

HB

106

<TARGET><BILL>HB 106</BILL><SUBJECT>HB
106</SUBJECT><COMM>SFIN29</COMM></TARGET>

SENATE FINANCE COMMITTEE REPORT

DATE: 4/18/15

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Finance Committee considered CS FOR HOUSE BILL NO. 106(STA) am

HB 106 UNIFORM INTER.CHILD SUPPORT;PARENTAGE

"An Act relating to the Uniform Interstate Family Support Act, including jurisdiction by tribunals of the state, registration and proceedings related to support orders from other state tribunals, foreign support orders, foreign tribunals, and certain persons residing in foreign countries; relating to determination of parentage of a child; and providing for an effective date."

and recommends:

- be replaced with SCS _____ (_____) Same Title Technical Title Change
 New Title/SCR No. _____
- adopt previous SCS _____ (_____) Same Title Technical Title Change
 New Title/SCR No. _____
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
EED	MVA
DEC	DNR
DFG	DPS
GOV	REV
DHS	DOT
AJS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
LAW				2
REV				3
AJS				4

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	MICCICHE			✓	
	BISHOP	✓			
	DUALACOY		✓		
	LOFFMAN	✓			
CO-CHAIR:	Kelly			✓	
CO-CHAIR:	MacKinnon			✓	

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Juneau, AK 99811-0001
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Governor Bill Walker
STATE OF ALASKA

February 10, 2015

The Honorable Mike Chenault
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Chenault:

Under the authority of Article III, Section 18 of the Alaska Constitution, I am transmitting a bill relating to the Uniform Interstate Family Support Act to update Alaska's laws on enforcement of family support orders. The Uniform Interstate Family Support Act (UIFSA) applies to actions relating to the establishment, modification, and enforcement of support orders and the determination of parentage in situations where the parties reside in different states or where one party resides in a foreign country.

In 1995, Alaska adopted the UIFSA (AS 25.25.010 - 25.25.903). In 2008, the National Conference of Commissioners on Uniform State Laws (also known as the Uniform Law Commission) approved amendments to UIFSA to incorporate the provisions of the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (Convention), concluded at The Hague, November 23, 2007. The Convention contains provisions to establish uniform procedures for the processing of international child support orders.

In order to maintain compliance with federal law and treaty obligations and to continue to qualify for federal funding programs for child support matters, there is a compelling need to update Alaska's statutes this legislative session by adopting the 2008 amendments to the UIFSA.

The proposed bill is limited to amendments needed to integrate the 2008 updates to UIFSA into State law. The amendments must be effective by July 1, 2015, to comply with federal law

First, the bill would amend the UIFSA to remove the fiction that a "foreign country" is a state of the United States by amending existing text referring to a tribunal of this state to add "or a foreign country."

Second, the proposed bill would provide guidelines relating to the registration, enforcement, and modification of foreign support orders from countries that, like the United States, are parties to the Convention.

The Honorable Mike Chenault
UIFSA Bill Transmittal
February 10, 2015
Page 2

A third component of the bill would improve the enforcement of United States child support orders abroad and would ensure that children living in the United States would receive financial support due them from parents, wherever the parents reside.

These amendments would benefit Alaska families by ensuring stable and predictable enforcement of Alaska family support orders in other states and abroad. Additionally, it would ensure that residents of this state would be able to enforce support orders in this state, regardless of where they originated.

Presently, 11 states have enacted the 2008 amendments to the UIFSA; this number will grow considerably this year as other states work to enact the 2008 amendments. In addition, at least 12 states have introduced legislation this year to enact the 2008 changes; we expect others will follow. This bill has the support of Alaska's child support enforcement agency.

Additional information on the Uniform Interstate Family Support Act 2008 amendments prepared by the National Conference of Commissioners on Uniform State Laws is available from my staff.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in black ink that reads "Bill Walker". The signature is written in a cursive, flowing style.

