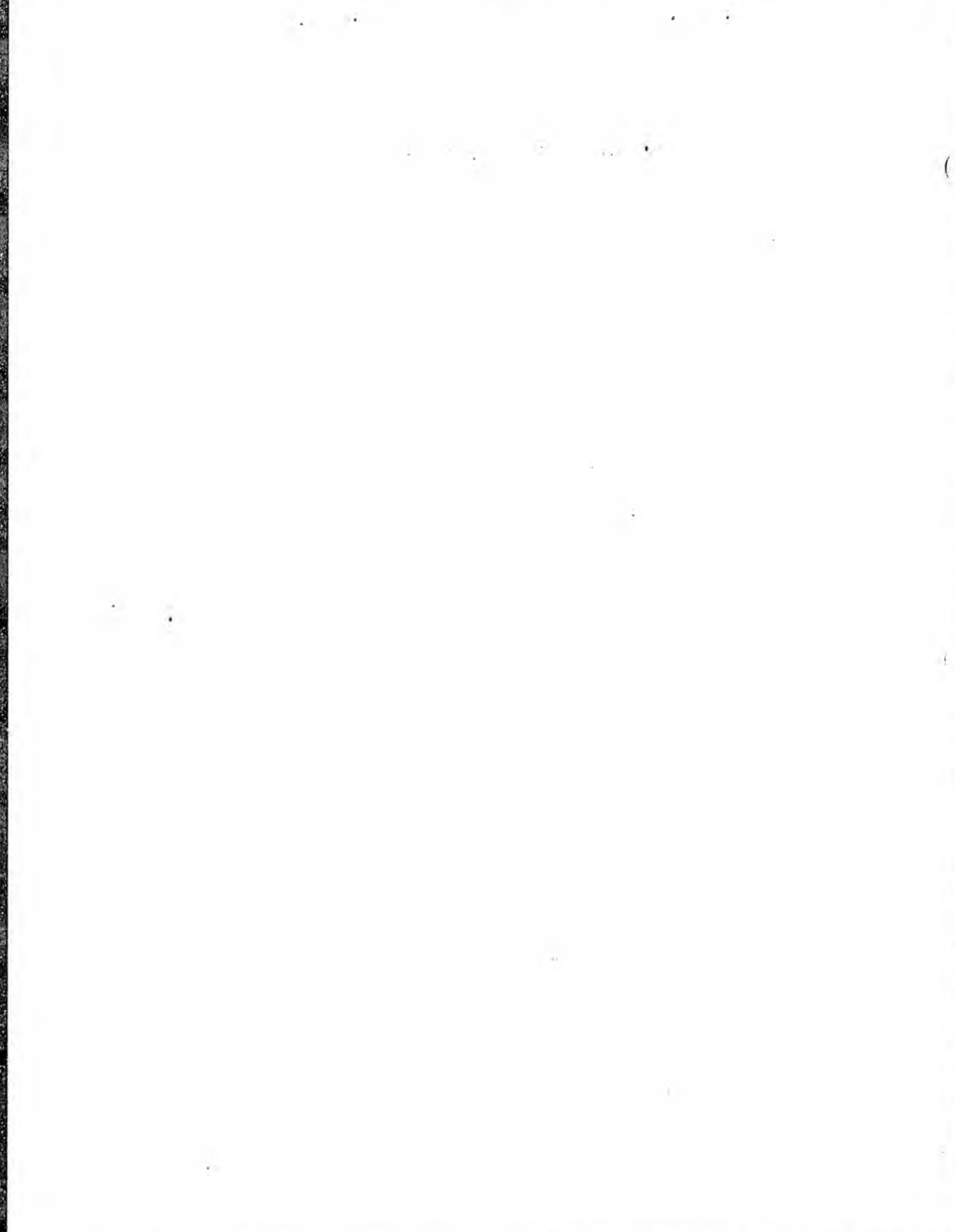
UIFSA also eases some evidentiary rules as to materials typically needed in child support cases: Certain documents given under oath by a party or witness residing in another State, copies of payment records certified as true copies by the custodian of records, parentage testing bills, and health care bills relating to the birth of the child are all admissible into evidence.

