

Kandee Yearsly – 3/6/2015

Senate Bill 1067 - Uniform Interstate Family Support Act (UIFSA) 2008

Attached is correspondence obtained from the United States Department of Health and Human Services which provides responses to some of the questions posed by the committee. Specifically, the requirement that UIFSA 2008 be enacted with verbatim language and the potential funding impact should this legislation not pass.

Below is a summary of responses to the committee's specific questions.

Does the wording in the legislation have to be verbatim?

- All states must enact the UIFSA 2008 legislation verbatim. (see attached)

Are we broadening the current requirements to now include foreign countries?

- No, those requirements were already extended to foreign countries in existing Idaho Code. Sections 7-1002 through 7-1057 already apply to foreign countries that have direct reciprocating agreements with either the United States or specifically with the State of Idaho.

Are we now treating foreign countries as states?

- No, the stricken language in the previous definition of state that is being removed on page 5 line 46 through page 6 line 3 included foreign countries.

Does the adoption of the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance significantly change the application of UIFSA?

- Sections 1058 through 1071 which are new sections, are the only sections specifically addressing the handling of Hague Convention orders and Hague Convention countries. Other reciprocating countries are still handled on equal footing with other states through the previously existing statutory framework.

Would this bind Idaho courts to register and enforce a support order that would be manifestly unjust under Idaho law?

- Section 7-1066 subpart 2 outlines the grounds where an Idaho court could refuse to recognize or register a convention support order. One of those reasons is if enforcement of the order manifestly incompatible with public policy.

What is a quasi-judicial body?

- Relates to administrative or executive bodies that have been given authority to issue support orders under the laws of a state or foreign country. Ex.

Washington has non-judicial referees or special masters who are given the authority to issue administrative support orders.

What countries are participating in this Hague Convention?

- The Convention of 23 November 2007 on the International Recovery of Child Support and other Forms of Family Maintenance members include:

Albania, Austria, Belgium, Bosnia, Bulgaria, Burkina Faso, Croatia, Cyprus, Czech Republic, Estonia, European Union, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

There has been no change in either the participating or signatory countries since 2007.



February 25, 2015

Kandace Yearsley
Director, Idaho Child Support Program
Department of Health and Welfare
P.O. Box 83720
Boise, Idaho 83720-0036

Dear Ms. Yearsley:

The purpose of this letter is to assist the Idaho Child Support Program in ensuring compliance with Section 301 of the Preventing Sex Trafficking and Strengthening Families Act, Public Law 113-183, signed by the President on September 29, 2014. Title III, Improving International Child Support Recovery, includes provisions that make significant improvements to the child support program established under title IV-D of the Social Security Act (Act).

Section 301(f)(1) of P.L. 113-183 amends section 466(f) of the Act, requiring 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 of Uniform State Laws" (referred to as UIFSA 2008). UIFSA 2008 is widely supported by the child support community; because it will improve interstate case processing and ensure that more child support collections are paid to families who live in different states and countries.

Section 301(f)(3)(A) of 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."

As stated in AT-14-11, dated October 9, 2014, in order to implement this new requirement, States will be required to submit a State plan amendment certifying to the Secretary of the Federal Department of Health and Human Services that the State has enacted UIFSA 2008 verbatim by the effective date noted in P.L. 113-183. Idaho is required to pass UIFSA 2008 in the next legislative session beginning in 2015.

A State must have an approved State IV-D plan in order to receive Federal funding under title IV-D of the Act. As stated in OCSE-AT-97-05, dated April 28, 1997, a State plan disapproval would result in immediate suspension of all Federal payments for the State's child support enforcement program. For Federal Fiscal Year (FFY) 2012, the Federal share of expenditures for the Idaho IV-D program, including incentive payments, was \$16,120,927 million.

In addition, section 402(a)(2) of the Act provides that the chief executive officer of a State must certify that the State will operate a child support program under an approved IV-D plan as a condition for

eligibility for a Temporary Assistance for Needy Families (TANF) block grant under title IV-A of the Act. Therefore, Idaho should be aware that the TANF funds might also be at risk. For FFY 2012, the TANF block grant to Idaho was \$30,412,562 million.

You also asked OCSE to provide an explanation for the requirement stated in AT-14-11 <http://www.acf.hhs.gov/programs/css/resource/pl-113-183-uifsa-2008-enactment> that all states must enact Uniform Interstate Family Support Act (UIFSA) 2008 verbatim. We have provided information on this requirement in attachment I.

We appreciate greatly your efforts and persistence in moving UIFSA 2008 forward in Idaho. We look forward to the day when all states are operating under the same version of UIFSA. There is widespread agreement that passage of uniform interstate child support laws has been extremely beneficial for improving the collection of child support in interstate cases.

Please contact me at (206) 615-3768 should you require additional clarification. OCSE is also available to provide additional assistance to Idaho for the state legislative session.

