



BILL SUMMARY

Family Support Programs/ Child Support SF 500

Status of Bill: House Appropriations Calendar
Committee: Appropriations (Senate 50-0) (Committee 25-0)
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Background

In 2007, the United States signed the Hague convention on the international recovery of child support and other forms of family maintenance. The agreement will help facilitate the recognition and enforcement of child support and other forms of family maintenance orders of parties from the United States seeking enforcement in foreign countries, and reciprocally for orders from foreign countries seeking enforcement in the United States. In 2014, the U.S. Congress passed federal implementing legislation for the convention, which required each state to enact the legislation proposed in this bill as a condition for continued receipt of federal funds supporting state child support programs.

Summary

The bill makes the necessary changes to the Uniform Interstate Family Support Act to be in compliance with federal legislation under the Preventing Sex Trafficking and Strengthening Families Act and to avoid the loss of \$38 million in federal funds supporting state child support programs and possibly TANF funds (Temporary Assistance for Needy Families).

Division I – Uniform Interstate Family Support Act (UIFSA)

This division updates the Articles 1 through 6 of the UIFSA and adds a new Article 7 that are all in Iowa Code Chapter 252K. The main changes reflect the inclusion of foreign countries and tribunal that have reciprocating provisions in their laws. Some of the updated definitions include the following:

“Child support order” means a support order for a child, including a child who has attained the age of majority under the law of the issuing state or foreign country.

“Convention” means the convention on the international recovery of child support and other forms of family maintenance, concluded at the Hague on November 23, 2007.

“Duty of support” means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

“Foreign country” means a country, including a political subdivision thereof, other than the United States, that authorizes the issuance of support orders and which meets any of the following conditions:

- Has been declared under the law of the United States to be a foreign reciprocating country.

- Has established a reciprocal arrangement for child support with this state as provided in section 252K.308.
- Has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this chapter.
- In which the convention is in force with respect to the United States.

“Foreign support order” means a support order of a foreign tribunal.

“Foreign tribunal” means a court, administrative agency, or quasi-judicial entity of a foreign country which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term includes a competent authority under the convention.

“Home state” means the state or foreign country in which a child has lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state or foreign country in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

Remedies Cumulative. The bill clarifies that remedies provided are cumulative and do not affect the availability of remedies under other law or the recognition of a foreign support order on the basis of comity. The provisions of the bill do not provide the exclusive method of establishing or enforcing a support order under the law of this state or grant a tribunal of this state jurisdiction to render judgment or issue an order relating to child custody or visitation.

Application to resident of foreign country and foreign support proceeding. A tribunal of this state is required to apply Articles 1 through 6 and, as applicable, Article 7, to a support proceeding involving any foreign support order, foreign tribunal, and obligee, obligor, or child residing in a foreign country. A tribunal is requested to recognize and enforce a support order on the basis of comity and may apply the procedural and substantive provisions of Articles 1 through 6. Article 7 applies only to a support proceeding under the convention. In such a proceeding, if a provision of Article 7 is inconsistent with Articles 1 through 6, Article 7 controls.

The bill adds several new sections to Chapter 252K related to the new Article 7 provisions. These sections provide guidelines and procedures for the registration, recognition, enforcement, and modification of foreign support orders from countries that are parties to the convention. Article 7 provides that a support order from a country that has agreed to comply with the convention must be registered immediately unless a tribunal in the state where the registration is sought determines that the language of the order is contrary to the public policy of the state. Once registered, the nonregistering 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. Article 7 requires documents submitted under the convention to be submitted in both the original language of the issuing court and English. Orders from foreign countries that are not signatories to the Hague convention also may be recognized by a state court on the basis of comity.

Division II – Conforming Changes – Uniform Interstate Family Support Act

This division of the bill makes conforming changes throughout the Code related to the changes in 252K.

Division III – Suspension of Support

Suspension of support — request by one party.

The bill creates a new code section that provides for the suspension of the child support upon the request of the obligor, if all of the following conditions exist:

a. The child is currently residing with the obligor and has been for more than 60 consecutive days. If the basis for suspension under this paragraph applies to at least one but not all of the children for whom support is ordered, the condition of this paragraph is met only if the support order includes a step change.

- b. There is no order in effect regarding legal custody, physical care, visitation, or other parenting time for the child.
- c. It is reasonably expected that the basis for suspension under this section will continue for not less than six months.
- d. The child for whom support is ordered is not receiving public assistance or a comparable law of another state or foreign country, unless the obligor is considered to be a member of the same household as the child for the purposes of public assistance eligibility.
- e. The obligor has signed a notarized affidavit, provided by the unit, attesting to the existence of the conditions under paragraphs "a" through "d", has requested suspension of the support order or obligation, and has submitted the affidavit to the unit.
- f. No prior request for suspension has been served under this section, and no prior request for suspension has been filed, during the two-year period preceding the request.
- g. Any other criteria established by rule of the Department of Human Services (DHS).

Upon receipt of the application for suspension and a properly executed and notarized affidavit, the Child Support Recovery Unit is required to review the application and affidavit to determine that the necessary criteria have been met. The unit then is required to do one of the following:

- a. Deny the request and notify the parents in writing that the application is being denied, providing reasons for the denial and notifying the parents of the right to proceed through private counsel. Denial of the application is not subject to contested case proceedings or further review pursuant to chapter 17A.
- b. Approve the request and prepare an order which is to be submitted, along with the affidavit, to a judge of a district court for approval, suspending the accruing support obligation and, if requested by the obligee and if not prohibited by chapter 252K, satisfying the obligation of support due the obligee. If the basis for suspension applies to at least one but not all of the children for whom support is ordered and the support order includes a step change, the unit shall prepare an order suspending the accruing support obligation for each child to whom the basis for suspension applies.

An order approved by the court for suspension of an accruing support obligation is effective upon the date of filing of the suspension order. The satisfaction of an obligation of support due the obligee is final upon the filing of the suspension order. A support obligation which is satisfied is not subject to the reinstatement provisions. The order suspending support obligation is considered a temporary order for the period of six months from the date of filing of the suspension order. However, the six-month period shall not include any time during which an application for reinstatement is pending before the court.

Administrative Rules - Transition. Until the DHS services adopts rules pursuant to chapter 17A necessary to administer this division of this Act, all of the following shall apply:

1. The child support recovery unit may initiate proceedings to suspend and reinstate support orders in accordance with section 252B.20, as amended in this division of this Act.
2. The child support recovery unit may, to the extent appropriate, apply and utilize procedures, rules, and forms substantially similar to those applicable and utilized pursuant to section 252B.20 for proceedings initiated in accordance with section 252B.20A, as enacted in this division of this Act.

Effective Date. Division III of the bill is effective January 1, 2016.

Division IV – Genetic Testing

This division of the bill relates to genetic testing in proceedings to establish paternity. The bill amends Code section 252F.3 (notice of alleged paternity and support debt conference request for hearing) and Code section 600B.41(blood and genetic testing) to provide that in a proceeding involving paternity testing, the child or children, mother, and putative or alleged father must submit to paternity testing. However, if the mother and child or children previously submitted blood or genetic specimens in a prior action to establish paternity against a different alleged or putative father, the previously submitted specimens and prior results, if available, may be utilized for testing in the action.