

WHY STATES SHOULD ADOPT THE UNIFORM INTERSTATE FAMILY SUPPORT ACT

Currently, one in four children in the U.S. — more than 10 million children — grows up in a single-parent household, and millions of these children fail to receive the financial support that they are owed. This support is crucial to sustaining family life, and often to averting outright poverty. Children whose parents live in different states suffer the most, since a conflict between jurisdictions can often stand as a serious impediment to the enforcement of a support order.

In recent years, Congress has made substantial changes to federal child support enforcement laws. Perhaps most significantly, it has mandated that the states adopt child support guidelines and establish enforcement devices such as tax intercepts and credit reporting.

To eliminate interstate jurisdictional disputes and enable the new federal legislation to be effective, the Uniform Law Commissioners (ULC) have drafted the Uniform Interstate Family Support Act (UIFSA), which provides for one-state control of a case and for a clear, efficient method of interstate case processing. This new act simplifies the muddle of conflicting child and spousal support laws that develop when parents live in different states. It represents a major overhaul of national child support rules and should be adopted in every state.

UIFSA UPDATES AND IMPROVES URESA

The Uniform Reciprocal Enforcement of Support Act (URESAs), drafted by the ULC in 1950, amended in 1958 and 1968, and adopted in every state, has been one of the ULC's most successful acts. Yet URESAs recognizes the coexistence of multiple support orders from different states, often making it difficult to enforce an order for collection of child and spousal support.

It is the overriding principle of UIFSA that, to the maximum extent possible, only one valid support order will be in existence at any one time. This act makes the child's "home state" dominant in establishing priority of competing courts.

UIFSA also provides for a "long arm" provision which allows one court to retain exclusive jurisdiction over both parties in the support dispute, even though one — or both — may be living outside the boundaries of the court's jurisdiction.

A number of other improvements are made to URESA to streamline interstate proceedings: support proceedings may be initiated by or referred to administrative agencies rather than to courts in states that use those agencies to establish support orders; vital information and documents may be transmitted through electronics and other modern means of communication for quicker facilitation; courts are required to cooperate in the discovery process for use in a court in another state; a registered support order is immediately enforceable, unless the respondent files a written objection within twenty days and sustains that objection.

UIFSA MAKES SUPPORT ORDER ENFORCEMENT EASIER

If a court finds that support is owed, it issues a support order requiring that support or reimbursement be paid. To enforce its support orders, a court may: order the person owing support to make payments; order that income be withheld; enforce orders by claiming civil or criminal contempt; set aside property for payment of support; or order the person owing support to seek appropriate employment.

Except under narrowly defined circumstances, the only court or tribunal that can modify a support order is the one having continuing, exclusive jurisdiction over the order. If two or more states claim jurisdiction to establish or modify an order, UIFSA has a priority scheme that favors the child's home state.

Also, UIFSA provides two direct enforcement procedures that do not require assistance from a court. First, the support order may be mailed directly to an obligor's employer in another state, which triggers wage withholding by that employer without the necessity of a hearing, unless the employee objects. Second, the act provides for direct administrative enforcement by the support enforcement agency of the obligor's state.

UNIFORMITY

The problems this act addresses have long cried out for uniformity, and it may well be the answer to long-standing interstate jurisdictional conflicts that have often been a refuge for those hoping to avoid paying child support.

If adopted everywhere, the bottom line effect of this act would be to eliminate multiple litigation across state lines and also to counter inefficiencies within the URESA bureaucracy, both of which form major barriers to child support enforcement.

The UIFSA holds the promise of exerting a positive effect on the lives of untold numbers of American children, one quarter of whom now live in single parent households. The ULC envisions that the new law's influence will be extremely broad, and some form of it should be adopted in every state.