

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4480

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 4, 2015

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 4480.

This bill enacts the new “Uniform Interstate Family Support Act,” (UIFSA) and repeals the existing “Uniform Interstate Family Support Act,” which was adopted in New Jersey as P.L.1998, c.2 (C.2A:4-30.65 et seq.). UIFSA provides uniform rules for the enforcement of family support orders.

In 2007, the United States signed the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (“the Convention”). In 2008, the Uniform Law Commission approved amendments to UIFSA which incorporated the provisions required by the Convention. In 2014, Congress passed federal implementing legislation for the Convention, the “Preventing Sex Trafficking and Strengthening Families Act,” Public Law No.113-183, which requires the 2008 UIFSA amendments be enacted in every jurisdiction by April 1, 2016 as a condition of continuing to receive federal funds for state child support programs.

This bill repeals New Jersey’s 1998 version of UIFSA, sections 1 through 58 of P.L.1998, c.2 (C.2A:4-30.65 through 2A:4-30.123), and implements a new UIFSA which encompasses those amendments promulgated by the Uniform Law Commission. This bill provides guidelines and procedures for the registration, enforcement and modification of foreign support orders. The bill establishes basic jurisdictional standards including continuing exclusive jurisdiction, rules for determining which state issues the controlling order in the event of proceedings in multiple jurisdictions, and rules for modifying support orders.

The most notable change is the addition of Article 7 to UIFSA which is new. This article establishes guidelines and procedures for the registration, recognition, enforcement, and modification of foreign support orders of countries that are parties to the Convention. Article 7 provides that a party seeking recognition of a support order must register. Once registered, the tribunal notifies the parties and an opportunity to challenge the order is provided. Unless grounds for denying recognition of the order are established, the order is enforced.

Another change is the addition to the UIFSA of a section concerning the conditions under which a tribunal has the authority to modify a spousal support order.

The following is a summary of the bill's provisions:

ARTICLE 1 (SECTIONS 1-5) GENERAL PROVISIONS:

- A definitional section which differs from the 1998 UIFSA statute by: (1) adding new definitions for: "convention," "foreign country," "foreign support orders," "foreign tribunal" and "record"; and (2) expanding the definition of "obligor" to include a debtor in a proceeding under Article 7.
- The Superior Court, Chancery Division, Family Part is designated as the tribunal. The Probation Division of the Superior Court is designated the support enforcement agency.
- The procedures for establishment, enforcement, or modification of support or a determination of parentage under this act would not preclude the application of general State law.

ARTICLE 2 (SECTIONS 6-16) JURISDICTION:

- The bases for jurisdiction over a nonresident for the purposes of establishing a support order or determining parentage.
- The identification of the roles a tribunal may serve, either as an initiating or a responding tribunal.
- Procedures for simultaneous proceedings.
- Provides for continuing, exclusive jurisdiction of other tribunals over support orders and authorizes the initiation of requests for modification to the issuing state;
- Tribunals of the enacting states must adhere to the one order at a time system.
- Priority scheme for recognition and enforcement of existing multiple orders regarding the same obligor, obligee, and child.
- Method to handle multiple orders involving two or more families of the same obligor by treating all the orders as if they had been issued by a tribunal of this State.
- Credit for actual payments made against all existing orders.
- New section which provides for continuing, exclusive jurisdiction to modify spousal support order.

ARTICLE 3 (SECTIONS 17-35) CIVIL PROVISIONS OF GENERAL APPLICATION:

- Procedures for initiation of a proceeding by an individual or a support enforcement agency.
- Allows proceedings by minor parent.
- Insures efficient processing of interstate and intrastate support cases.
- Establishes procedures for transmittal of documents or issuing certificates and for converting the support amount owed to an equivalent amount in the foreign country.

