

UNIFORM INTERSTATE FAMILY SUPPORT ACT

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House Bill 4288 (reported from committee as H-1)

Sponsor: Rep. Klint Kesto

Committee: Judiciary

Complete to 3-28-17

Analysis available at
<http://www.legislature.mi.gov>

(Enrolled Version)

SUMMARY:

House Bill 4288 makes a correction to a provision pertaining to the conditions under which a tribunal of this state would have jurisdiction to establish a support order under the Uniform Interstate Family Support Act (UIFSA).

Specifically, the bill amends UIFSA to specify that a tribunal of this state could exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a pleading is filed in another state or a foreign country only if all (instead of one) of the listed circumstances apply. Listed circumstances include:

- The petition or comparable pleading in Michigan is filed before the expiration of the time allowed in the other state or the foreign country for filing a responsive pleading challenging the exercise of jurisdiction by the other state or the foreign country.
- The contesting party timely challenges the exercise of jurisdiction in the other state or foreign country.
- If relevant, Michigan is the child's home state.

MCL 552.2204

BACKGROUND INFORMATION AND BRIEF DISCUSSION:

Public Act 255 of 2015 enacted a new, more expansive Uniform Interstate Family Support Act (UIFSA 2008). Among other things, the UIFSA 2008 provides guidelines and procedures for the registration, recognition, enforcement, and modification of foreign support orders from countries that are parties to the 2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. Under the UIFSA 2008, a state or foreign country that issues a support order consistent with that state's or foreign country's law is the only state or foreign country that can change this order as long as one of the parties or the child lives there.

Michigan was one of the last states to enact UIFSA 2008, and needed to have the new act in force by January 1, 2016, to avoid risking the loss of federal funding for child support programs and a possible loss of TANF revenue—a vital source of revenue for many services to low-income families. A concern has been raised that the error in the Michigan law puts the state out of compliance with the uniform act and thus may affect eligibility for federal funding if not corrected. By some estimates, hundreds of millions of dollars

for needed programs could be at risk. House Bill 4288 simply provides the fix needed to comply with the uniform act by properly stating that all, and not just *one*, of the conditions listed pertaining to determining the primacy of home jurisdiction need to apply. It is not known if the state would have been denied federal funding, but by amending the state law to comply with the provisions established by the Hague Convention, which were incorporated by the Uniform Law Commission into the UIFSA 2008, any potential loss of eligibility should be removed.

The following information was obtained from a brochure published by the Friend of the Court Bureau within the State Court Administrative Office entitled, "The Uniform Interstate Family Support Act (UIFSA): Working Together to Collect Child Support":

Before UIFSA was enacted, if parties moved to different states or foreign countries, a court in a party's new state or foreign country would often issue a new support order. Differing orders for the same payer and children led to confusion and disagreements between parties, states, and countries.

Now all state courts and courts in participating foreign countries follow UIFSA's rules to determine the order that has priority and the state or foreign country courts that have the power to change the order, otherwise known as continuing exclusive jurisdiction (CEJ). The state or foreign country that is determined to have CEJ is the only state or foreign country that can change the support order.

A copy of the brochure is available at:

<http://courts.mi.gov/Administration/SCAO/Resources/Documents/Publications/pamphlets/focb/PSA29-Text.pdf>

FISCAL IMPACT:

House Bill 4288 would not have a significant fiscal impact on the state of Michigan and no fiscal impact on local governments. By requiring that all three listed conditions be met before a court can establish a support order, instead of just one, it is likely that there may not be any change, or possibly even a decrease, in the number of child support orders, and thus, in the amount of administrative work that the Department of Health and Human Services (DHHS) must perform for these orders. Certain child support orders, such as foreign support orders, can increase administrative costs to DHHS, for the added expenses such as for the translation of foreign language orders and for currency conversion calculations.

Currently, Michigan receives many more support orders from other states or countries establishing payments to Michigan residents than the number of support orders that are processed to send payments out from Michigan residents to other states or countries. In 2014, Michigan processed 1,369 support orders establishing payments from Michigan residents to other states and countries, while the state sent 6,377 support orders requesting payments to collect support for Michigan residents from other states and countries.

POSITIONS:

The Michigan Department of Health and Human Services indicated support for the bill.
(3-21-17)

The Michigan Bankers Association indicated it is neutral on the bill. (3-14-17)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.