#### A User-Friendly Law

UIFSA provides a number of very practical improvements to ease interstate support collection practices. The Act recognizes administrative agencies as well as tribunals for processing cases. Initiation of a case is made ministerial rather than a matter of tribunal review, so no certification is required. A party can choose to file directly with the responding State, bypassing initiating jurisdiction procedures.

There are more benefits to the parties. Parties have greater access to information on their cases because of the timeframes established for acting on cases, and because of the many notice requirements contained in the law. For the first time, remedies are available to both parties, obligors as well as obligees. UIFSA does not address issues of attorney/client relationships with obligors and obligees, however. The Act also clearly authorizes representation by private attorneys, including recovery of attorney fees.

Finally, the Act clearly authorizes establishing paternity without seeking support.



## REFERENCE CHART

TOPIC	UIFSA	RURESA
<b>ESTABLISHMENT ISSUES</b>		
<b>Paternity</b>	Clearly authorizes establishment of parentage in an interstate proceeding, even if not coupled with proceeding to establish support.	Authorizes paternity establishment but unclear whether action must be coupled with support proceeding.
<b>Temporary Support</b>	Provides for temporary support order based on paternity acknowledgment or other clear and convincing evidence (e.g., genetic test results) that defendant is child's parent.	No analogous provision.
<b>Long-Arm Jurisdiction</b>	Provides for long-arm jurisdiction over nonresident up to limits of <i>Kulko</i> . Includes long-arm paternity action based upon obligor's conduct within the State.	No analogous provision.
<b>Type of Orders That May be Established</b>	May only be used for proceedings involving support of child or spouse (i.e., not support of a parent).	"Obligee" is anyone to whom a duty of support is owed.
<b>ENFORCEMENT ISSUES</b>		
<b>Direct Enforcement</b>	Provides for two "direct enforcement" procedures: <ol style="list-style-type: none"><li>1. Income withholding order may be mailed directly to obligor's employer in another State which triggers wage withholding unless employee objects. (Current federal regulations requires interstate income withholding request in IV-D cases to go through a responding State's central registry).</li><li>2. Direct administrative enforcement by obligor's State if same is available for intrastate cases.</li></ol>	No analogous provisions.

## Registration

Two-state enforcement activity begins with registration of support order in responding State. Full range of enforcement remedies available. However, registered order continues to be the order of the issuing State. Role of the responding State is limited to enforcing the order except in limited circumstances where the order has also been properly registered for purpose of modification.

Registration provisions may be used to domesticate foreign order; order may be subject to modification.

## MODIFICATION ISSUES

### Continuing, Exclusive Jurisdiction

Act establishes one controlling order:

1. State that issued the order has continuing, exclusive jurisdiction to modify the order.
2. Continuing, exclusive jurisdiction exists so long as one party lives in the State unless parties agree in writing for another State to exercise jurisdiction.
3. If parties no longer reside in the issuing State or if they agree in writing for another State to exercise jurisdiction, Act establishes registration procedure for modification.
4. In such situations party seeking modification must register order in State with personal jurisdiction over opposing party.
5. State modifying order becomes new State of continuing, exclusive jurisdiction.

No analogous provision.

Most proceedings are *de novo*; even if order is registered for enforcement, the registering State often asserts the right to modify registered order. More than one valid order can be in effect in more than one State.

### Spousal Support

Spousal support is modifiable only by the original issuing State.

Child and spousal support are treated identically.

## CHOICE OF LAW ISSUES

### Determination of Support Duty

Apply law of responding State. In long-arm cases, the State conducting the hearing is defined as the responding State. If parentage previously determined pursuant to law, nonparentage may not be raised as a defense.

Apply law of State where obligor present for period of time when support is sought. Law of responding State presumed to apply.

### Determination of Support Amount

Apply guidelines of the responding State.

Apply guidelines of the responding State.