- Enumerates the duties and powers of the responding tribunal, such as ordering compliance with a support order, providing for income withholding, determining arrearages, issuing bench warrants and placing liens.
- Enumerates the duties of a support enforcement agency.
- Provides for the Attorney General to take appropriate action concerning neglect to provide services by the support enforcement agency. The committee amended this provision to clarify that the Attorney General applies to the Superior Court for an order.
- Allows a party to retain private counsel in an action. (Currently, the State IV-D agency may provide counsel in IV-D case to the petitioner or support agency under certain circumstances.)
- Enumerates the duties of the Administrative Office of the Courts as the State information agency.
- Establishes the basic requirements for the drafting and filing of interstate pleadings.
- Nondisclosure of information when the health, safety, or liberty of a party or child would be jeopardized. Such information would be sealed.
- Assessment of fees and costs.
- Limited immunity of petitioner.
- A party whose parentage of a child has been previously determined cannot plead nonparentage as a defense under the bill.
- Provides for applicable rules of evidence and procedure including privileges against disclosure of communications between spouses, and admission of voluntary acknowledgments of paternity to establish parentage of a child.
- Provides for communication between courts in order to expedite enforcement of the support order.
- Facilitation of cooperation in the discovery process.
- Prompt disbursement of any amounts received by a support enforcement agency pursuant to a support order.

ARTICLE 4 (SECTIONS 36-37) ESTABLISHMENT OF SUPPORT ORDER OR DETERMINATION OF PARENTAGE:

- Authorization for a tribunal of the responding state to issue support orders binding on an obligor over whom the tribunal has personal jurisdiction.
- Proceeding to determine parentage.

ARTICLE 5 (SECTIONS 38-44) ENFORCEMENT OF SUPPORT ORDER WITHOUT REGISTRATION:

- Recognition by the obligor's employer of a withholding order issued by another state.

- Authorization for summary enforcement of support order through any administrative means.
- Immunity for employer who complies with a withholding order.
- Procedures for contesting the validity of an order.

ARTICLE 6 (SECTIONS 45-60) REGISTRATION, ENFORCEMENT, AND MODIFICATION OF SUPPORT ORDER:

Part 1- (sections 45-48) registration for enforcement of support orders:

- Procedures for the registration of a support order issued in another state or a foreign support order for the purposes of enforcement.
- Provides for choice of law.

Part 2 (sections 49-52) contest of validity or enforcement:

- Procedures to contest validity or enforcement of a registered order.
- Confirmation of a support order which validates both the terms of the order and the asserted arrearages.

Part 3 (sections 53-58) registration and modification of child support order of another state:

- Requirements for registration of child support order.
- Modification of support orders of another state.
- Recognition of a modified order of another state.

Part 4 (sections 59-60) registration and modification of foreign child support order of another state:

- Procedures for modification of a support order if a foreign country lacks or refuses to exercise jurisdiction to modify a support order.
- Procedure to register foreign support orders.

ARTICLE 7 (SECTIONS 61-73) SUPPORT PROCEEDINGS UNDER CONVENTION:

- Relationship of the State IV-D agency to the United States central authority.
- Initiation of support proceedings by the State IV-D agency.
- Procedures for direct requests.
- Registration of Convention support orders.
- Procedures for contesting of registered Convention support order.
- Recognition and enforcement of registered Convention support order.
- Allows for enforcement of any part of a Convention support orders, if a tribunal of this State does not recognize and enforce an order in its entirety.
- Recognition and enforcement of foreign support agreement.

- Provides for modification of convention child support order.
- Record filed may be in original language, and if not in English, it must be accompanied by an English translation.

ARTICLE 8 (SECTIONS 74-75) INTERSTATE RENDITION:

- For extradition of an individual who is charged criminally with having failed to provide for the support of an obligee.
- Conditions that a Governor may implement before making the demand for an individual's surrender or before honoring this type of demand.

ARTICLE 9 (SECTIONS 76-78) MISCELLANEOUS PROVISIONS:

- Uniformity of application and construction of the act.
- The provisions of this bill apply to proceedings begun on or after the effective date of the act.

AMENDMENTS TO THE CURRENT LAW; REPEALER; EFFECTIVE DATE (SECTIONS 79-82):

This bill also amends several provisions of the existing statutory law to cross-reference the new “Uniform Interstate Family Support Act” as set forth in the bill.

The bill repeals the 1998 version of UIFSA, sections 1 through 58 of P.L. 1998, c.2 (C.2A:4-30.65 through 2A:4-30.123).

This bill would take effect on April 1, 2016.

COMMITTEE AMENDMENTS:

Section 24 in Article 3 is amended to clarify that when the support enforcement agency has neglected or refused to perform its duties and to provide services, the Attorney General may apply to the Superior Court for an order directing them to perform its duties and provide services.