Sincerely,



Nancy J. Mathieson
Program Specialist, Region 10
Office of Child Support Enforcement

cc: Vicki Turetsky, Commissioner
Office of Child Support Enforcement

Yvette Riddick, Director
OCSE Division of Policy and Training

Levi Fisher, Regional Program Manager, Region 10
Office of Child Support Enforcement

Attachment I – Uniform Interstate Family Support Act

The 2008 amendments to the Uniform Interstate Family Support Act (UIFSA) represent a collaborative effort among the Uniform Law Commission, federal and state child support officials, and representatives of national child support organizations. The amendments standardize rules for the enforcement and modification of child support orders -- both domestic and international. Passed with bipartisan support, P.L. 113-183 requires all states to pass UIFSA 2008 verbatim in the current legislative session (42 USC 666(f)).

(f) Uniform Interstate Family Support Act

In order to satisfy section 454(20)(A), each State must have in effect the Uniform Interstate Family Support Act, as approved by the American Bar Association on February 9, 1993, including any amendments officially adopted as of September 30, 2008 by the National Conference of Commissioners on Uniform State Laws. (emphasis added)

OCSE believes the clear language of the statute and intent of the Congress is for states to pass UIFSA 2008 verbatim as adopted by the National Conference of Commissioners on Uniform State Laws. Moreover, the Congressional Research Services report on P.L. 113-183 notes that the law requires all states to pass UIFSA 2008 verbatim. (Copy of report available if requested).

Please note that, as with UIFSA 1996, states may replace bracketed language with terminology appropriate under state law, for instance, “[tribunal]” may be replaced with “court.” States are not required to adopt the same numbering of the uniform statute. Also, where the statute refers to other laws or statutes by article or section number, even if not included in brackets, the state may replace these references with the appropriate article or section number of that state’s statutes. OCSE will review minor, nonsubstantive, and trivial deviations between UIFSA 2008 and state law on a case-by-case basis.

The remainder of this attachment provides historical information addressing the requirement for states to adopt UIFSA 1996 and UIFSA 2008 verbatim.

Background:

The U.S. Commission on Interstate Child Support’s Report to Congress recommended in 1992 that federal law require all states adopt UIFSA verbatim. U.S. Commission on Interstate Child Support’s Report to Congress (adopted May 21, 1992), pg. 236 (attached) “Supporting Our Children: A Blueprint for Reform” Recommendation #90 UIFSA Endorsement:

Subject to the risk of losing federal funding, states shall adopt verbatim the URESA drafting committee’s final version of UIFSA as printed in the report’s appendix, with the Act taking effect nationwide on the same date.

All 54 States and Territories with an approved title IV-D child support plan passed the Uniform Interstate Family Support Act (1996) in 1997 and 1998 (as required by federal law). As states were passing UIFSA 1996, OCSE issued this Q&A in AT-97-10.

AT-97-10 <http://www.acf.hhs.gov/programs/css/resource/miscellaneous-issues-regarding-prwora>:

UIFSA, ADOPTION OF UNIFORM STATE LAWS

Section 321:

Question 1: Section 321 of the PRWORA requires States by January 1, 1998 to adopt the version of UIFSA approved by the ABA on February 9, 1993 together with any amendments officially adopted before January 1, 1998 by the National Conference of Commissioners on Uniform State Laws.

Section 321 does not use the term "verbatim" but simply says we must have in effect the Act. Are minor changes acceptable?

Answer 1: To comply with section 321 of PRWORA, States must enact, by January 1, 1998, the version of UIFSA approved by ABA on February 9, 1993 together with any amendments officially adopted before January 1, 1998 by the National Conference of Commissioners on Uniform State Laws. Minor changes are not acceptable nor may States substitute their own wording or leave out parts of the UIFSA. However, throughout UIFSA there are parentheticals which allow States to have a choice in terminology (e.g., section 102 gives States some flexibility in identifying which entities constitute the "tribunal" authorized to deal with family support).

In the mid-late 2000s, in reviewing exemption requests from states to adopt UIFSA 2001, OCSE determined that some states had not passed UIFSA 1996 verbatim. Then, after the Uniform Law Commission developed UIFSA 2008, several states asked OCSE if states could adopt the new UIFSA 2008. In DCL-08-41 <http://www.acf.hhs.gov/programs/css/resource/uniform-interstate-family-support-act-2008>, OCSE stated that, "The Office of Child Support Enforcement has determined that States may enact UIFSA 2008 verbatim with a provision that the effective date of its enactment will be delayed until the Treaty is ratified and the United States deposits its instrument of ratification."

On September 29, 2014 President Obama signed Public Law (P.L.) 113-183, the Preventing Sex Trafficking and Strengthening Families Act. This law amended section 466(f) of the Social Security Act, requiring 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".

