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TESTIMONY ON SENATE BILL 604 For the Senate Judiciary Committee March 18, 2015

Presented by:

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This testimony is presented in support of Senate Bill 604, with the -5 amendments.

How This Bill Changes Current Law

Last year, Congress enacted and President Obama signed Public Law (P.L.) 113-183, the Preventing Sex Trafficking and Strengthening Families Act. Among its provisions, 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 (Hague Convention), which was adopted at the Hague Conference on Private International Law on November 23, 2007, referred to as the 2007 Family Maintenance Convention. For U.S. ratification of the Hague Convention, all states must adopt and implement the UIFSA 2008 amendments.

Similar to the federal mandate for UIFSA 1996, the federal law requires that all states enact *verbatim* the UIFSA 2008 amendments as a condition for continued receipt of federal funds supporting state child support programs. Specifically, in order to have an approved state plan for child support in compliance with federal requirements, which is a condition of receiving federal funding for the program, Oregon must pass UIFSA 2008 by the end of its 2015 legislative session. Senate Bill 604 incorporates the updates to intergovernmental child support enforcement included in UIFSA 2008 as well as UIFSA 2001, which has not yet been incorporated into Oregon law. The majority of these changes are to Chapter 110 of the Oregon Revised Statutes.

Key Points of Legislation

- Enactment of the 2008 UIFSA amendments will improve enforcement of American child support orders abroad and will ensure that children residing in the United States will receive the financial support due from parents wherever the parents reside.
- The amendments provide guidelines and procedures for the registration, enforcement, and modification of foreign support orders from countries that are parties to the Convention.
- The amendments provide additional flexibility for the modification of orders when the state or country that issued the order cannot or will not process a modification.
- The amendments modernize procedures for intergovernmental child support enforcement.
- Federal law enacted in 2014 requires that all states pass the 2008 UIFSA amendments by the end of their 2015 legislative sessions as a condition for continued receipt of federal funds supporting state child support programs.
- Adoption and implementation of UIFSA 2008 is essential for U.S. ratification of the Hague Convention.

Background

On November 23, 2007, after four years of deliberation, The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance was adopted at the conclusion of the Twenty-First Diplomatic Session of The Hague Conference on Private International Law at The Hague, The Netherlands.

The Hague Convention contains procedures for processing international child support cases that are uniform, simple, efficient, accessible, and cost-free to U.S. citizens seeking support in other countries. It is founded on the agreement of countries that ratify the Hague Convention to recognize and enforce each other's support orders. Similar procedures are already in place in the United States for processing interstate child support cases. Many provisions of the Hague Convention were drawn from the U.S. experience with the original Uniform Interstate Family Support Act, adopted by all states as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).

Benefits to Title IV-D Agencies (Child Support Programs)

Reciprocal Access between National Tribunals

The major benefit of ratification to the United States and implementation of UIFSA 2008 will be obtaining reciprocity from other countries that also ratify the Hague Convention. For many international cases, U.S. courts and state Title IV-D child support agencies already recognize and enforce child support obligations, whether or not the United States has a reciprocal agreement with the other country. However, many foreign countries will not enforce U.S. support orders in the absence of a treaty obligation. Ratification of the Hague Convention by the United States will mean that more children residing in Oregon and across the nation will receive financial support from their parents residing in countries that are also signatories to the Hague Convention.

No Cost or Low Cost Access to Services Abroad

Significantly, the Hague Convention provides for access to cost-free services for U.S. citizens needing assistance with child support enforcement in a contracting country, an important element of reciprocity for U.S. citizens. The small number of countries that may be required by their own internal procedures to assess fees must use a means test based on the income of the child, not the parents, with the result that any fees will be minimal as compared to current practice where custodial parents must often retain local private counsel in order to establish or enforce a support order.

Coordinated Expedited Enforcement

Another benefit of ratifying the Hague Convention will be the ability to effectively coordinate the enforcement of international child support cases with contracting countries through central authorities. Central authorities will be required to receive and transmit applications for services. Through administrative cooperation, the authorities will facilitate the transfer of documents and case information—using electronic technology where feasible—so that the necessary information is available for expeditious resolution of international child support matters.

Jurisdiction Over Support Debtors Abroad

The Hague Convention and its implementing legislation, UIFSA 2008, effectively address jurisdictional barriers that have prohibited the United States from joining other child support conventions. Existing maintenance conventions base jurisdiction to order support on the habitual residence of the creditor (custodial parent or child) rather than on minimum contacts with the debtor (noncustodial parent), as required by U.S. constitutional standards of due process. The Hague Convention provides flexibility for a court of the United States having jurisdiction over the noncustodial parent to establish a new order in circumstances where U.S. jurisdictional requirements were not met in the country issuing the initial order that is sought to be enforced.

No Change to States' Authority Over Support Law Issues

The Hague Convention and the conforming amendments to the Uniform Interstate Family Support Act will not affect intrastate or interstate cases in the United States. It will apply only to cases where the custodial parent and child live in one contracting country and the noncustodial parent lives in another contracting country. Similarly, the Hague Convention will not affect Oregon's substantive child support law, which is generally left to the individual states, as it is here in Oregon. Its primary focus is on uniform procedures for enforcement of decisions and for cooperation among countries. While U.S. Department of Health & Human Services (HHS) will be the central authority for the United States under the Hague Convention, state Title IV-D child support enforcement agencies will be the public bodies responsible for carrying out many of its central authority functions, such as transmitting and receiving applications for services, and initiating and facilitating proceedings.

Fiscal Impact

U.S. federal law already requires states to process international cases, so implementation of UIFSA 2008 imposes a negligible fiscal burden on the Oregon Department of Justice and Oregon Child Support Program. The Division of Child Support budget already anticipates the costs of federal changes with relatively small fiscal impact.

Fiscal Benefits

Implementation will likely reduce the time and effort the Oregon Child Support Program has to spend trying to enforce orders abroad because other ratifying countries will be required to provide certain services to U.S. creditors and debtors initiating support cases abroad. And, of course, passage of Senate Bill 604 ensures that the Oregon Child Support Program continues to receive federal funding to better serve and support Oregon families.

Recommended Action

The Department of Justice recommends committee approval of Senate Bill 604, with the -5 amendments.