



Updated May, 2019

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 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.

Background

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 (Convention), adopted by The Hague Conference on Private International Law on November 23, 2007.

The Preventing Sex Trafficking and Strengthening Families Act of 2014 required all states to enact the Uniform Interstate Family Support Act officially adopted as of 2008 (UIFSA 2008) by the National Conference of Commissioners on Uniform State Laws.² The 2008 amendments to UIFSA integrated the appropriate provisions of the Convention. On August 30, 2016, after all states had enacted UIFSA 2008, President Obama signed the Instrument of Ratification and the Convention went into effect for the United States on January 1, 2017.

The Convention contains procedures for processing international child support cases that are uniform, simple, efficient, accessible, and cost-free to United States 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

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

² The Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183) was signed by President Obama on September 29, 2014.





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).³

Benefits

Reciprocal Access between National Tribunals

The major benefit of ratification to the United States was 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 means 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.⁴ 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 the parent who receives support must often retain local private counsel in order to establish or enforce a support order.

Coordinated Expedited Enforcement

The Convention allows the United States to effectively coordinate the enforcement of international child support cases with contracting countries through central authorities. Central authorities are required to receive and transmit applications for services. Through administrative cooperation, the authorities facilitate the transfer of documents

³ All states were originally required to adopt UIFSA (1996) by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193). UIFSA was subsequently amended in 2001 and 2008.

⁴ See Para. 210, Explanatory Report, Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance.





and case information – using electronic technology where feasible – so that the necessary information is available for expeditious resolution of international child support matters.⁵

Jurisdiction Over Support Debtors Abroad

The Convention effectively addresses jurisdictional barriers that have prohibited the United States from joining other child support conventions. Historically, maintenance conventions base jurisdiction to order support on the habitual residence of the parent who receives support rather than on minimum contacts with the parent who pays support, 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 parent who pays support 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.⁶

No Change to States' Authority Over Support Law Issues

The Convention and the conforming amendments to UIFSA 2008 do not affect intrastate or interstate cases in the United States. It applies only to cases where the parent who receives support and child live in one contracting country and the parent who pays support lives in another contracting country. Similarly, the Convention does 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 the Department of Health and Human Services (HHS) is the central authority for the United States under the Convention, HHS designated 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.⁷

⁵ Article 6 of the Convention sets forth the specific functions of central authorities, to include general responsibilities in proceedings under the Convention and requests for specific measures.

⁶ See Para. 253, Explanatory Report, Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance.

⁷ In the United States, the central authority is the Secretary of HHS. The Secretary designated the federal Office of Child Support Enforcement (OCSE) as the entity to serve as the central authority, with the majority of the specific case processing functions under Article 6 of the Convention being designated to state IV-D agencies subject to the supervision of OCSE.





Maximum Benefits and Minimal Burdens for States

Ratification and implementation of the Convention imposed a minimal fiscal burden on state and federal governments because federal law already requires states to process international cases.⁸ Indeed, ratification and implementation may reduce the time and effort agencies spend trying to enforce orders abroad as other ratifying countries are now required to provide certain services to United States creditors and debtors.

Uniform Interstate Family Support Act

The Uniform Law Commission worked closely with the United States State Department and HHS, as well as with a wide variety of organizations with expertise in child support enforcement – including NCSEA, to ensure that state law ~~will~~ conforms to the requirements of the Convention. The adoption of UIFSA 2008 by all states integrated the appropriate provisions of the Convention and restored the necessary uniformity in interstate and international procedures.

⁸ See 42 U.S.C. § 654(32) and 45 C.F.R. § 303.7.