### Enforcement of Support Order

Procedure and law of the responding State apply as to enforcement issues, EXCEPT:

1. Law of the issuing State governs interpretation of order being enforced.
2. If issuing and responding States have different statutes of limitations for enforcement, the longer time period applies.

Complex choice of law (i.e., apply the law of the State where the obligor was present for the period during which support is sought). Otherwise, the law of the responding State.

## EVIDENTIARY PROVISIONS

### Electronic Information Transfer

Authorizes electronic information transfer; testimony or deposition by telephone conference; and interstate discovery.

No analogous provision.

### Records

Copy of payment records from another State, copy of health care bills, and facsimile copies are admissible into evidence.

No analogous provision.

### Communications Between Tribunals

Tribunals of different States may communicate with each other to obtain information about laws of other State or orders of other tribunal.

No analogous provision.

### Assistance with Discovery

Tribunals may assist one another by compelling discovery ordered by tribunal of another State.

Judge of initiating State may assist with deposition requested by responding tribunal.

### CRIMINAL RENDITION

Under certain conditions, may demand return of obligor charged criminally in initiating State with failure to provide for support.

Same provision.

### GENERAL PROVISIONS

#### Terminology

"Tribunal" includes administrative agencies that establish, enforce, and modify support, as well as tribunals.

"Court" refers to traditional tribunals only.

#### Definition of Support

Includes health care, interest, and attorney fees.

Support not defined.

#### Initiation of a Case

Initiation of an interstate case is ministerial. No requirement of certification. Also, party in the initiating State may file an action directly in the responding State, without going through initiating State.

Initiation of an interstate case requires initiating tribunal's review and signature.

#### Safeguarding Information

Nondisclosure authorized when the health, safety, or liberty of a party or child is at risk.

No protection.

#### Case Information Access

Tribunal and agency must keep parties informed about all important case developments.

No analogous provision.

#### Visitation

Visitation issues cannot be raised in UIFSA proceedings. Not a defense to nonpayment of support.

Similar provision.

### Private Attorney Access

Explicitly authorized, including attorney fees.

Authorized, but no mention of attorney fees.

### Reciprocity

Not required: URESA, RURESA, and all substantially similar State laws are deemed equivalent to UTFSA.

Required by law.

### Availability of Remedies

UTFSA remedies available to both obligors and obligees.

URESAs remedies available only to obligees.

### Costs and Fees

Both obligor and obligee may file without payment of costs and fees. Continues RURESAs rule that only obligor may be assessed costs and fees.

Costs and fees assessed against obligor only. No free filing to obligor.

### Representation

Act does not create or negate any attorney/client relationship. Look to other State law.

Prosecuting attorney upon request of tribunal or Dept. of Welfare shall represent obligee.

### Transition Where Multiple Orders Exist

Priority established:

1. Order issued by tribunal with continuing, exclusive jurisdiction as defined by Act.
2. If more than one tribunal would have continuing, exclusive jurisdiction, order issued by child's home State.
3. If more than one tribunal would have continuing, exclusive jurisdiction but no home State, the most recent order has priority.
4. If no tribunal would have continuing, exclusive jurisdiction under Act, responding State may issue new support order and becomes continuing, exclusive jurisdiction.

No analogous provision.

# CHILD SUPPORT ENFORCEMENT TRANSMITTAL

PLAINTIFF/PETITIONER

- IV-D NON AFDC
- IV-D AFDC/IV-E FOSTER CARE
- NON IV-D

DEFENDANT/RESPONDENT

INITIATING CASE/DOCKET NO

TO: RESPONDING CENTRAL REGISTRY  
COURT OR AGENCY (ADDRESS)

FIPS  
CODE

COUNTY/STATE

OTHER REFERENCE NO

FILE STAMP

FROM: INITIATING CONTACT PERSON  
AGENCY AND ADDRESS

FIPS  
CODE

RESPONDING CASE/DOCKET NO

COUNTY/STATE

OTHER REFERENCE NO

IF COLLECTION LOCATION IS NEW OR DIFFERENT LIST IN SECTION VI PAGE 2.

