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Quick Facts: The Hague Convention on the International Recovery of Child Support

This Quick Facts guide provides information about collecting child support when parents live in different countries.

The Child Support Enforcement Program¹ is a successful federal-state partnership whose mission is to promote economic stability for children whose parents live apart. This Quick Facts guide provides information about collecting child support when parents live in different countries.

In today's global economy where more parents cross international borders to live and work, international child support enforcement is more important than ever. The leadership and initiative of the United States was critical in the successful negotiation of The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (Hague Convention on Child Support), adopted by The Hague Conference on Private International Law on November 23, 2007. The United States is in the final stages of working towards the ratification and implementation of this Convention.

On September 29, 2014, President Obama signed Public Law (P.L.) 113-183, the Preventing Sex Trafficking and Strengthening Families Act, which required all states to enact the Uniform Interstate Family Support Act officially adopted as of September 30, 2008 by the National Conference of Commissioners on Uniform State Laws (UIFSA 2008). This step is necessary because the UIFSA 2008 amendments integrate the appropriate provisions of the Hague Convention on Child Support. The National Child Support Enforcement Association supports ratification and implementation of the Convention as a key step forward in international child support collection.

Background

After four years of deliberation, The Hague Convention on Child Support was adopted in 2007, at the conclusion of the Twenty-First Diplomatic Session of The Hague Conference on Private International Law at The Hague, The Netherlands. The United States delegation demonstrated its leadership and commitment by becoming the first country to sign the Convention, indicating its support for bringing the Convention forward for ratification by the Senate.

¹ Created by Title IV-D of the Social Security Act

This Convention contains procedures for processing international child support cases that are uniform, simple, efficient, accessible, and cost-free to US citizens seeking support in other countries. It is founded on the agreement of countries that ratify the 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. Indeed, many provisions of the Convention were drawn from the United States' experience with UIFSA, which originally was adopted by all states as a requirement of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).

Benefits

Reciprocal Access between National Tribunals

The major benefit of ratification to the United States will be obtaining reciprocity from other countries that also ratify the Convention. For many international cases, courts and state Title IV-D child support enforcement 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 United States support orders in the absence of a treaty obligation. Ratification of the Convention by the United States will mean that more children residing here will receive financial support from their parents residing in countries that are also signatories to the Convention.

No Cost or Low Cost Access to Services Abroad

Significantly, the Convention provides for access to cost-free services for United States citizens needing assistance with child support enforcement in a contracting country, an important element of reciprocity for United States 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 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 Convention effectively addresses 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 custodial parent rather than on minimum contacts with the non-custodial parent, as required by standards of due process under the United States Constitution. The Convention provides flexibility for a court of the United States having jurisdiction over the non-custodial parent to establish a new order in circumstances where 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 Convention and the conforming amendments to UIFSA 2008 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 non-custodial parent lives in another contracting country. Similarly, the Convention will not affect substantive child support law, which is generally left to the individual states. Its primary focus is on uniform procedures for enforcement of decisions and for cooperation among countries. While HHS will be the central authority for the United States under the Convention, it is expected that HHS will designate state Title IV-D child support enforcement agencies as the public bodies responsible for carrying out, under its supervision, many of its central authority functions, such as transmitting and receiving applications for services, and initiating and facilitating proceedings.

Maximum Benefits and Minimal Burdens for States

Ratification and implementation of the Convention will impose a minimal fiscal burden on state and federal governments because the US federal law already requires states to process international cases. Indeed, ratification and implementation may reduce the time and effort agencies have to spend trying to enforce orders abroad as other ratifying countries will be required to provide certain services to United States creditors and debtors initiating support cases abroad.

Uniform Interstate Family Support Act

The Uniform Law Commission worked closely with the United States State Department and Department of Health and Human Services, as well as with a wide variety of organizations with expertise in child support enforcement – including NCSEA, to ensure that state law will conform to the requirements of the Convention. It is critical that all states have the same procedures for handling interstate and international cases, and NCSEA supports the Preventing Sex Trafficking and Strengthening Families Act's requirement that all states

adopt the 2008 version of UIFSA, which restores the necessary uniformity in interstate and international procedures.