

**2015 DRAFTING REQUEST**

**Bill**

Received: 3/11/2015 Received By: pkahler  
Wanted: As time permits Same as LRB: -1898  
For: Children and Families By/Representing: Kimberly Liedl  
May Contact: Drafter: pkahler  
Subject: Dom. Rel. - child support/maint. Addl. Drafters:  
Extra Copies: JLD

Submit via email: YES  
Requester's email: Kimberly.Liedl@wisconsin.gov  
Carbon copy (CC) to: peggy.hurley@legis.wisconsin.gov

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Moving up the effective date of the UIFSA

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	pkahler 4/23/2015	jdyer 3/11/2015		_____	mbarman 3/11/2015	sbasford 3/11/2015	
/2		wjackson 4/24/2015	rschluet 4/24/2015	_____	srose 4/24/2015	srose 4/24/2015	

FE Sent For:

*None  
Needed*

<END>

**Kahler, Pam**

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**From:** Liedl, Kimberly - DCF <Kimberly.Liedl@wisconsin.gov>  
**Sent:** Tuesday, March 10, 2015 5:13 PM  
**To:** Kahler, Pam  
**Subject:** Companion bill for LRB -1898/1: Moving up the effective date of the UIFSA

Hi, Pam, could you please draft a companion bill for LRB -1898/1: Moving up the effective date of the UIFSA?

Thanks,

Kimber

**Kimberly Liedl**

*Legislative Liaison*

Department of Children and Families

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201 East Washington Avenue

Madison, WI 53703

T: 608.261.8678

E: [kimberly.liedl@wisconsin.gov](mailto:kimberly.liedl@wisconsin.gov)



State of Wisconsin  
2015 - 2016 LEGISLATURE

1955  
LRB-1898/1  
PJK:cjs&jld:rs

keep

(Companion RM run)

2015 BILL

no changes

in 3-11  
out by 3-11 (on 3-12)

Regen

1 AN ACT to repeal 769.904 of the statutes; and to affect 2009 Wisconsin Act 321,  
2 section 172m (1c) and 2009 Wisconsin Act 321, section 172m (2); relating to:  
3 the effective date of amendments to the Uniform Interstate Family Support  
4 Act.

*Analysis by the Legislative Reference Bureau*

2009 Wisconsin Act 321 amended the Uniform Interstate Family Support Act (UIFSA) primarily to clarify UIFSA's application to foreign countries, in recognition of and in conformity with the ratification by the United States of the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (the convention), concluded at The Hague on November 23, 2007. Under 2009 Wisconsin Act 321, the amendments to UIFSA do not go into effect until the day the United States deposits the instrument of ratification for the convention. This bill makes the amendments go into effect on the day the United States deposits the instrument of ratification for the convention or on the day the 2015-17 biennial budget act goes into effect, whichever is earlier.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

5 SECTION 1. 769.904 of the statutes, as created by 2009 Wisconsin Act 321, is  
6 repealed.

**BILL**

1           **SECTION 2.** 2009 Wisconsin Act 321, section 172m (1c) is amended to read:

2           [2009 Wisconsin Act 321] Section 172m (1c) ~~This~~ Except as provided in  
3 subsection (2), this act takes effect on the date stated in the notice published in the  
4 Wisconsin Administrative Register under section 769.904 of the statutes, as created  
5 by this act, or on the day after publication of the 2015-17 biennial budget act,  
6 whichever is earlier.

7           **SECTION 3.** 2009 Wisconsin Act 321, section 172m (2) is created to read:

8           [2009 Wisconsin Act 321] Section 172m (2) The creation of section 769.904 of  
9 the statutes takes effect on the day after publication.

10

(END)

**Basford, Sarah**

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**From:** Liedl, Kimberly - DCF <Kimberly.Liedl@wisconsin.gov>  
**Sent:** Wednesday, March 11, 2015 2:04 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -1955/1 Topic: Moving up the effective date of the UIFSA

Please Jacket LRB -1955/1 for the SENATE.

