



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2015**

ON THE FOLLOWING MEASURE:

S.B. NO. 1066, RELATING TO THE UNIFORM INTERSTATE FAMILY SUPPORT ACT.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Thursday, February 19, 2015 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Russell A. Suzuki, Attorney General, or
Garry L. Kemp, Administrator, Child Support Enforcement Agency

Chair Keith-Agaran and Members of the Committee:

The Department of the Attorney General supports this bill.

The provisions of this bill amend section 576B, Hawaii Revised Statutes (HRS), in order to bring the State of Hawaii into compliance with federal law.

On September 29, 2014, President Obama signed Public Law (P.L.) 113-183, the Preventing Sex Trafficking and Strengthening Families Act. This law amends section 466(f) of the Social Security Act, requiring all states to enact any amendments to the Uniform Interstate Family Support Act “officially adopted as of September 30, 2008 by the National Conference of Commissioners on Uniform State Laws” (referred to as UIFSA 2008). Among other changes, the UIFSA 2008 amendments integrate the appropriate provisions of The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, which was adopted at the Hague Conference on Private International Law on November 23, 2007.

Section 301(f)(3)(A) of P.L. 113-183 requires that UIFSA 2008 must be in effect in every state no later than “the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.”

Compliance with this new requirement is necessary to maintain eligibility for federal welfare funding and federal funding of child support enforcement programs.

We respectfully request that the Committee adopt an amendment prior to passing this measure. To be consistent with the definition of “register”, the term, “registering tribunal” on page 53, line 21, should be changed to “family court”. Line 21 should be amended to read as follows: “order is filed in [~~a tribunal~~] the family court of this State.”

The Department of the Attorney General respectfully asks the Committee to pass this bill with the proposed amendment.

**TESTIMONY OF THE
COMMISSION TO PROMOTE UNIFORM LEGISLATION**

ON S.B. NO. 1066

**RELATING TO THE UNIFORM INTERSTATE
FAMILY SUPPORT ACT**

**BEFORE THE SENATE COMMITTEE ON
JUDICIARY AND LABOR**

DATE: Thursday, February 19, 2015, at 9:00 a.m.
Conference Room 016, State Capitol

WRITTEN TESTIMONY ONLY: For more information, please contact KEN TAKAYAMA,
Commissioner, Commission to Promote Uniform Legislation, at 542-3659

To Chair Keith-Agaran, Vice Chair Shimabukuro, and Members of the Committee:

My name is Ken Takayama, and I am testifying on behalf of the Commission to Promote Uniform Legislation (the “Commission”), in STRONG SUPPORT of S. B. No. 1066, Relating to the Uniform Interstate Family Support Act (UIFSA).

Since 1998, the Uniform Interstate Family Support Act (UIFSA) has been the law of every state in the country, including Hawaii. It was drafted by the Uniform Law Commission (the ULC), a national organization of lawyers, judges, and legal scholars. UIFSA has provided uniform rules for the enforcement of family support orders in the states, and has served as the basis for interstate establishment and enforcement of support obligations. The Act is used daily in the numerous interstate cases which are processed through the child support system in the United States, and is familiar to attorneys, judges, and support case workers.

To state the “bottom line up front”: It is important that this measure be enacted because Congress, through the 2014 Preventing Sex Trafficking and Strengthening Families Act, is now requiring that all states update their version of UIFSA to reflect changes made to the act by the ULC as of 2008. Specifically, the new federal law requires that all states enact the 2008 version of UIFSA by the end of their 2015 legislative session in order to continue receiving federal funds supporting state child support programs. If a state fails to enact the amended version of UIFSA

TESTIMONY of CPUL on S. B. No. 1066
Relating to the Uniform Interstate Family Support Act
Senate Judiciary and Labor 2-19-15

by that time, it risks losing this important federal funding.

Enactment of this measure will therefore prevent the loss of federal funding for state child support programs. It will also improve the ability of people in Hawaii to enforce support orders against persons who live outside the United States.

Background

Since the initial enactment of UIFSA, the ULC developed two sets of revisions to UIFSA. Hawaii has not adopted these revisions.

2001 amendments

First, in 2001 the ULC drafted amendments to the Act at the request of representatives of the state child support enforcement community. Those amendments did not change the fundamental aims of UIFSA, but clarified and updated certain portions. Specifically, the 2001 amendments refined jurisdictional rules limiting the ability of parties to seek modifications of orders in states other than the issuing state, but allow for situations where parties might voluntarily seek to have an order issued or modified in a state in which they do not reside. The amendments also spelled out in greater specificity how a controlling order is to be determined and reconciled in the event multiple orders are issued, and clarified the procedures to be followed by state support enforcement agencies in these circumstances. Additionally, they clarified that the jurisdictional basis for the issuance of support orders and child custody jurisdiction are separate, and a party submitting to a court's jurisdiction for purposes of a support determination does not automatically submit to the jurisdiction of the responding state with regard to child custody or visitation. The amendments also provided clearer guidance to state support agencies with regard to the redirection of support payments to an obligee's current state of residence, clarified that the local law of a responding state applies with regard to enforcement procedures and remedies, and fixed the duration of a child support order to that required under the law of the state originally issuing the order. In addition, they incorporated certain technical updates in response to changes in the law in the intervening years since 1996. Finally, the amendments expanded UIFSA to include coverage of support orders from foreign country jurisdictions

TESTIMONY of CPUL on S. B. No. 1066
Relating to the Uniform Interstate Family Support Act
Senate Judiciary and Labor 2-19-15

pursuant to reciprocity and comity principles.

2. 2007 Hague Convention

In November 2007, the United States signed the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. This Convention contains numerous provisions that establish uniform procedures for the processing of international child support cases. The Convention's provisions will help more children in the United States receive the financial support they need from non-custodial parents residing overseas. In order for the United States to fully accede to the Convention, it was necessary to modify UIFSA by incorporating provisions of the convention that impact existing state law. The ULC approved those amendments in 2008.

2008 Amendments

In developing the 2008 amendments, the ULC worked closely with representatives of the federal government – both the Department of State and Department of Health and Human Services – and child support organizations to draft amendments that would implement the Hague Convention provisions without imposing burdensome changes to existing state practices. Accordingly, the changes made to UIFSA in 2008 were limited to only those necessary to accommodate the Convention. Articles 2-6 were largely unchanged, and a new Article 7 contains all rules applicable to cases involving the Convention (e.g., guidelines and procedures for the registration, recognition, enforcement and modification of foreign support orders from countries that are parties to the Convention).

The current version of UIFSA – approved by the ULC in 2008 – therefore includes both the updates made in 2001 and 2008. As of the end of 2014, twelve states had already enacted UIFSA 2008. It is expected that all remaining states will enact the updated version of UIFSA during this legislative session.

TESTIMONY of CPUL on S. B. No. 1066
Relating to the Uniform Interstate Family Support Act
Senate Judiciary and Labor 2-19-15

I urge a positive vote on S. B. No. 1066, to update Hawaii's version of UIFSA. Doing so will improve the enforcement of American child support orders abroad, ensuring that more children residing in the United States will receive the financial support due from parents, wherever the parents reside.