OCSE issued guidance on UIFSA 2008 in AT-14-11 <http://www.acf.hhs.gov/programs/css/resource/pl-113-183-uifsa-2008-enactment> and noted the following: "All states must enact UIFSA 2008 verbatim by the effective date noted in P.L. 113-183. Where UIFSA 2008 has bracketed language, states may use terminology appropriate under state law." Also, in a conference call with state directors this past fall, Commissioner Turetsky and Yvette Riddick, Director, Division of Policy and Training, noted that while states need to pass UIFSA 2008 verbatim, OCSE understands that wording changes that are nonsubstantive, minor or trivial are acceptable. The Commissioner also acknowledged that numbering and section references will vary depending on the state.

Since 1996, states have been required to adopt UIFSA in order to receive federal funding for the child support program. The rationale for this requirement and the importance of "uniform" law is stated clearly in the following conference report for the Personal Responsibility and Work Opportunity Reconciliation Act.

PRWORA HOUSE REPORT NO. 104-651, pg. 1411 Mr. Kasich, from the Committee on the Budget, submitted the following R E P O R T together with MINORITY, ADDITIONAL, AND DISSENTING VIEWS Westlaw Screen #38 CHAPTER 3--STREAMLINING AND UNIFORMITY OF PROCEDURES 12. ADOPTION OF UNIFORM STATE LAWS.

Present law:

States have several options available for pursuing interstate child support cases including direct income withholding, interstate income withholding, and long-arm statutes which require the use of the court system in the State of the custodial parent. In addition, States use the Uniform Reciprocal Enforcement of Support Act (URESAs) and the Revised Uniform Reciprocal Enforcement of Support Act (RURESAs) to conduct interstate cases. Federal law imposes a Federal criminal penalty for the willful failure to pay past-due child support to a child who resides in a State other than the State of the obligor. In 1992, the National Conference of Commissioners on State Uniform Laws approved a new model State law for handling interstate child support cases. The new Uniform Interstate Family Support Act (UIFSA) is designed to deal with desertion and nonsupport by instituting uniform laws in all 50 States that limit control of a child support case to a single State. This approach ensures that only one child support order from one court or child support agency will be in effect at any given time. It also helps to eliminate jurisdictional disputes between States that are impediments to locating parents and enforcing child support orders across State lines. As of February 1996, 26 States and the District of Columbia had enacted UIFSA.

Explanation of provision:

By January 1, 1998, all States must have enacted the Uniform Interstate Family Support Act (UIFSA) and any amendments officially adopted by the National Conference of Commissioners of Uniform State Laws before January 1, 1998, and have the procedures required for its implementation in effect. States are allowed flexibility in deciding which specific interstate cases are pursued by using UIFSA and which cases are pursued using other methods of interstate enforcement. States must provide that an employer that receives an income withholding order follow the procedural rules that apply to the order under the laws of the State in which the noncustodial parent works.

Reason for change:

Mandatory passage and use of UIFSA is a cornerstone of a major purpose of the committee proposal-improved child support enforcement in interstate cases. Without uniform laws and procedures governing child support, the success of interstate cases will continue to be severely constrained. Virtually every witness that testified on interstate enforcement before the committee recommended that UIFSA be made mandatory. Effective date October 1, 1996, except where otherwise noted.

Kandace Yearsley – 3/6/2015

Uniform Interstate Family Support Act

The 2008 amendments to the Uniform Interstate Family Support Act (UIFSA) represent a collaborative effort among the Uniform Law Commission (“ULC”), federal and state child support officials, and representatives of national child support organizations. They standardize rules for the enforcement and modification of family support orders -- both domestic and international. UIFSA 2008 builds upon important 2001 amendments to UIFSA.

WHY SHOULD A STATE ENACT THE 2008 UIFSA AMENDMENTS?

■ **One Controlling Order**

The cornerstone of UIFSA is that it ensures there is one order between the parties that controls the amount of current support. That critical goal only works as long as every state has the same version of UIFSA with the same limitations on modification. The 2001 and 2008 amendments to UIFSA add three bases for modification jurisdiction: (1) Parties can consent to have the issuing state modify the order, even though no party continues to reside there. This amendment will particularly benefit residents of bordering states, who may have an order from one jurisdiction but now live in another. (2) A U.S. tribunal retains jurisdiction to modify its own order -- even if no one lives in that state -- if one party resides in another U.S. state and the other party resides outside the United States. This 2008 provision means that a U.S. resident continues to have a U.S. forum to hear the modification request. (3) A U.S. tribunal can modify a foreign order from a non-Convention country if the other country cannot or will not modify its order under its laws. This provision also ensures that, if needed, there is U.S. forum for a U.S. resident.