**I. ACTION REQUESTED**

Please return the Acknowledgment attached

- |   |  |
|---|--|
| <p>1. <input type="checkbox"/> LOCATION OF</p> <p style="margin-left: 20px;">A. <input type="checkbox"/> ABSENT PARENT</p> <p style="margin-left: 20px;">B. <input type="checkbox"/> EMPLOYER AND WAGES</p> <p>2. <input type="checkbox"/> ESTABLISHMENT OF PATERNITY (URESAs)</p> <p>3. <input type="checkbox"/> ESTABLISHMENT OF ORDER (URESAs) FOR</p> <p style="margin-left: 20px;">A. <input type="checkbox"/> CHILD SUPPORT</p> <p style="margin-left: 20px;">B. <input type="checkbox"/> SPOUSAL SUPPORT (NON IV-D ONLY)</p> <p style="margin-left: 20px;">C. <input type="checkbox"/> UNREIMBURSED PUBLIC ASSISTANCE (IN IV-D CASES, THE AMOUNT MUST BE REDUCED TO A CHILD SUPPORT JUDGMENT)</p> <p>4. <input type="checkbox"/> MODIFICATION OF EXISTING RESPONDING STATE ORDER (URESAs)</p> <p>5. <input type="checkbox"/> INCOME WITHHOLDING</p> <p>6. <input type="checkbox"/> COLLECTION OF ARREARS (URESAs OR UEFJA)</p> | <p style="margin-left: 20px;">C. <input type="checkbox"/> ASSETS</p> <p style="margin-left: 20px;">D. <input type="checkbox"/> OTHER INFORMATION TO ASSIST IN LOCATION</p> <p>7. <input type="checkbox"/> ENFORCEMENT OF EXISTING ORDER (URESAs)</p> <p>8. <input type="checkbox"/> REGISTRATION OF FOREIGN SUPPORT ORDER (URESAs)</p> <p>9. <input type="checkbox"/> CHANGE OF PAYEE (E.G., AFDC STATUS CHANGE)</p> <p>10. <input type="checkbox"/> REDIRECT PAYMENT (E.G., CUSTODIAN HAS MOVED)</p> <p>11. <input type="checkbox"/> ADMINISTRATIVE REVIEW FOR FEDERAL TAX OFFSET</p> <p>12. <input type="checkbox"/> DOCUMENTATION OF INFORMATION (FEDERAL TAX OFFSET)</p> <p style="margin-left: 20px;">A. <input type="checkbox"/> VERIFICATION OR PROVISION OF SSN</p> <p style="margin-left: 20px;">B. <input type="checkbox"/> VERIFICATION AND PROVISION OF SUPPORT ORDER AND ANY MODIFICATIONS</p> <p style="margin-left: 20px;">C. <input type="checkbox"/> VERIFICATION OF ARREARS AND PROVISION OF CALCULATIONS</p> <p>13. <input type="checkbox"/> OTHER: _____</p> |
|---|--|

**II. CASE SUMMARY (BACKGROUND OF THIS MATTER)**

DATE OF SUPPORT ORDER      STATE & COUNTY ISSUING ORDER      DATE AND TYPE OF LAST COURT/ADMINISTRATIVE ACTION  
COURT CASE NO.

SUPPORT AMOUNT/FREQUENCY      DATE OF LAST PAYMENT (Month, Day, Yr)      AMOUNT OF ARREARS      PERIOD OF COMPUTATION  
FROM      TO

\$      \$

OTHER BRIEF SUMMARY OF REQUEST:

**III. 1. ABSENT PARENT INFORMATION**

FULL NAME AND ALIASES (First Name, MI, Last Name)      ADDRESS (Street, City, State, Zip)      EMPLOYER (NAME) AND ADDRESS (Street, City, State, Zip)

HOME PHONE (Include Area Code)      WORK PHONE (Include Area Code)      DATE AND PLACE OF BIRTH      SEX      SOCIAL SECURITY NO.