Bill Walker
Governor

Enclosure

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version:	CSHB 106(STA)
Fiscal Note Number:	2
(H) Publish Date:	3/18/2015

Identifier: HB106-LAW-CIV-02-13-15
 Title: UNIFORM INTER.CHILD SUPPORT;PARENTAGE
 Sponsor: RLS BY REQUEST OF THE GOVERNOR
 Requester: (H) STATE AFFAIRS

Department: Department of Law
 Appropriation: Civil Division
 Allocation: Collections and Support
 OMB Component Number: 2210

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates				
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES	FY 2016	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
 If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial version; not applicable.

Prepared By:	Valerie Rose, Budget Analyst	Phone:	(907)465-3674
Division:	Administrative Services Division	Date:	02/13/2015 01:44 PM
Approved By:	Craig W. Richards, Attorney General	Date:	02/13/15
Agency:	Department of Law		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION**Analysis**

HB106 updates Alaska's Alaska statutes AS 25.25.101 to 25.25.903, Uniform Interstate Family Support Act (UIFSA), with the 2008 version. The UIFSA provides uniform rules for the establishing, modifying, and enforcing child and spousal support orders between other states and jurisdictions. This bill affects the Alaska Child Support Services Division (CSSD) in the Department of Revenue. The Department of Law represents CSSD.

UIFSA 2008

The 2008 UIFSA contains important provisions for the enforcement and recovery of child support in international cases. The bill provides a new article 7 to address international child support cases. These changes include definitions for article 7, the processes for CSSD to initiate an international case and proceedings available to the parents. Article 7 also outlines the requirements for registering an international child support order in Alaska and how a parent can contest registration. It further outlines the grounds for Alaska to recognize and enforce international orders. The bill provides that the international order must be translated into English. The bill also addresses currency conversion.

UIFSA 2001

The bill also contains clarifying provisions from the 2001 UIFSA including clarifying the processes for a controlling order determination when there are multiple, valid orders. The bill also clarifies that the law of the issuing state governs the duration of the support order.

Federal Funding

Enactment of this legislation is necessary for the Alaska Child Support Services Division to continue to receive federal funding.

The Department of Law expects no fiscal impact should this bill become law.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version:	CSHB 106(STA)
Fiscal Note Number:	3
(H) Publish Date:	3/18/2015

Identifier: HB106-DOR-CSSD-02-13-15
 Title: UNIFORM INTER.CHILD SUPPORT;PARENTAGE
 Sponsor: RLS BY REQUEST OF THE GOVERNOR
 Requester: Governor

Department: Department of Revenue
 Appropriation: Child Support Services
 Allocation: Child Support Services Division
 OMB Component Number: 111

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates				
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES	FY 2016	FY 2016					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? NO
 If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Prepared By:	Carol Beecher, Director	Phone:	(907)269-6801
Division:	Child Support Services	Date:	02/13/2015 01:00 PM
Approved By:	Jerry Burnett, Deputy Commissioner	Date:	02/13/15
Agency:	Department of Revenue		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION**Analysis**

HB 106 updates Alaska's statutes AS 25.25.101 to 25.25.903, Uniform Interstate Family Support Act (UIFSA), with the 2008 version. The UIFSA provides uniform rules for establishing, modifying, and enforcing child and spousal support orders between other states and jurisdictions. This bill affects the Alaska Child Support Services Division (CSSD) in the Department of Revenue.

UIFSA 2008

The 2008 UIFSA contains important provisions for the enforcement and recovery of child support in international cases. The bill provides a new article 7 to address international child support cases. These changes include definitions for article 7, the processes for CSSD to initiate an international case and proceedings available to the parents. Article 7 also outlines the requirements for registering an international child support order in Alaska and how a parent can contest registration. It further outlines the grounds for Alaska to recognize and enforce international orders. The bill provides that the international order must be translated into English. The bill also addresses currency conversion.

UIFSA 2001

The bill also contains clarifying provisions from the 2001 UIFSA including clarifying the processes for a controlling order determination when there are multiple, valid orders. Also clarifies that the law of the issuing state governs the duration of the support order.

Federal Funding

Enactment of this legislation is necessary for the Alaska Child Support Services Division to continue to receive federal funding.

