

# Legislative Analysis



## MODEL UNIFORM INTERSTATE FAMILY SUPPORT ACT

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**House Bill 4742 as enacted**  
**Public Act 255 of 2015**  
**Sponsor: Rep. Robert L. Kosowski**

**Senate Bill 518 as enacted**  
**Public Act 253 of 2015**  
**Sponsor: Sen. Peter MacGregor**

**House Bill 4744 as enacted**  
**Public Act 256 of 2015**  
**Sponsor: Rep. Clint Kesto**

**Senate Bill 519 as enacted**  
**Public Act 254 of 2015**  
**Sponsor: Sen. Judy K. Emmons**

**House Committee: Judiciary**  
**Senate Committee: Families, Seniors and Human Services**  
**Complete to 10-4-16**

### BRIEF SUMMARY:

House Bill 4742 repealed the Uniform Interstate Family Support Act, Public Act 310 of 1996, which allowed states to work together in their collection of court-ordered child support. In its place, the bill enacted a new, more expansive Uniform Interstate Family Support Act (UIFSA 2008). This is the version of the model act adopted by the Uniform Law Commission in 2008 that incorporates provisions established by the 2007 Hague Convention on the International Recovery of Child Support of Family Maintenance. Among other things, the UIFSA provides guidelines and procedures for the registration, recognition, enforcement, and modification of foreign support orders from countries that are parties to the Convention.

House Bill 4744 and Senate Bills 518 and 519 are companion bills amending various acts to update references to the UIFSA contained in those acts. The bills took effect January 1, 2016.

### FISCAL IMPACT:

The bills would likely increase costs initially to the Michigan Department of Health and Human Services by an indeterminate amount which would be dependent, in part, upon the number of foreign support orders that are received. Additional expenditures due to expenses such as the translation of foreign language orders and currency conversion calculations may increase the Department's costs initially. These additional costs are not expected to be significant, however, and would be funded by current department appropriations.

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.

The federal Preventing Sex Trafficking and Strengthening Families Act that was enacted in September 2014 requires all states to enact the new modified UIFSA in the 2015 legislative session as a condition of continuing to receive federal funding for state child support programs. In FY 2015-16, Michigan is anticipated to receive and expend \$175.1 million in federal funding for child support programs. The state risks losing this federal funding if a bill that embodies the modified UIFSA, such as HB 4742, is not enacted in 2015. In addition, the federal government requires that the state have an approved federal Title IV-D plan for its child support program in order to be eligible to continue receiving Temporary Assistance for Needy Families (TANF) block grant funding. In order for a state plan to be approved, it would need to include the provisions of the new UIFSA act. Michigan receives approximately \$775.4 million TANF funding annually. If Michigan does not enact the new modified UIFSA act, this TANF funding could be at risk as well.

## **DETAILED SUMMARY:**

### **House Bill 4742**

As noted above, the bill enacts the version of the Uniform Interstate Family Support Act (UIFSA) adopted by the Uniform Law Commission in 2008 that incorporates provisions established by the 2007 Hague Convention on the International Recovery of Child Support of Family Maintenance. Among other things, the UIFSA provides guidelines and procedures for the registration, recognition, enforcement, and modification of foreign support orders from countries that are parties to the Convention.

House Bill 4742 reenacts much of the language of the current law, though numerous provisions are revised and updated. For example, the updated definition of "state" includes an Indian nation or tribe, and a reference to the relationship of a husband and wife has been changed to "the relationship between spouses." The most significant changes extend UIFSA to other states and to foreign countries and allows parties to consent to continuing jurisdiction in a state even if both parties have since moved away from that state.

Neither The Hague Convention nor the UIFSA 2008 (or HB 4742) change existing UIFSA provisions and U.S. law regarding personal jurisdiction, due process protections, and application of U.S. law regarding enforcement of child support orders. Provisions were added to the Michigan legislation to provide greater protection by specifying that an order or a law of another country is manifestly incompatible with public policy if that order or law fails to grant the parties the right of due process substantially similar to that guaranteed by the United States Constitution and the Michigan state Constitution of 1963.