LAW OFFICES  
**DILLON & FINDLEY**

A PROFESSIONAL CORPORATION

**JUNEAU**

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April 11, 1994

Hon. Robin L. Taylor, Chair  
Senate Judiciary Committee  
Alaska State Legislature  
Room 30, State Capitol  
Juneau, Alaska 99801-1182

**HAND-DELIVERED**

Re: SB 302 (Uniform Interstate Family Support Act)

Dear Senator Taylor:

I just learned on Friday, the 8th, that your committee will be considering SB 302 today. Although I will not be able to attend the hearing, I again wanted to express my support of the bill, as I did in my March 22, 1994 letter to Senator Leman, chair of the Senate State Affairs Committee.

Not having heard from you since the State Affairs Committee hearing, I assume that whatever questions you said that you had at that time have been resolved. This bill, proposing the National Conference of Commissioners on Uniform State Laws' Uniform Interstate Family Support Act to replace the Uniform Reciprocal Enforcement of Support Act, cures many problems for all concerned, including the obligors.

I urge a "Do Pass" recommendation. Please let me know if you need additional information.

Yours truly,



Arthur H. Peterson  
Uniform Law Commissioner  
for Alaska

cc: Hon. Walter J. Hickel, Governor

Hon. Laraine L. Derr, Dep. Comr.  
Department of Revenue

Deborah E. Behr, Asst. Atty. Genl.  
Department of Law

WALTER J. HICKEL  
GOVERNOR



P. O. Box 110001  
Juneau, Alaska 99811-0001  
(907) 465-3500

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 11, 1994

The Honorable Rick Halford  
President of the Senate  
Alaska State Legislature  
State Capitol  
Juneau, AK 99501-1182

302

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the Uniform Interstate Family Support Act and the repeal of the Uniform Reciprocal Enforcement of Support Act.

The bill would repeal the laws currently found in AS 25.25, the Uniform Reciprocal Enforcement of Support Act (URESA), and replace them with a new Uniform Act, the Uniform Interstate Family Support Act (UIFSA), with minor modifications. Two provisions of the bill also have the effect of amending Alaska Rule of Civil Procedure 82 and Alaska Rule of Administration 9. (See secs. 6 and 7 of the bill.) Under art. IV, sec. 15, of the Alaska Constitution, the legislature may change a court rule governing "practice and procedure." Although the bill has the effect of amending a court rule relating to filing fees that is designated as an "administrative" rule, I believe that the rule affects individuals' substantive rights regarding access to our justice system and, therefore, is one that the legislature is authorized to change. Additionally, the provision that has the effect of amending the administrative rule is an integral part of UIFSA.

The Uniform Interstate Family Support Act was drafted to update URESA. The bill, like URESA, applies to those actions relating to the establishment, modification, and enforcement of support orders and the determination of parentage in situations where the parties reside in more than one state.

A major feature of UIFSA is that it does not require reciprocity of laws between states in order to take action under its provisions. In order to ease the transition between URESA and UIFSA, the bill recognizes substantially similar state laws as equivalent to

LETTER FROM THE  
GOVERNOR

The Honorable Rick Halford  
February 11, 1994  
Page 2

UIFSA for purposes of interstate actions. (See proposed AS 25.25.101(7) and (16).) The bill also contains its own long arm jurisdiction provision providing the home state of a supported family the maximum possible opportunity to secure personal jurisdiction over an absent parent.

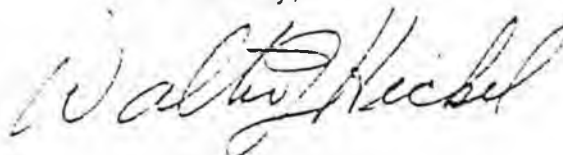
The bill promotes, to the extent possible, the premise of continuing, exclusive jurisdiction over support orders. Under the law as it exists under URESA, multiple orders for child support often result. UIFSA seeks to limit the existence of multiple support orders by limiting the circumstances under which subsequent support orders may be entered in states other than the initiating state.