The Department of Revenue expects no fiscal impact should this bill become law.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version:	CSHB 106(STA)
Fiscal Note Number:	4
(H) Publish Date:	4/8/2015

Identifier: HB106CS(STA)-ACS-TRC-03-19-15
 Title: UNIFORM INTER.CHILD SUPPORT;PARENTAGE
 Sponsor: RLS BY REQUEST OF THE GOVERNOR
 Requester: House Judiciary Committee

Department: Judiciary
 Appropriation: Alaska Court System
 Allocation: Trial Courts
 OMB Component Number: 768

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates				
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES	FY 2016	FY 2016					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
 If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial version.

Prepared By:	Nancy Meade, General Counsel	Phone:	(907)463-4736
Division:	Alaska Court System	Date:	03/19/2015 12:00 PM
Approved By:	Nancy Meade for Christine Johnson, Administrative Director	Date:	03/19/15
Agency:	Alaska Court System		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

Analysis

The State Affairs Committee Substitute for House Bill 106 (version W) would incorporate the current Uniform Interstate Family Support Act (UIFSA) into Alaska law, revising the version of UIFSA that Alaska previously adopted. The new uniform law generally expands on procedures for international child support cases; it provides jurisdictional guidelines, and expands the scope of support orders that can be registered in Alaska to include those issued by foreign countries that are signatories to the specified Hague Convention.

Sections 75-94 of CSHB 106 revise the existing statutes that direct the court to accept foreign support orders for registration and provide procedures for modification of support orders after registration. In general, the revisions to the existing statutes serve to expand the group of orders that can be registered with a state court, modified, and enforced to include those from additional foreign countries. The new procedures are not fundamentally different from those that the court currently follows for registering and handling support orders issued by other states.

Since this bill expands the scope of (and is therefore expected to increase the number of) foreign orders that can be registered with the court, it will have some impact on our operations. The statutes require the courts to perform certain tasks and follow a number of requirements when foreign orders are brought to the court for registration. For example, the court in which a person wishes to register his or her foreign support order is required to provide notice to the other party (sections 82-83). If the other party contests the validity of a registered order, the court must hold a hearing to determine the validity of the foreign order (sections 84-85). And if an order is registered and confirmed, and if jurisdictional requirements are met, the state court would then handle motions to modify that foreign support order.

Though this bill would affect our workload, the number of additional orders that will be registered with the court system is unlikely to be substantial. The court staff and judicial officers can absorb the increased work without a fiscal impact, and the court system therefore submits this zero fiscal note.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 4, 2015

SUBJECT: Sectional Summary of CSHB 106(STA) *CSSB 51 (Jed)*
(Work Order No. 29-GH1897\W)

TO: Representative Bob Lynn
Attn: Nancy Manly

FROM: Kate S. Glover *KS*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Secs. 1 - 16. Amend definitions and add new definitions applicable to AS 25.25 relating to the Uniform Family Support Act.

Sec. 17. Designates the child support services agency created in AS 25.27.010 as the support enforcement agency of the state.

Sec. 18. Amends AS 25.25.103 to clarify that cumulative remedies do not affect the recognition of a support order on the basis of comity.

Sec. 19. Adds a new subsection to AS 25.25.103 to establish that the bill does not establish the exclusive method for establishing support orders in the state and that it does not grant the state the ability to issue an order related to custody or parenting time under this chapter.

Sec. 20. Requires a tribunal of the state to apply specified sections of the bill and law to proceedings involving foreign support orders, foreign tribunals, or obligees, obligors, or children residing in a foreign country.

Sec. 21. Makes clarifying amendments to AS 25.25.201 pertaining to jurisdiction over nonresidents.

Sec. 22. Explains that the laws of the state may not be used to acquire personal

Representative Bob Lynn
March 4, 2015
Page 2

jurisdiction for a tribunal of the state to modify a child support order of another state, or a foreign support order, unless certain requirements are met.

Sec. 23. Repeals and reenacts AS 25.25.202 to provide that the state has continuing, exclusive jurisdiction to modify or enforce its order if certain requirements are met.

