

MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Thursday, April 09, 2015

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow

**ABSENT/
EXCUSED:** None

GUESTS: Patricia Felts; Russ Smerz, Leadership Council; Katherine Frazier; Ronalee Linsenmann; Jared Tatro, LSO; Paula Davina; Dale Pearce; Doug Davina; Tom Munds; Steve Pugmire; Kandee Yearsley, DHW; Andrea Sorensen, DHW; Cade Hulbert, DHW; Elizabeth Allan Hodge; Jerry Steele; Scott Keim, Office of the Attorney General; Alan Hodge.

Chairman Wills called the meeting to order at 1:53 PM.

MOTION: **Rep. Dayley** made a motion to approve the minutes from the April 2, 2015, meeting. **Motion carried by voice vote.**

S 1067: **Kandee Yearsley**, Department of Health and Welfare presented **S 1067**. This bill relates to the Uniform Interstate Family Support Act or UIFSA and pertains to the enforcement of child support obligations both internationally and throughout the United States. Idaho has participated in international child support enforcement since at least 1976 under the previous versions of the UIFSA. In all previous versions of UIFSA the term state has been defined to include foreign countries.

The 2007 Hague Convention necessitates some changes to the Uniform law and by extension, some changes to Idaho law. These changes have resulted in the 2008 Amendments to the Uniform Interstate Family Support Act which are contained in **S 1067** which was developed by the Uniform Law Commission. As a condition of receiving federal welfare related program funding, Idaho, like all states, is required to maintain an approved child support enforcement program, because child support payments serve to lessen welfare case loads and costs. Since 1996, one of the requirements for an approved program has been the mandatory enactment of UIFSA.

On September 18, 2014, Congress passed legislation, known as the Preventing Sex Trafficking and Strengthening Families Act, requiring all states, including Idaho, to update their version of UIFSA to adopt the 2008 Amendments to the Uniform Act in a verbatim manner. If Idaho does not do so this legislative session, it could lose \$30.4 million per year in federal welfare program funding and an additional \$16.2 million per year in federal child support enforcement funding. All 50 states must enact the 2008 version of UIFSA. The convention and amendments will improve the ability of Idaho children to receive child support from parents who are overseas. Many foreign countries will not process child support requests from beyond their borders without a treaty obligation to do so.

Currently Idaho has over 156,000 child support enforcement cases. Only 97 of those have an international component, 76 of the 97 cases involve a support order against an individual living in a foreign country and only 21 involve a support order on behalf of a child living in a foreign country. The number of countries participating in the convention exceeds the number of countries with which the U.S. has been able to negotiate bilateral agreements, and these bilateral agreements do not include all the provisions for administrative cooperation included in the convention. For example, under current law, U. S. and Idaho families can receive support enforcement services through state enforcement programs. By enacting the 2008 uniform law amendments and participating in the convention, the states assure that these services will also be extended by the foreign countries signing on to the convention.

Most of the amendments are technical, simply assuring Idaho can: lawfully receive and when appropriate, enforce foreign child support orders; can send other countries Idaho child support orders to be enforced overseas; and can redirect child support payments to the appropriate agency to ensure distribution to the family or to the agency that may be providing benefits.

Other important and substantive provisions include: defining when Idaho, other states and foreign countries will have jurisdiction to decide child support questions for a particular child; assuring that only one child support order is controlling; providing that hearings can be conducted by electronic means so that parents who owe or are owed child support and are not in the same place can participate in court hearings without having to travel; providing that child support "records" include those in electronic form so that "records" can be sent quickly and efficiently over long distances, so courts have a complete record of evidence and jurisdictional documents; providing when a parent has fulfilled his or her support duty under a controlling order, another tribunal cannot force further payments; assuring Idaho will not be required to enforce manifestly unjust support orders which includes Idaho's concepts of due process; providing an agreement for a support order obtained by fraud or falsification is not valid; providing an Idaho proceeding to enforce a foreign support order must be suspended if the foreign order is being challenged or appealed in the foreign country and vice versa; providing an Idaho court cannot modify a foreign support order if the person ordered to pay support is a resident of that country and is appealing or challenging that order; and providing Idaho residents always have the right to challenge an order from another state or country.

This bill enhances the ability of Idaho children to obtain child support payments from overseas parents in a world that sees ever increasing numbers of people living outside their countries.

In response to questions from the committee, **Ms. Yearsley** explained that the process of obtaining child support from a parent who is no longer living in the same state or country as their child, is enforced by the Office of Child Support Enforcement which is under the Department of Health and Human Services and is assisted by the Federal Office of Child Support Enforcement.

Patricia Felts; Russ Smerz, Leadership Council; **Katherine Frazier; Ronalee Linsenmann** testified in opposition to **S 1067**. This bill does not promote state sovereignty which is of the utmost importance. The program should be managed by the State without federal involvement, monetary or otherwise. The United Nations' policies do not reflect the values held by Idahoans and should not dictate the laws they live under.

Jared Tatro, Legislative Services, provided information regarding the funding that would be lost if **S 1067** was not passed. The federal government has indicated funding will immediately cease, affecting all cases the Department is enforcing. The loss of federal dollars would result in the loss of a state child support enforcement program, which would result in the loss of the TANF grant, which would result in the workforce being reduced to approximately 55 employees who could be funded by the State Department of Health and Welfare. (See attachment 1).

In response to questions from the committee, **Scott Keim**, Deputy Attorney General, explained the reference to AT-14-11, in the letter from the Department of Health and Human Services, is a statement of intent and policy requirement. The act is the framework for the state and the interpretation and application is determined by the judiciary branch. The two concerns that have been raised include: adding "or foreign country" to the code, and that a decision made by a Sharia Law Tribunal would supersede law in Idaho. However, it is important to note, due process is increased by the 2008 amendments because they assure Idaho will not be required to enforce manifestly unjust support orders which includes Idaho's concepts of due process. Also, foreign country has already been defined in the code due to the adoption of the 2001 amendments.

Paula Davina; Dale Pearce; Tom Munds; Steve Pugmire; Elizabeth Allan Hodge; and Sen. Nuxoll testified in opposition to **S 1067**. This bill has the potential to result in additional litigation and court costs, and is in direct opposition to the constitution. Signing agreements with foreign agencies, such as the Hague Convention, is not in the best interest of the citizens of Idaho. Choosing to not pass this bill would be a step in the right direction to limit the federal government in the State of Idaho. The purpose of this bill is to recognize foreign countries that are known to have Islamic law, which does not hold the rights of women and children in high regard.

In response to questions from the committee, **Scott Keim**, Deputy Attorney General, explained the enforcement of the order is overseen by the Department of Health and Welfare. However, if the action being taken is to contest the order, the Department does not provide legal support and the individual contesting the order would have to seek private counsel. If a decision was issued by a Sharia Law Tribunal the order would be reviewed by the country before it could be enforced. States that have passed the 2008 amendments with any caveat, were only able to do so because they passed the amendments prior to the treaty being signed. Originally if all fifty states did not ratify the amendments the Department of Health and Human Services would not have been able to withhold funds; however, with the passing of the Preventing Sex Trafficking and Strengthening Families Act, all states are now required to update their version of UIFSA to adopt the 2008 Amendments to the Uniform Act in a verbatim manner.

Due to time constraints, **S 1067** will be carried over to the meeting of April 10, 2015, subject to the call of the Chair.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 4:13 PM.

Representative Wills
Chair

Katie Butcher
Secretary