In addition, several new terms are defined, including, but not limited to, "convention," "foreign country," "foreign support order," and "foreign tribunal." The act applies to proceedings begun on or after January 1, 2016, (the bill's effective date) to establish a support

order or determine parentage of a child or to register, recognize, enforce, or modify a prior support order, determination, or agreement, whenever issued or entered.

### **House Bill 4744 and Senate Bills 518-519**

These bills each which different acts to change a reference to the Uniform Interstate Family Support Act to the Uniform Interstate Family Support Act (2015). Each bill was tie-barred to House Bill 4742.

House Bill 4744 amends the Support and Parenting Time Enforcement Act, MCL 552.602.

Senate Bill 518 amends the Friend of the Court Act, MCL 552.502.

Senate Bill 519 amends the Office of Child Support Act, MCL 400.233.

### **BACKGROUND INFORMATION AND BRIEF DISCUSSION:**

As far back as 1950, states adopted uniform laws addressing the collection of child support across state lines. The biggest reform occurred in 1996 when a provision in the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 mandated that, as a condition of continuing to receive funding for child support programs, states adopt the UIFSA. In 2001, the National Conference of Commissioners on Uniform State Law, or Uniform Law Commission, clarified provisions of UIFSA 1996. Most states adopted UIFSA 2001, but Michigan did not and continues to operate under the 1996 version.

In 2007, the Hague Convention adopted numerous provisions to establish uniform procedures for processing international child support cases. The following year, in 2008, the Uniform Law Commission approved amendments to its model UIFSA to incorporate the provisions of the Hague Convention. The U.S. ratified The Hague Convention, but ratification requires adoption of the UIFSA 2008 version (without substantive modifications) by all 50 states. To ensure compliance, all states were required to adopt the UIFSA 2008 by the end of their 2015 legislative sessions under provisions of the federal Preventing Sex Trafficking and Strengthening Families Act that was enacted in 2014. A state's failure to enact the modified UIFSA by that date meant the potential loss of federal funding that supports state child support programs. To date, all 50 states, the District of Columbia, the Virgin Islands, and Puerto Rico have enacted the UIFSA 2008; New Jersey was the last state to enact the law when Governor Chris Christie signed legislation on March 23, 2016. [Information is derived from materials available on the ULC website regarding the 2008 UIFSA at:

[http://www.uniformlaws.org/Act.aspx?title=Interstate%20Family%20Support%20Act%20Amendments%20\(2008\)](http://www.uniformlaws.org/Act.aspx?title=Interstate%20Family%20Support%20Act%20Amendments%20(2008))]

According to a summary provided by the ULC, the main changes to the UIFSA by the 2008 amendments are in a new section that applies to support proceedings under the Convention (under House Bill 4742, the changes are found in Article 7 entitled *Support Proceeding Under Convention*). This new section "provides guidelines and procedures for the registration, recognition, enforcement and modification of foreign support orders from countries that are parties to the Convention." Importantly, according to the ULC, the new provision requires that a foreign support order be registered immediately unless a tribunal in the state where that

registration is sought determines that the language of the order goes against the policy of the state. Once registered, the non-registering party receives notice and is allowed the opportunity to challenge the order on certain grounds. Unless one of the grounds for denying recognition is established, the order is to be enforced. In addition, documents submitted under the Convention must be in the original language and a translated version submitted if the original language is not English.

UIFSA 2008 is expected by its advocates to result in child support services across state, Tribal, and country borders that are consistent, affordable, and timely. At least 32 countries have ratified the Convention, including the European Union. 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. Obviously, not all countries have signed on to the Convention, in particular, many of the countries in the Middle East. But as countries do, it will make it easier for families to collect child support that is owed. In many respects, UIFSA 2008 is said to be an improvement over the provisions the state has been operating under and is supported by the child support community, as it will improve interstate case processing and ensure that more child support orders are enforced and collections paid to families who live in different states and countries.

Legislative Analyst: Susan Stutzky  
Fiscal Analyst: Viola Bay Wild

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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.