Sec. 24. Makes clarifying revisions to AS 25.25.203 pertaining to initiating and responding tribunals.

Sec. 25. Makes clarifying revisions to AS 25.25.204 pertaining to simultaneous proceedings.

Sec. 26. Clarifies that jurisdiction is based on residency at the time of filing and that the state can have continuing jurisdiction with the consent of all parties even when the parties no longer reside there.

Sec. 27. Clarifies when the state may not exercise continuing, exclusive jurisdiction to modify a child support order issued by a tribunal of the state.

Sec. 28. Requires a tribunal of the state to recognize continuing, exclusive jurisdiction of the tribunal of another state that has issued a child support order under a law substantially similar to this chapter.

Sec. 29. Allows a tribunal of the state to serve as the initiating tribunal to request the tribunal of another state to modify a support order issued in that state.

Secs. 30 and 31. Clarify when a tribunal of this state can act as an initiating or responding tribunal to enforce a support order.

Secs. 32 - 37. Amend procedures for determining which order is the controlling order if two or more support orders have been issued for the same obligor and child. Adds requirements for controlling support orders.

Sec. 38. Adds "foreign country" to AS 25.25.208 pertaining to orders for two or more obligees.

Sec. 39. Clarifies language regarding credit for payments.

Sec. 40. Adds new sections regarding proceedings involving nonresidents who are subject to personal jurisdiction, and regarding jurisdiction for modifying spousal support orders.

Sec. 41. Makes clarifying revisions to AS 25.25.301(c).

Sec. 42. Amends AS 25.25.303 to remove "including the rules on choice of law"

Sec. 43. Amends AS 25.25.304 relating to the duties of a tribunal of this state to specify the amount of support sought from a foreign country and to convert the amount into foreign currency.

Sec. 44. Allows a tribunal of this state to determine the controlling child support order.

Sec. 45. Provides the process for a tribunal of this state to convert a foreign support order into the equivalent amount in dollars.

Sec. 46. Makes clarifying revisions to AS 25.25.306.

Secs. 47 - 48. Makes clarifying revisions and adds sections to the duties of child support agencies regarding foreign support orders and income withholding orders.

Sec. 49. Adds a new section setting out the duties of the Department of Revenue under the Act.

Sec. 50. Makes clarifying revisions to AS 25.25.310.

Sec. 51. Makes clarifying revisions to AS 25.25.311.

Sec. 52. Changes requirements regarding when a court may seal information to protect the health, safety, or liberty of a party or a child.

Sec. 53. Makes clarifying revisions to AS 25.25.313.

Sec. 54. Makes clarifying revisions to AS 25.25.314.

Secs. 55 - 59. Make clarifying revisions to AS 25.25.316.

Sec. 60. Adds a new section providing that a certified copy of a voluntary acknowledgement of paternity is admissible to establish paternity.

Sec. 61. Allows tribunals to communicate through electronic mail under the Act.

Sec. 62. Amends AS 25.25.318 to apply to tribunals outside this state.

Sec. 63. Makes clarifying revisions to AS 25.25.319.

Sec. 64. Adds sections relating to the duties of the support enforcement agency of this state or a tribunal of this state when the child support services agency of this state receives payments under a support order and neither the obligor, the obligee, nor the child resides in this state.

Sec. 65. Allows a responding tribunal of this state to issue a support order if the tribunal has personal jurisdiction over an individual residing outside of the state.

Sec. 66. Clarifies when a tribunal may issue a temporary child support order.

Sec. 67. Authorizes a tribunal of this state to serve as a responding tribunal in a proceeding to determine parentage.

Sec. 68. Makes clarifying revisions to AS 25.25.501.

Sec. 69. Makes clarifying revisions to AS 25.25.502.

Sec. 70. Makes clarifying revisions to AS 25.25.503.

Sec. 71. Makes clarifying revisions to AS 25.25.504.

Sec. 72. Makes clarifying revisions to AS 25.25.505.

Sec. 73. Clarifies how an obligor can challenge the enforcement of an income withholding order issued in another state and received by an employer of this state.

