

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 74 (Chair, Judiciary Committee)(By Request - Departmental
- Human Resources)

Judiciary

Judicial Proceedings

Family Law - Maryland Uniform Interstate Family Support Act - Revision

This departmental bill makes technical changes to provisions of the Maryland Uniform Interstate Family Support Act (UIFSA) to conform to federal requirements.

Fiscal Summary

State Effect: The bill's changes are technical in nature and do not directly affect government finances. In addition, the bill may help prevent the loss of federal funds by conforming Maryland law to federal guidelines.

Local Effect: None.

Small Business Effect: The Department of Human Resources (DHR) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Bill Summary/Current Law: *Personal Jurisdiction:* Under current law, in a proceeding to establish or enforce a support order or to determine parentage, a State tribunal may exercise personal jurisdiction over a nonresident individual if: (1) the individual is personally served within the State; (2) the individual submits to the personal jurisdiction of the State by consent in a record, by entering a general appearance, or by filing certain documents; (3) the individual resided in the State and provided prenatal expenses or support for the child; (4) the child resides in the State as a result of the acts or

directives of the individual; (5) the child may have been conceived in the State; or (6) there is any other constitutional basis for the exercise of personal jurisdiction.

This bill adds the ability to exercise personal jurisdiction over a nonresident individual if the individual resided with the child in the State. It repeals the language regarding exercising personal jurisdiction over a nonresident if the child may have been conceived in the State, and instead specifies that personal jurisdiction may be exercised if the individual engaged in sexual intercourse in Maryland and the child *may* have been conceived by that act of intercourse.

Notice: If multiple child support orders have been issued for the same obligor and the same child, a request to determine which order controls must be accompanied by a copy of every child support order in effect and the applicable record of payments. Each party whose rights may be affected by this determination must be provided notice of the request in accordance with Maryland Rules. The bill clarifies that it is the requesting party who must be responsible for providing notice.

Attorney General: If the Attorney General determines that the support agency is neglecting or refusing to provide services to an individual, the Attorney General is authorized to order the agency to perform its duties. The bill specifies that the Attorney General is also authorized to provide services directly to the individual.

Electronically Submitted Evidence: In a proceeding under Maryland's UIFSA, parties cannot object to documentary evidence transmitted electronically from another state simply on the basis that it was submitted electronically unless the documentary evidence is shown to vary in a substantial or relevant manner from the original. A party's ability to object on these grounds is repealed by this bill.

Spousal Immunity: In proceedings under Maryland's UIFSA, a husband and wife may be compelled to testify to any relevant matter, including marriage and parentage. The bill clarifies that neither spousal immunity nor immunity based on the relationship of parent and child is available in any proceeding under Maryland's UIFSA.

Duties of a Child Support Enforcement Agency: A support enforcement agency or tribunal must promptly disburse any amounts received pursuant to a support order as directed. If the obligor, the obligee, *or* the child resides out of state, on request from a support enforcement agency, a tribunal or support enforcement agency of this State must: (1) direct that support payments to be made to the support enforcement agency in the state in which the obligee is receiving services; and (2) issue and send to the obligor's employer an earnings withholding order or an administrative notice of change of payee. The bill's provisions alter this responsibility to situations in which the obligor, obligee, *and* the child reside outside the State.

Orders Modified in other States: Finally, Maryland's UIFSA specifies the powers of tribunals for situations in which an order issued in this State was modified by another state which assumed jurisdiction pursuant to "this subtitle" (which references Maryland's UIFSA). Because the other state would have assumed jurisdiction pursuant to its own version of UIFSA and not Maryland's, this bill repeals the reference to "this subtitle."

Background: Before 1950, a U.S. parent who wanted child support from another parent who lived in another state had to travel to that state to take legal action. As of 1950, a uniform act was developed that allows participating states to enforce each other's support orders. The Act established in 1950 was the Uniform Reciprocal Enforcement of Support Act (URESA). In 1968, URESA was revised. By 1992, all U.S. states and most American territories had adopted URESA or the Revised URESA. However, a U.S. General Accounting Office report issued at that time concluded that up to 30% of child support cases involve interstate jurisdiction and children in these cases were less likely than children whose families resided in the same state to receive support payments. Over one-third of mothers in interstate support cases reported that they never received any support payments.

In 1996, the National Conference of Commissioners on Uniform State Laws (NCCUSL) sponsored substantial revisions to the Revised URESA and renamed the Act the Uniform Interstate Family Support Act or UIFSA. According to NCCUSL, in some respects, the adoption of UIFSA in all states tracked the development of welfare reform efforts in the 1990s. After the 1996 revisions creating UIFSA were established, the federal Personal Responsibility and Work Opportunity Reconciliation Act was enacted. In addition to welfare reform, the law contained major provisions regarding child support enforcement by states. Federal grants for child support enforcement also became partially dependent on adoption of UIFSA. After review and analysis as requested by state child support enforcement agencies and stakeholders, amendments to UIFSA were adopted by NCCUSL in 2001. The amendments were intended to clarify the issuance and enforcement of support orders across multiple jurisdictions and generally did not radically change existing provisions. To date, at least 21 other states (including the neighboring states of Delaware, Virginia, and West Virginia) and the District of Columbia have adopted the 2001 amendments.

Although Maryland adopted amendments to UIFSA in 2008 (Chapter 522), the Federal Office of Child Support Enforcement (OCSE) identified differences between Maryland's version of UIFSA and the federal requirements. DHR advises that OCSE indicated that the failure to make conforming changes as requested would put Maryland out of compliance, and may affect Title IV-D and IV-A federal funding (which totaled approximately \$328.3 million in fiscal 2010). This bill is intended to ensure that State law conforms to the federal requirements.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General, Department of Human Resources, Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - January 19, 2010
a/kdm

Analysis by: Jennifer K. Botts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Family Law – Maryland Uniform Interstate Family Support Act -
Revision

BILL NUMBER: HB 74

PREPARED BY: Department of Human Resources

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.