The bill also recognizes the growing use of administrative procedures in addition to or in place of judicial proceedings in the establishment and enforcement of support orders. The bill does not confer new authority on Alaska's child support enforcement agency, but it does recognize the authority otherwise conferred on the agency and support enforcement agencies of other states. The bill specifically recognizes the child support enforcement agency's authority to act in interstate cases in the same manner in which it may act in intrastate actions.

UIFSA was prepared by the National Conference of Commissioners on Uniform State Laws, which has approved and recommended it for enactment in all the states. Although it was first adopted by that conference in the summer of 1992, it has already been enacted in eight states. There are indications that it will be introduced in as many as 25 states this year. It has been endorsed by the United States Commission on Interstate Child Support and the American Bar Association, and the bill has the support of Alaska's child support enforcement agency.

I urge prompt consideration and passage of this bill.

Sincerely,



Walter J. Hickel  
Governor

LAW OFFICES

# DILLON & FINDLEY

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MAR 22 1994

March 22, 1994

Hon. Loren Leman, Chair  
Senate State Affairs Committee  
Alaska State Legislature  
Room 113, State Capitol  
Juneau, Alaska 99801-1132

HAND-DELIVERED

Re: SB 302, Uniform Interstate Family  
Support Act

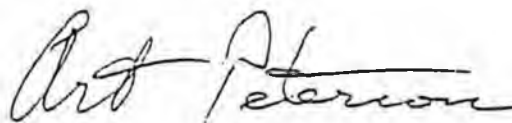
Dear Senator Leman:

Thank you for scheduling SB 302 to be heard by your committee again tomorrow. I will not be able to attend the hearing, but wanted you and your committee to know of my support for the bill.

All United States jurisdictions have enacted the Uniform Reciprocal Enforcement of Support Act (URESAs), promulgated by the National Conference of Commissioners on Uniform State Laws. To solve problems that have arisen under URESAs in the last couple of decades, and generally to update the law, the National Conference has promulgated the Uniform Interstate Family Support Act (UIFSA) to replace the URESAs. Soon, all jurisdictions will have enacted the UIFSA. Alaska should not lag behind the others.

Thank you for your consideration of the measure. I urge a "Do Pass" recommendation.

Very truly yours,



Arthur H. Peterson  
Uniform Law Commissioner  
for Alaska

March 23, 1994

William Grant Callow, Esq.  
425 G Street, Suite 610  
Anchorage, AK 99501

Re: Proposed Uniform Interstate Family Support Act

Dear Mr. Callow:

Thank you for giving me the opportunity to comment on UIFSA. Please feel free to pass these comments along to whomever you like.

Let me begin by saying that while I have serious problems with some of the specifics, I strongly favor the adoption of UIFSA in some form. You have no doubt noticed that the commentary to UIFSA makes a number of references to the problems of a "multi-order system." Let me give you an example of how this actually causes problems. Mom, dad, and child live in Texas in the early 1980's. Mom and dad get divorced there, and she gets the child and (because he is a high-paid oilfield worker) \$800 per month in child support. Subsequently, oil prices go down, he loses his job, and the best job he can find is in Kansas, so he moves there. Mom now files the Texas order in Kansas under URESA. Dad's Kansas attorney moves to modify the order based on his client's lower income, and succeeds; the Kansas courts reduce the order to \$200 per month. For the next six years, dad works in Kansas and faithfully pays the \$200 per month, thinking that is what he is liable for. Eventually he gets a slightly better-paying job in California, and moves there. Mom takes the original Texas order for \$800 per month and registers it in California, claiming arrearages in the amount of \$600 per month, multiplied by all those months that he paid the lower amount. The California court, whether it seems fair or not, will establish an order for those arrearages, probably in excess of \$40,000, which dad will not be able to pay, forcing him to become a "deadbeat dad" and spend the rest of his life getting garnished and attached by his ex-wife despite the fact that he thought he was paid in full. The reason this is possible is that, under URESA/RURESAs, you can modify an order in a state where it is being enforced, but the modification applies only in that state, and the order from the old state can be enforced in other states. I have personally seen this lead to a number of tragic and unfair situations.