Secs. 74 - 77. Add "foreign support order" as an order that can be registered in this state.

Sec. 78. Provides procedures for registering an order when more than one order is in effect.

Sec. 79. Adds "foreign support order" to AS 25.25.603, dealing with effect of registration for enforcement.

Sec. 80. Provides that the law of the issuing state or country governs certain proceedings relating to support orders.

Sec. 81. Provides that a responding tribunal in this state shall apply the procedures and remedies available in this state to collect and enforce a support order from another state or foreign country but will prospectively apply the law of the state or foreign country that issued the controlling order.

Sec. 82. Adds "foreign support order" to AS 25.25.605, regarding notice of registration of order.

Sec. 83. Adds new subsections relating to procedures required when a registering party asserts that two or more orders are in effect.

Secs. 84 - 85. Make conforming amendments to AS 25.25.606.

Sec. 86. Adds "the alleged controlling order is not the controlling order" to the list of defenses available to a party contesting the validity or enforcement of a registered support order.

Secs. 87 - 89. Make conforming amendments.

Sec. 90. Prohibits a tribunal of this state from modifying the duration of the obligation of support under a support order that could not be modified under the law of the issuing state.

Sec. 91. Makes clarifying amendments to AS 25.25.611(d).

Sec. 92. Adds new subsections providing that the law of the state that issued the controlling support order governs the duration of the obligation of support.

Sec. 93. Requires that when an order issued by a tribunal of this state is modified by another state, this state shall only enforce the original order for the purposes of arrearages and interest prior to modification.

Sec. 94. Amends AS 25.25.613(b) to include references to new sections added by this bill.

Sec. 95. Adds new sections relating to jurisdiction and procedures to modify child support orders of foreign countries.

Sec. 96. Adds a new article, Article 7A, dealing with proceedings under the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. New sections include definitions, applicability, initiation of support proceedings, registration of convention support orders, contesting orders, recognition and enforcement of orders, foreign support agreements, modification of convention support orders, and other sections.

Secs. 97 - 100. Make clarifying revisions to AS 25.25.801, AS 25.25.802, and AS 25.25.901.

Sec. 101. Repeals AS 25.25.101(7), AS 25.25.205(f), AS 25.25.206(c), AS 25.25.301(b), AS 25.25.401(c), and AS 25.25.701.

Sec. 102. Provides that this Act applies to proceedings begun on or after the effective date of this section.

Sec. 103. Requires the Department of Revenue to adopt transition regulations.

Sec. 104. Directs the revisor to make conforming amendments to various article headings and section catch lines.

Representative Bob Lynn
March 4, 2015
Page 6

Sec. 105. Provides that sec. 103 takes effect immediately.

Sec. 106. Provides that the Act, except as provided in sec. 105, takes effect July 1, 2015.

KSG:Ind
15-183.Ind

OFFICE OF CHILD SUPPORT ENFORCEMENT

An Office of the Administration for Children & Families

Listen

Uniform Interstate Family Support Act (2008) and Hague Treaty Provisions IM-15-01

Published: April 13, 2015

Information About: State/Local Child Support Agencies
Topics: State Plan, Intergovernmental/Interstate, International
Types: Policy, Information Memorandums (IM)
Tags: UIFSA

INFORMATION MEMORANDUM

IM-15-01

DATE: April 13, 2015

TO: State Agencies Administering Child Support Enforcement Plan under Title IV-D of the Social Security Act and Other Interested Parties

SUBJECT: Uniform Interstate Family Support Act (2008) and Hague Treaty Provisions

PURPOSE

As described in [AT-14-11](http://www.acf.hhs.gov/programs/css/resource/pi-113-183-uifsa-2008-enactment) (<http://www.acf.hhs.gov/programs/css/resource/pi-113-183-uifsa-2008-enactment>), P.L. 113-183, the *Preventing Sex Trafficking and Strengthening Families Act* (<http://www.gpo.gov/fdsys/pkg/PLAW-113publ183/pdf/PLAW-113publ183.pdf>), requires all states to enact any amendments to the Uniform Interstate Family Support Act "officially adopted as of September 30, 2008 by the National Conference of Commissioners on Uniform State Laws" (referred to as *UIFSA 2008* ([http://www.uniformlawcommission.com/Act.aspx?title=Interstate%20Family%20Support%20Act%20Amendments%20\(2008\)](http://www.uniformlawcommission.com/Act.aspx?title=Interstate%20Family%20Support%20Act%20Amendments%20(2008)))). The UIFSA 2008 amendments integrate the appropriate provisions of The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, referred to as the treaty.

