
Juvenile Justice & Family Law Committee

HB 2347

Brief Description: Modifying the uniform interstate family support act.

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

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">· Incorporates the Uniform Law Commissioner's amendments into Washington's Uniform Interstate Family Support Act.

Hearing Date: 1/23/02

Staff: Trudes Hutcheson (786-7384).

Background:

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

In 1996, federal welfare reform legislation required states to enact the UIFSA and any recent amendments to the act. At the time, the most recent amendments were the Commissioner's 1996 amendments and Washington adopted these amendments as required. In 2001, the Uniform Law Commissioners adopted additional amendments to the act.

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

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

Obtaining Jurisdiction Over a Party

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

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

Continuing Exclusive Jurisdiction

Generally, the state that issues the support order (the "issuing state") has continuing, exclusive jurisdiction over the order:

- (a) as long as the state remains the residence of either parent or the child; or
- (b) until the parties consent to have another state modify the order and assume continuing, exclusive jurisdiction.

If only one state has issued a child support order, that order must be recognized as the controlling order. In cases where there are multiple orders from multiple states, UIFSA creates procedures for a state court or support enforcement agency to determine which order is controlling and which state has continuing, exclusive jurisdiction. The state with continuing, exclusive jurisdiction is generally the only state that can modify the order.

If a support order issued by this state is validly modified by another state, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order.

Generally, the law of the issuing state governs the nature, extent, amount, and duration of the support obligation. However, the statute of limitations under the laws of this state or the issuing state, whichever is longer, applies.

Registering an Order for Modification and Enforcement

A support order issued from another state may be filed in a court or support enforcement agency in Washington for enforcement purposes. The UIFSA establishes the notice that must be given to the parties, the registration process, and the defense that may be raised to contest the order or the registration. The court or agency must file the order as a foreign judgment. The order is enforceable in the same manner and is subject to the same procedures as an order issued by this state. Registering an order from another state does not authorize this state to modify that order unless it can modify it under other provisions of UIFSA.

After a support order issued from another state has been registered in this state, this state may modify that order if all the parties reside in this state and the child does not reside in the issuing state. In that case, the issuing state would have lost its continuing exclusive jurisdiction. In addition, a registered order may be modified by this state if either:

- (i) the parties and the child do not reside in the issuing state; the petitioner who is a nonresident seeks modification; and the respondent is subject to personal jurisdiction of this

state; or

(ii) the child or party is subject to personal jurisdiction of this state and all the parties have filed written consents for this state to modify the order and assume continuing, exclusive jurisdiction.

This state's tribunal cannot modify any aspect of a support order that the issuing state would not be able to modify.

Support Enforcement Agreements with Other Countries

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

Summary of Bill:

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

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

Recognition of support orders from foreign countries

The definition of "state" is amended to include tribunals from foreign countries where there is reciprocity established between this state and the foreign country. Therefore, UIFSA is applicable when the state has arrangements with a foreign country or political subdivision for child support proceedings.

Personal Jurisdiction

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

The modification provision in UIFSA is reorganized to clarify that a state may have personal jurisdiction over a nonresident for the purposes of establishing or enforcing a support order, but not necessarily to modify the order of a different state.

Continuing Exclusive Jurisdiction

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

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

Registration

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

Miscellaneous

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

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

Appropriation: None.

Fiscal Note: Not Requested.

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