UIFSA would change this because there would only be one valid order. In the above hypothetical, at the point at which dad's

Re: UIFSA  
March 23, 1994  
Page 2

Kansas attorney attempted to modify the Texas decree in the enforcement action in Kansas, he would be told dad needs to make a motion in Texas to change the underlying child support order. It would be slightly more difficult for dad to do this than to file it in the state in which he is now living, but at least he knows what he has to do, and doesn't spend years developing an unknown arrearage.

I am aware that if UIFSA is going to work, the versions in effect in different states should be at least substantially similar; therefore it is not my intention here to suggest rewriting UIFSA as much as I may be tempted. However, I have specific problems which, if remedied, I do not believe will do harm to the core of the act.

My first problem is found at Section 201(1). The US Supreme Court has held, unfortunately, in Burnham v. Superior Court, 495 US 604 (1990) that it is not unconstitutional to assume jurisdiction over the obligor merely through service in the state. On the other hand, it is not fair nor is it good public policy. Custody and visitation orders often require a parent to visit a child in the other parent's home state, or accompany the child on travel for visitation. At other times, long term visitation may be so miserly that the parent has no choice but to occasionally visit the child in the other parent's home state. Circumstances such as those should not cause anyone to be subjected to the jurisdiction of a state with which they otherwise have no contact. This is especially critical in terms of Alaska, since it may be an extreme burden on a parent who has no connection with Alaska other than having had to come up occasionally to accompany their child, to defend a child support modification action in this distant state. That section of the proposed act should be eliminated.

Section 305(b)(9) provides that a tribunal may issue a bench warrant for the obligor. Unfortunately, the term "tribunal" includes the administrative agency. This is unacceptable for two reasons. First, in this state only judges and officials of the court system issue bench warrants, not administrative agencies; this is a significant deprivation of liberty and has always been a prerogative of the judiciary. Second, the agency which would have the authority to issue the bench warrant would be Child Support Enforcement Division, or its parent, the Department of Revenue. However, AS 25.27 provides that CSED is to represent the interests of the child, which they have always interpreted to mean that the more money they can squeeze out of the obligor, the better. Allowing them bench warrant power amounts to giving the prosecutor the authority, without going through a judge, to haul people into jail. That section should be modified to provide that only the court may issue a bench warrant.

Re: UIFSA  
March 23, 1994  
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In Section 205(d) it is mandated that a responding tribunal of this state may not condition the payment of a support order upon compliance by a party with provisions for visitation. This is consistent with general policy, for instance, Civil Rule 90.3, which provides that the court should not condition child support upon visitation, and vice versa. However, this section goes too far. It may be the case in a custodial parent kidnapping situation (where the parent with custody of the child is hiding the child) that the judge may need to put extra pressure on that party by, for instance, suspending child support until the child is produced. Conceivably, this section could prevent that, and it ought to be eliminated. Custodial parent kidnappings are one of the most serious unrecognized (by judges and legislators) problems in the family law system today, and this just makes it worse.

Section 312 should be eliminated, or at least limited to judicial cases. We already have a law which makes it extremely difficult for the obligor to find out where the child is living. This section unnecessarily gives the Child Support Enforcement Division, which has no experience or authority whatsoever with regard to issues of health or safety, a blanket authority to simply refuse to provide information which they are legally required to provide under the current statute. Given the rabid anti-male attitudes at Alaska CSED, the likely result of this section would be that if the custodian wishes to hide the children, all she need do is tell CSED that there was violence and the obligor can forget about seeing his kids. There is no provision for a hearing on the issue, so the obligor will never get an opportunity to rebut the accusation. Oftentimes, CSED is the only avenue the obligor has to track down a spouse who has absconded with his children. There is already a substantial hurdle in place; that avenue should not be further blocked.