P.L. 113-183 requires that UIFSA 2008 must be in effect in every state "no later than the effective date of laws enacted by the legislature of the State implementing such paragraph, but in no event later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act." If a state has a 2-year legislative session "each year of the session shall be deemed to be a separate regular session of the State legislature."

Recent legislative discussions and questions about the treaty have raised several questions we would like to clarify in this document. This document is divided into three sections:

- Section I Treaty Provisions and Requirements
- Section II United States Involvement in the Development of the Treaty
- Section III Treaty Countries and the Process for Ratification

SECTION I: TREATY PROVISIONS AND REQUIREMENTS

How will the treaty help U.S. children?

- The treaty will greatly expand the number of countries that will recognize and enforce U.S. child support orders. Therefore, more U.S. children will be able to obtain financial support, regardless of where their parents live.
- The treaty requires a country to provide cost-free services to applicants from treaty countries. The U.S. already provides such services to parents in other countries. Once the U.S. becomes a party to the treaty, other treaty countries will have to provide cost-free services to our residents.
- The treaty establishes standard procedures for processing international cases, which will vastly improve efficiency and timeliness, and reduce the costs of establishing and enforcing orders.

Why did Congress support this treaty?

- The treaty emphasizes parental responsibility for the financial support of children.

- It only requires the U.S. to recognize and enforce child support orders that are based on U.S. due process requirements regarding personal jurisdiction, notice, and an opportunity for a hearing.
- Before a country can ratify the treaty, the country must provide evidence that its laws and procedures meet the treaty requirements, including parentage establishment, recognition and enforcement of support orders for children up to the age of 21, cost-free services, notice and an opportunity for a hearing or review, and protection of identifying information where there is a risk of harm to the parent or child.
- The treaty contains strong administrative cooperation requirements and timeframes.
- The treaty will result in child support services that are consistent, affordable, and timely.
- There will be post-treaty review and monitoring of countries' performance under the treaty.

Under the treaty, must a state enforce any support order that is transmitted from another treaty country?

- No. Under UIFSA 2008 a state tribunal may refuse to recognize and enforce a foreign support order on its own motion or, if challenged by a party, if the order is "manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard."
- In addition, a tribunal may refuse recognition and enforcement of the order for any of the grounds set forth under UIFSA 2008 (§708(b)).
- When a custodial parent in a treaty country asks a U.S. tribunal to recognize and enforce a support order issued by a treaty country, the noncustodial parent in the U.S. will receive notice of the request. The noncustodial parent has an opportunity to contest the recognition and enforcement of the order.
- If a U.S. tribunal cannot recognize a foreign support order, an effort will be made to establish an order in this country.
- The goal is to ensure that, where there is a support obligation, the child(ren) of treaty countries receive support through a uniform, simple, efficient, accessible, fair, and cost-free process.

Why is the treaty being implemented by state law?

