

# SENATE JUDICIARY COMMITTEE

## STATEMENT TO

### **SENATE, No. 461**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: FEBRUARY 10, 1998

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 461.

The provisions of this bill are intended to implement the provisions of the federally mandated Uniform Interstate Family Support Act (UIFSA). This new law (UIFSA) was designed to completely revise the Revised Uniform Reciprocal Enforcement of Support Act of 1968 (RURESA) which was adopted in New Jersey as P.L.1981, c.243 (C.2A:4-30.24 et seq.).

The following is a summary of the provisions of UIFSA:

Article 1 provides:

- A definitional section which differs from RURESA primarily in the use of the term "tribunal" for "court" in recognition of the fact that many states have created administrative agencies to establish, enforce, and modify child support.
- That the Superior Court, Chancery Division, Family Part is designated as the tribunal for the establishment, enforcement, or modification of support orders.
- That the procedures for establishment, enforcement, or modification of support or a determination of parentage under this act do not preclude the application of general State law.

Article 2, Part A asserts what is commonly described as long-arm jurisdiction over a nonresident respondent for purposes of establishing a support order or determining parentage.

Part A provides:

- The bases for long-arm jurisdiction over a nonresident.
- That when long-arm jurisdiction is asserted, the provisions of UIFSA are not applicable, with two exceptions. The exceptions allow the tribunal to apply the special rules of evidence and the rules on discovery which are both set forth in Article 3.

Article 2, Part B tracks the traditional RURESA action involving residents of separate states. In this situation, the initiating state does not assert personal jurisdiction over the nonresident, but instead forwards the case to another, responding state, which is to assert

personal jurisdiction over its resident. Part B provides:

- For the identification of the roles a tribunal may serve, either as an initiating or a responding tribunal.
- A method for the one-order system to eliminate the multiple orders common under RURESA. UIFSA resolves conflicts between competing jurisdictional assertions by establishing a priority for the tribunal in the child's home state or if there is no home state, with "first filing."
- That the issuing tribunal retains continuing, exclusive jurisdiction over the support order except in very narrowly defined circumstances.
- That a state that enacts this law recognizes the continuing, exclusive jurisdiction of other tribunals over support orders and authorizes the initiation of requests for modification to the issuing state; that a tribunal having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order; and that tribunals of the enacting states must adhere to the one-order-at-a-time system.

Article 2, Part C is designed to span the gulf between the one-order system of UIFSA and the multiple order system in place under RURESA. Part C provides:

- For a priority scheme for recognition and enforcement of existing multiple orders regarding the same obligor, obligee or obligees, and the same child.
- For a 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.
- That until the one-order system of UIFSA is in place, it is necessary to mandate credit for actual payments made against all existing orders.

Article 3 provides:

- A list of the types of actions authorized by UIFSA.
- That a minor parent may maintain an action under UIFSA without the appointment of a guardian ad litem, even if the law of the jurisdiction requires a guardian for an in-state case.
- That a tribunal will have the same powers in an action involving interstate parties as it has in an intrastate case, which will insure the efficient processing of interstate support cases.
- For the duties of the initiating tribunal which consist of forwarding the required documents.
- For the duties of the responding tribunal, including mechanical functions and judicial functions, and for substantive rules applicable to interstate cases.
- That a tribunal that receives UIFSA documents in error, forward them to the appropriate tribunal.
- For the duties of a support enforcement agency.
- For the right of a party to retain private counsel in an action

brought under UIFSA.

- For the duties of the Administrative Office of the Courts as the State information agency.
- For the basic requirements for the drafting and filing of interstate pleadings.
- For confidentiality in the pleadings if there is a serious risk of domestic violence or child abduction.
- For fees and costs to be assessed against the obligor.
- That the petitioner is not subject to personal jurisdiction by this State in other litigation between the parties due to participation in a UIFSA proceeding; for an immunity from service of process during the time a party is physically present in a state for a UIFSA action; and for the withholding of immunity from civil litigation unrelated to the support action stemming from contemporaneous acts committed by a party while present in the State for the support litigation.
- That a parentage decree rendered by another tribunal is not subject to collateral attack in a UIFSA proceeding except on a fundamental constitutional ground.
- For special rules on evidence and procedure for interstate support cases including rules to eliminate many potential hearsay problems and rules to encourage tribunals and litigants to take advantage of modern methods of communication.
- Authorization for the communication between courts in order to expedite establishment and enforcement of the support order of either this State or of the sister state.
- For the facilitation of interstate cooperation in the discovery process.
- For the prompt disbursement of any amounts received by a support enforcement agency pursuant to a support order.

Article 4 provides authorization for a tribunal of the responding state to issue temporary and permanent support orders binding on an obligor over whom the tribunal has personal jurisdiction, if no other support order exists and no other tribunal has continuing, exclusive jurisdiction over the matter.

Article 5 provides:

- For the direct recognition by the obligor's employer of a withholding order issued by another state.
- Authorization for summary enforcement of a sister state support order through any administrative means available for local orders.

Article 6, Part A expands the procedure for the registration of foreign support orders available under RURESA. Part A provides:

- For the registration of the support order in the responding state as the first step to enforcement by a tribunal of that state.
- For an outline of the mechanics for registration of a sister state

order.

- That the foreign support order is to be enforced and satisfied in the same manner as if it had been issued by a tribunal of the registering state; however, the order to be enforced remains an order of the issuing state and any request for relief that requires application of the continuing, exclusive jurisdiction of the issuing tribunal must be sought in the issuing forum.
- Situations in which local law is inapplicable.

Article 6, Part B provides procedures for the nonregistering party to contest registration of an order, either because the order is allegedly invalid, superseded, or no longer in effect, or because the enforcement remedy being sought is opposed by the nonregistering party. Part B specifically provides:

- That the nonregistering party must be fully informed of the effect of registration. After such notice is given, absent a successful contest by the nonregistering party, the order will be confirmed and future contest will be precluded.
- For the procedure to contest validity or enforcement of a registered order.
- That the burden of proving the enumerated defenses to registration of a support order is placed on the nonregistering party.
- For the confirmation of a support order which validates both the terms of the order and the asserted arrearages.

Article 6, Part C deals with situations in which it is necessary for a registering state to modify the existing child support order of another state. Part C provides:

- That a petitioner wishing to register a support order of another state for purposes of modification must conform to the general requirements for pleadings and the procedures for registration set forth in the bill.
- That an order registered for purposes of modification may be enforced in the same manner as an order registered for purposes of enforcement.
- That this State's tribunal may modify a foreign support order if specific factual preconditions are found.
- For the recognition by the original issuing state of a modified order by a tribunal of another state which assumed jurisdiction pursuant to law.

Article 7 provides for authorization of a "pure" parentage action in the interstate context.

Article 8 provides:

- For interstate rendition 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 provides:

- That this uniform act should be applied and construed to effectuate its general purpose.
- For the title of the uniform act.
- For the repeal of the RURESA, P.L.1981, c.243 (C.2A:4-30.24 et seq.) and sections 15 and 16 of P.L.1985, c.278 (C.2A:17-56.18 and 2A:17-56.19) which are also applicable to interstate enforcement of support orders.

The committee amended the bill in section 1 to conform the definition of "income" to the definition as provided in Senate Bill No. 460 (1R) also released by the committee on this date. The amendment in section 10 of the bill clarifies that an obligor or obligee who currently resides in this State may request a determination of which child support obligations control when two or more obligations have been issued for the same obligor and child.