Section 313(b) is grossly unfair, and suggestive of an attitude which, unfortunately, is common among child support enforcers, that the obligor is automatically a bad guy. The section provides that attorneys fees and costs may be enforced against the obligor, but not against anyone else in the case. Why not? Why is it that the obligor, who has committed no crime and done nothing wrong, other than that some judge has presumably decided it would be better for his children to spend most of their time with his ex-spouse, is treated as a criminal? This section should be modified to provide that both parties may be liable for costs and fees.

Sections 606(a) and 608 are unduly harsh. They both provide, without any apparent available exceptions, that if you have failed to raise an objection within twenty days of service, you may not ever bring any such objections again. That's too much. In court actions, there are opportunities to amend one's answer to raise

Re: UIFSA  
March 23, 1994  
Page 4

defenses which were missed, allowances for late filings or responses for good cause, and provisions to set aside judgments within a reasonable time for a variety of reasons. Some flexibility ought to be allowed here. We should remember that we are dealing with potentially massive amounts of money which may or may not really be owed. To cut someone off from a significant defense because he or she was unable to respond in time to the mailing is draconian and unreasonable.

Another reason Section 606 should be softened, is that there are many Alaskans who may not be home when the service is made. I have seen frequent situations in which papers were served by some legally acceptable means (for instance, delivery to an adult of suitable age and discretion at the obligor's normal domicile) while the person was out fishing, or crabbing, or surveying, or guiding, or working at remote site, or what have you, and the person does not even see the paperwork until after the deadline for responding has passed. The courts, in these situations, have generally been willing to allow late filings; the way Sections 606 and 608 read, no such discretion would be available in the administrative cases (and arguably in the court cases as well).

I have a technical problem with Section 611, and I am not sure why this wasn't picked up by the drafters, unless of course I am misinterpreting something. Section 611(a)(1) provides that a state may take jurisdiction to modify an order from another state only if three conditions are met; they are that neither the parties nor the child still reside in the issuing state, that the person who has filed the petition is a nonresident of this state, and that the other party is subject to personal jurisdiction in this state. I am confused about the need for the second provision. In most cases, it would be perfectly reasonable, but what if both of the parents live in the same state (not the issuing state)? While it is not common for both parents, after a divorce, to move out of the state they divorced in and into the same new state, it does happen, and for a variety of reasons. Probably the most common reason is that the noncustodial parent may wish to spend more time with the children by moving into the same area. This requirement may be an attempt to avoid Burnham v. Superior Court situations, by making it impossible to drag the other parent into your jurisdiction by personal service, but in other situations it may create a procedural conundrum. A better solution would be to eliminate personal service alone as a basis for jurisdiction, and drop the second requirement under Section 611(a)(1).

There are a few minor procedural points. Under Section 601(7) I am not aware of any putative father registry in this state, so that section should probably be dropped. Under Section 316(h), it is probably the intention of the drafters that the privilege against disclosure of communications between spouses does not apply

Re: UIFSA  
March 23, 1994  
Page 5

to the extent the spouses are the parties involved in the case, but that should be more carefully spelled out. I am happy to see that, under Section 701, the agency could now make paternity determinations, but if you are going to do this, you are going to need to enact some laws over in AS 25.27 so that there is actually an administrative procedure in place for determining paternity. You would also need to harmonize the fact that the Alaska Supreme Court has held that a paternity determination is a significant matter entailing potential loss of liberty or property, and in which an indigent party is entitled to appointed counsel.

Finally, there are two things which should be done to harmonize this law with current Alaska law. First, UIFSA should be carefully gone through to determine whether further changes need to be made because of the use of "tribunal" to refer both to the agency and the court system; I have noted some of the problems but I am not sure I have caught them all. Second, our child support laws are split between AS 25.25 (URESAs) and AS 25.27 (regarding CSAs). The latter statutes should be carefully gone through to assure that they are in harmony with UIFSA, as there appear to be places in which the law under UIFSA would differ from what we presently have in AS 25.27.

Again, thank you for the opportunity to comment. Please feel free to call or write if you desire additional commentary. These comments are my own, and not made on behalf of any client or organization.

Sincerely,

Kenneth Kirk

KK/mlr