

# Legislative Analysis



## MODEL UNIFORM INTERSTATE FAMILY SUPPORT ACT

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 4742 (Substitute H-1)**  
**House Bill 4743 as reported without amendment**  
**Sponsor: Rep. Robert L. Kosowski**

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

**House Bill 4744 reported w/o amendment**  
**Sponsor: Rep. Clint Kesto**

**House Bill 4745 reported w/o amendment**  
**Sponsor: Rep. Kurt Heise**

**Committee: Judiciary**  
**Complete to 10-12-15**

### SUMMARY:

House Bill 4742 will repeal the Uniform Interstate Family Support Act, Public Act 310 of 1996, which allows states to work together in their collection of court-ordered child support. In its place, the bill enacts a new, more expansive Uniform Interstate Family Support Act (UIFSA 2008) that, in addition to numerous updates, addresses foreign support orders. House Bills 4743-4745 are companion bills that amend various acts to update references to the UIFSA contained in those acts. The bills take effect on January 1, 2016.

### **House Bill 4742**

The bill will enact the version of the Uniform Interstate Family Support Act (UIFSA) that was adopted by the Uniform Law Commission in 2008 and 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. The most significant changes extend UIFSA to other states and 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. Amendments adopted in committee 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 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 will apply to proceedings begun on or after its 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 Bills 4743-4745**

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

House Bill 4743 amends the Office of Child Support Act, MCL 400.233.

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

House Bill 4745 amends the Friend of the Court Act, MCL 552.502.

### **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 are 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 that does not enact the modified UIFSA by that date may lose federal funding that supports state child support programs. To date, 46 states and Puerto Rico have enacted the UIFSA 2008; New Jersey, Pennsylvania, and the District of Columbia have legislation pending; only Massachusetts has yet to introduce legislation. (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 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 all of the European Union. Michigan is one of the last states to enact UIFSA 2008, and must have the new act in force by January 1, 2016, or face losing federal funding for child support programs and a possible loss of TANF revenue which is vital 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 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.

#### **FISCAL IMPACT:**

House Bill 4742 would repeal the current Uniform Interstate Family Support Act (UIFSA) which requires Michigan to work with other states for the collection of court-ordered child support payments and would replace it with an expanded version of this act that establishes uniform procedures for the processing of international child support cases. House Bills 4743-4745 would amend other related statutes referring to the act.

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 to continue receiving 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.

#### **POSITIONS:**

A representative of the Michigan Department of Health and Human Services testified in support of the bills. (9-29-15)

The Family Law Section of the State Bar of Michigan supports the bills. (9-12-15)

The Friend of the Court Association indicated support for the bills. (9-29-15)

The Michigan Commission on Uniform State Laws indicated support for the bills. (10-6-15)

The Michigan County Social Services Association indicated support for the bills. (10-6-15)

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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.