- The Hague Maintenance Convention, like many treaties, is not "self-executing", legislation is required to implement its provisions.
- Child support enforcement in the United States has traditionally been the province of state and local jurisdictional authorities. There are many commonalities between the states in how such obligations are established and enforced, but there is no uniform body of federal child support law.
- Beginning in 1984, however, Congress determined that because of the tendency of parents to travel from state to state, and the fact that parents of a child often live in different states, it would be highly desirable to have a relatively few "mandatory state laws" that all states must enact. These laws and procedures apply to such basic principles as establishment of paternity to age 18, recognition of income withholding orders issued by sister states, and requirements that all states have certain common enforcement remedies.
- To assure enactment of these state laws, Congress tied funding for states' child support and welfare programs to the enactment of such legislation. The first mandatory state law requirements were established in 1984 in legislation that was passed unanimously by both the Senate and the House of Representatives and signed by President Reagan.
- Since 1992, states have used UIFSA to process interstate and international child support cases. In 1996, as a part of the Welfare Reform legislation passed by Congress, it was mandated that all states enact UIFSA to improve inter-jurisdictional case processing.
- Out of deference to the role of states as the locus of jurisdiction for child support and previous success using UIFSA to implement the interstate child support provisions of welfare reform, there was consensus among the Uniform Law Commission (ULC), the U.S. Department of State, the Federal Office of Child Support Enforcement (OCSE), and state and local child support practitioners that UIFSA would be the appropriate vehicle to integrate the treaty into U.S. law. Implementation of the treaty through state law is more consistent with existing family law, as well as more efficient and effective, rather than through a federal law that would govern a segregated portion of international child support cases.
- Because of that early decision, the U.S. delegation was able to ensure that the treaty included UIFSA's process for recognition and enforcement of orders, recognized UIFSA's rules on personal jurisdiction, and incorporated many of UIFSA's procedures.

Does implementation of the treaty open federal databases to foreign countries?

- No. Nothing in the treaty or UIFSA 2008 amends the privacy and security requirements that apply to federal and state child support programs or expands access to databases beyond what already exists.
- Federal law and regulation contain tight restrictions on access to the Federal Parent Locator Service (FPLS) information, which includes the National Directory of New Hires, and other federal databases. Federal law imposes substantial criminal and civil penalties for unauthorized use or disclosure of information.
- If requested by a foreign treaty country unsure of where to refer an order for enforcement in the U.S., OCSE will search the FPLS and is authorized to provide only the state of residence of an individual sought for child support purposes. The foreign treaty country would then send a request for services directly to that specific state.

How do UIFSA 2008 and the treaty differ from current law?

While much of the treaty is based on the prior versions of UIFSA, the treaty differs from current state law in the following ways.

- Under UIFSA 2008, state child support agencies will no longer be obliged to provide child support services to absolutely anyone who applies from any other country, as is required under current law. The treaty permits states to reject applications for services from non-treaty countries if they choose to do so. (It will be states' option if they decide to continue to provide universal child support enforcement services to everyone.)

- The treaty provides a longer time period for a parent to challenge the recognition and enforcement of a support order. The period is extended in recognition of the international residence of parties.
- The treaty provides that if a tribunal does not recognize a treaty support order because there was a lack of personal jurisdiction and the debtor is a resident of the state, it will take all appropriate measures to establish an enforceable support order.
- UIFSA 2008 includes new provisions that incorporate these treaty requirements into UIFSA. All of these requirements were supported by the U.S. delegation during the negotiation of the treaty.
- It is also important to highlight what the treaty does not do. The treaty does not change existing UIFSA provisions and U.S. law regarding personal jurisdiction, due process protections of notice and an opportunity for a hearing, and application of U.S. law concerning enforcement of the order.

SECTION II: UNITED STATES INVOLVEMENT IN THE DEVELOPMENT OF THE TREATY

Who served on the United States delegation for the treaty negotiations?

- The United States participated in negotiations for the treaty from 2003 to 2007.
- In addition to official members of the U.S. delegation from the U.S. Department of State and OCSE, state and local child support experts participated in treaty negotiations as representatives of the National Child Support Enforcement Association, International Association of Women Judges, International Bar Association, International Academy of Matrimonial Lawyers, and the Uniform Law Commissioners.
- Members of the U.S. delegation served as members of the Convention drafting committee, and co-chairs of the Forms Working Group and Administrative Cooperation Working Group. The co-chair of the Country Profile Committee was a member of the National Child Support Enforcement Association delegation.

Why has the U.S. previously been unable to join a multilateral child support treaty?

