



Senate Fiscal Agency
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BILL



ANALYSIS

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House Bill 4288 (as reported without amendment)
Sponsor: Representative Klint Kesto
House Committee: Judiciary
Senate Committee: Families, Seniors and Human Services

Date Completed: 5-15-17

RATIONALE

In 2014, Congress enacted the Preventing Sex Trafficking and Strengthening Families Act, which was designed to, among other things, increase the amount of child support for families and improve child support recovery. The Act requires that all states adopt the 2008 amendments to the Uniform Interstate Family Support Act, which incorporated provisions of the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. As required, Michigan enacted Public Act 255 of 2015 that repealed the Uniform Act and reenacted it with amendments, particularly with respect to support proceedings. Evidently, a drafting error occurred during that time, which means that Michigan is technically out of compliance with Federal law. It has been suggested that the Uniform Act be amended so that the State will not risk losing Federal funding for child support programs.

CONTENT

The bill would amend the Uniform Interstate Family Support Act to revise the conditions under which a tribunal of this State may exercise jurisdiction to establish a support order.

Under the Act, a tribunal of this State may 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 one of the following applies:

- The petition or a comparable pleading in this State 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, this State is the home state of the child.

The bill would authorize a tribunal of this State to exercise jurisdiction to establish a support order if the petition or comparable pleading were filed after a pleading was filed in another state or a foreign country only if *all* of the conditions listed above applied.

MCL 522.2205

BACKGROUND

Uniform Interstate Family Support Act

Michigan adopted the Uniform Interstate Family Support Act in 1996. The following information about the uniform law is taken from the website of the Uniform Law Commission (ULC).

Since 1998, the Uniform Act has been the law of every state. It provides universal and uniform rules for the recognition and enforcement of interstate family support orders. The ULC originally promulgated the Uniform Act in 1992 and amended it in 1996.

The UCL subsequently amended the Uniform Act in 2001 and 2008. The 2001 amendments did not make any fundamental changes to the Uniform Act, but did clarify jurisdiction rules limiting the ability of parties to seek modifications of child support orders in states other than the issuing state and expanded how a controlling order is to be determined and reconciled in the event multiples orders are issued. The 2001 amendments also expanded coverage of support orders from foreign jurisdictions pursuant to reciprocity and comity principles.

In 2007, the United States signed the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, which contained several provisions establishing uniform procedures for the processing of international child support cases. The 2008 amendments to the Uniform Act serve as the implementing language for the Convention throughout the states. In 2014, Congress passed Federal implementing legislation for the Convention (the Preventing Sex Trafficking and Strengthening Families Act) that requires every jurisdiction to enact the 2008 amendments to the Uniform Act as a condition for continued receipt of Federal funds for state child support programs. Failure to enact the amendments during the 2015 legislative session could have resulted in a state's loss of this Federal funding.

By March 2016, all 50 states, Washington, D.C., Puerto Rico, and the Virgin Islands had enacted the 2008 amendments to the Uniform Act, according to the National Conference of State Legislatures.

Hague Convention

The following information was retrieved from the website of the Hague Conference on Private International Law.

In November 2007, the 21st session of the Hague Conference on Private International Law closed with the signing of the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. Its objective is to ensure the effective international recovery of child support and other forms of family maintenance. The Convention pursues these objectives by a combination of means, particularly by:

- Establishing a comprehensive system of co-operation between the authorities of the Contracting States.
- Making available applications for the establishment of maintenance decisions.
- Providing for the recognition and enforcement of maintenance decisions.
- Requiring effective measures for the prompt enforcement of maintenance decisions.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would fix an inadvertent error that occurred during the drafting of the 2015 amendments to the Uniform Interstate Family Support Act in Michigan law. The current language authorizes a Michigan court to exercise home jurisdiction in intergovernmental cases if one of the prescribed conditions is met. Under the bill, Michigan courts would be able to exercise home jurisdiction only if all of the conditions were met. Without the amendment, Michigan is not in full compliance with Federal law, which potentially could result in the loss of Federal funds for the State's child support programs.

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Ryan Bergan
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.