■ **Improved Evidentiary Provisions**

The 2001 amendments provide that a tribunal cannot require the physical presence of an individual nonresident party (the petitioner or the respondent). This change increases a party’s access to the court or administrative agency. The amendments require a tribunal to permit a nonresident party or witness to testify by telephone, audiovisual means, or other electronic means at a location designated by the tribunal. This change is beneficial in several ways: (1) it ensures that a nonresident can participate in a hearing without the expense of travel; (2) it will therefore likely reduce the number of default orders; and (3) it ensures that the tribunal has access to more complete and current information than can be conveyed in paper pleadings. The 2001 amendments also recognize technological advances by referring to a “record,” which includes information stored in an electronic medium.

■ **Duration of Support**

The amendments make clear that if a noncustodial parent has fulfilled the support duty under the controlling order, a tribunal in another state with a longer duration cannot impose a further support obligation through an establishment proceeding.

■ **Redirection of Payments**

One of UIFSA’s goals is get support payments to a relocated custodial parent as quickly

as possible while ensuring that there is an accurate accounting record. When everyone has left the state that issued the controlling order, the 2001 amendments to UIFSA allow a support enforcement agency to request a redirection of payments to the support enforcement agency in the state in which the obligee is now receiving child support services.

- **Direct Income Withholding**

The 2008 amendments change direct income withholding so that a U.S employer is no longer required to honor an income withholding order directly sent to the employer from a foreign country. This change will benefit U.S. employers because their payroll offices will no longer have to make legal decisions about the validity of a foreign order.

- **Funding**

The 2014 federal law requires a state to enact the 2008 UIFSA amendments by the end of its 2015 legislative session as a condition for continued receipt of federal funds supporting the state child support program.

- **International Cases**

The 2014 Preventing Sex Trafficking and Strengthening Families Act serves as the federal implementing legislation for the 2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. The 2008 amendments to UIFSA implement the Convention at the state level. The United States cannot become a party to the Convention until all states have enacted UIFSA 2008. The Convention and implementing UIFSA 2008 amendments greatly improve child support services when one parent lives outside of the United States:

- Many foreign countries will not process foreign child support requests in the absence of a treaty obligation. More countries have already ratified the Convention than have entered into bi-lateral agreements with the U.S. Simply put, more U.S. families will receive child support once the U.S. becomes a party to the Convention.
- A country can only ratify the Convention upon submission of laws and procedures indicating its ability to comply with these Convention requirements.
- Enactment of the 2008 UIFSA amendments will ensure that U.S. residents receive free legal services when they seek enforcement of a child support order through the Central Authority in any Convention country.
- The current U.S. bi-lateral arrangements do not contain the important details that the U.S. helped negotiate into the Convention, such as administrative cooperation, procedures for recognition and enforcement of orders, and timeframes for taking specific actions.
- The 2008 amendments allow a state legislature to decide how it wants to handle international cases. A state can choose between two alternatives: (1) the state must, upon request, provide services to any petitioner, regardless of where the petitioner resides; or (2) the state must, upon request, provide services to a petitioner requesting services through a Central Authority [which means a Convention country or a country with which the U.S. has a bi-lateral agreement] and may, upon request, provide services to petitioners residing in other foreign nations. UIFSA 2008 gives states flexibility that does not currently exist under UIFSA.

ISP Authority to Contract with Private Entities Presentation
Idaho State Police HB 157
2015

Madam Chair and members of the committee, thank you for the opportunity to present HB 157 to you today. My name is Steve Richardson and I am a Major with the Idaho State Police.

Issue: The Attorney General's Office has advised that ISP does not have clear authority to contract with a private company or entity for certain services provided by ISP. There are various ISP programs that have the need to contract for services provided to a private company or entity, but that also serve the public safety needs of the citizens of Idaho.

The lack of ability to "contract" does not allow ISP to recoup costs associated with services provided to assist private companies to accomplish necessary tasks such as the safe transportation of mega loads, or ensuring safety and security for large-scale events such as festivals or events taking place on public roadways or otherwise significantly impacting public safety.

The proposed language will grant express authority to the Director of ISP to contract with those entities requesting special public safety services that ISP can provide for those private entities and the entity is willing to pay for. This legislation prevents the cost of special public safety services from falling upon taxpayers. Furthermore, these services would be provided when they fall outside normal and customary services provided by the Idaho State Police.

ISP is very selective when it comes to accepting these requests and there is considerable scrutiny given. Prior to work beginning with each private company or entity, ISP requests and receives approval from the Board of Examiners before the overtime work begins. Furthermore, review and approval from ISP command staffs (district/program and HQ), ISP Legal and ISP Financial Services are required.

There are various examples of such situations that have taken place in the past, including those outlined below. During FYs13 and 14 the total OT reimbursements for these projects totaled \$33,604 and \$38,419, respectively.

Traffic Safety Projects

- INL (CH2M-WG Idaho, LLC) – SH26 Traffic Safety Project