- The U.S. is not a party to any existing international child support treaty because prior treaties had a very limited scope and did not comply with U.S. due process requirements concerning personal jurisdiction.
- In the U.S., a court or administrative authority cannot establish an order to pay child support unless there is personal jurisdiction over the noncustodial parent. In most of the rest of the world, the concept of "child-based" jurisdiction governs. If the custodial parent and child live in the country, that country's courts have authority to enter a support order, notwithstanding the possibility that the noncustodial parent has never been in the country, has never sent support for the child there, or has never had any other significant contacts with the country.
- This long-standing fundamental problem of basic differences in the way our judicial systems operate was resolved, finally, with a simple solution that became Article 20, paragraph 4 of the treaty. The United States will take a reservation stating that it will not be bound to recognize and enforce a foreign support order, unless it determines that the other country had the necessary "minimum contacts" with the noncustodial parent that would satisfy requirements in this country for obtaining personal jurisdiction. However, the U.S. agreed that, if it could not recognize such a foreign order, and it has personal jurisdiction over the other parent in this country, then it would initiate proceedings, in accordance with the Constitution of the United States, to establish a support order in this country that it could enforce.

Why did the United States participate in treaty negotiations?

- Under current law, the U.S. has entered into bilateral arrangements with 14 countries and 12 Canadian provinces. Those countries are: Australia, the Czech Republic, El Salvador, Finland, Hungary, Ireland, Israel, Netherlands, Norway, Poland, Portugal, the Slovak Republic, Switzerland, and the United Kingdom.
- However, country-by-country negotiations are difficult and time-consuming, but many foreign countries will not enforce U.S. support orders in the absence of a treaty obligation or bilateral arrangement.
- The U.S. participated in negotiation of the new Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance for three main reasons:
 - More U.S. families will receive child support, with no legal fees, when there is a treaty obligation.
 - By playing a lead role in negotiating and drafting, the U.S. could ensure that the treaty would meet U.S. due process requirements.
 - By playing a lead role in negotiating and drafting, the U.S. could ensure that the treaty would be practical, effective, and based on practices we have found successful in the United States.

SECTION III: TREATY COUNTRIES AND THE PROCESS FOR RATIFICATION

What countries have ratified the treaty?

- The European Union (27 countries) ratified the treaty in 2014. In addition, Norway, Albania, Ukraine, and Bosnia and Herzegovina have ratified the treaty. See http://www.hcch.net/index_en.php?act=conventions.text&cid=131 (http://www.hcch.net/index_en.php?act=conventions.text&cid=131) for the text of the treaty and for additional information.

Can any country join the treaty?

- No. A country can only join the treaty after providing evidence that it has laws and procedures complying with treaty requirements.

What steps occurred after the conclusion of treaty negotiations?

- The treaty was finalized in 2007
- In 2009 the U.S. Senate Foreign Relations Committee conducted hearings and in 2010 the full Senate gave its Advice and Consent to the ratification of the treaty. The House of Representatives passed implementing federal legislation in 2013. In 2014 both the House of Representatives and the Senate passed implementing federal legislation. The bi-partisan bill is titled *Preventing Sex Trafficking and Strengthening Families Act*, Pub. L. 113-183.

How will the treaty be implemented within the United States?

- In 2010 the Senate gave its Advice and Consent for the President to proceed towards ratification of the treaty on the International Recovery of Child Support.
- Congress passed federal legislation in 2014 to improve the international recovery of child support. That legislation authorizes the Secretary of HHS to ensure compliance of the U.S. with the multilateral child support treaty when it is ratified and requires that all states enact UIFSA 2008 as a condition of continuing receipt of federal funds.
- Because child support in the U.S. is handled at the state level (not federal), the treaty must be implemented by state law.
- All states already use UIFSA to process interstate and international cases. The 2008 amendments to UIFSA add provisions that meet treaty requirements concerning the recognition and enforcement of treaty orders.
- Once all states have enacted UIFSA 2008, the President will sign the instrument of ratification, and deposit that instrument as required for the U.S. to become a party to the treaty.

INQUIRIES: Please contact your OCSE Regional Program Manager

Sincerely,

Vicki Turetsky
Commissioner
Office of Child Support Enforcement

cc: Tribal IV-D Directors
ACF/OCSE Regional Program Managers