## Kahler, Pam

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**From:** Chesnik, Connie - DCF <Connie.Chesnik@wisconsin.gov>  
**Sent:** Wednesday, April 08, 2015 3:48 PM  
**To:** Kahler, Pam  
**Subject:** FW: Analysis of Wisconsin 2008 UIFSA  
**Attachments:** UIFSA08\_WI-CO\_analysis\_04072015.docx

**Importance:** High

Hi Pam,

Per our conversation, attached is the document from the Federal Office of Child Support Enforcement comparing the Model Act to the law we passed in 2009. (Act 321) The areas of concern are highlighted in yellow. I can eliminate a few of them:

Page 19. 769.301 (2) was repealed by Act 321.

Page 35. 769.501 I think the reason we didn't define 'employer' is that we send income withholding notices to anyone from whom the payer receives money. It doesn't have to be an employer.

Page 48. 769.611 I think whoever reviewed this just completely missed the mark. The two versions say the same thing and I will explain that to OCSE.

I'd appreciate it if you would review the other highlighted areas, provide clarification where requested and confirm that the remaining items need to be amended.

Please let me know if you have any questions.

Thanks,

Connie

*Connie M. Chesnik*  
*Attorney, Office of Legal Counsel*  
*Wisconsin Department of Children and Families*  
*608-267-7295 (office)*  
*608-692-7379 (cell)*  
*608-261-6972 (fax)*  
[\*connie.chesnik@wisconsin.gov\*](mailto:connie.chesnik@wisconsin.gov)

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**From:** Reuter, Patricia X - DCF  
**Sent:** Tuesday, April 07, 2015 3:16 PM  
**To:** Chesnik, Connie - DCF; Scharping, Jacqueline M - DCF; Buechner, Steven E - DCF  
**Subject:** Fwd: Analysis of Wisconsin 2008 UIFSA  
**Importance:** High

Fyi

----- Original message -----

From: "Kolanowski, Sally (ACF)"  
Date: 04/07/2015 2:02 PM (GMT-06:00)  
To: "Scharping, Jacqueline M - DCF" , "Reuter, Patricia X - DCF"  
Cc: "Vicars, Mike (ACF)"  
Subject: Analysis of Wisconsin 2008 UIFSA

We have completed our review and analysis of Wisconsin's UIFSA 08 (see attached). Most of the differences in language are minor and appear to be due to Wisconsin's legislative style guide. There are a few places that require amendment of the statute in order to comply with UIFSA 2008 and a few areas where we request clarification (see below).

1. 769.101 Definitions - The State needs to add the definition of "person" that is in UIFSA 2008, section 102(19). Also, in subsection (19), Wisconsin's definition of State does not include the United States Virgin Islands, as listed in UIFSA 2008, Section 102(26). The State needs to add the Virgin Islands or clarify why it is not listed. → 990.01 (26)

2. 769.103 Remedies cumulative - In subsection (1), Wisconsin states: (1) Remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law. UIFSA's section 104 provides: (a) Remedies provided by the [act] 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 State needs to add "or the recognition of a foreign support order on the basis of comity."

3. 769.611 Modification of child support order of another state  
(1) After a child support order issued in another state has been registered in this state, unless s. 769.613 applies a tribunal of this state may, upon petition, modify that child support order if, after notice and hearing, it finds one of the following:  
(a) That all of the following requirements are met:  
1. The child, the obligee who is an individual, and the obligor do not reside in the issuing state.  
2. A petitioner who is a nonresident of this state seeks modification.  
3. The respondent is subject to the personal jurisdiction of the tribunal of this state.

Section 611 of the Model Act provides:

(a) If Section 613 does not apply, upon [petition] a tribunal of this state may modify a child-support order issued in another state which is registered in this state if, after notice and hearing, the tribunal finds that: (1) the following requirements are met:

- (A) neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing state;
- (B) a [petitioner] who is a nonresident of this state seeks modification; and
- (C) the [respondent] is subject to the personal jurisdiction of the tribunal of this state; or . . .

The state needs to amend subsection (1)(a)(1). As written it requires that none of the parties or child reside in the issuing state. That is not what the Model Act requires. Section 611(a)(1)(A) requires that neither the child, nor the obligee, nor the obligor resides in the issuing state. If any of those named individuals reside in the issuing state, that state would have continuing, exclusive jurisdiction to modify. CEJ only requires the residence of the obligee, the obligor, or the child; it does not require the residence of all three.

4. 769.708 Recognition and enforcement of registered convention support order  
(3) If a tribunal of this state does not recognize a convention support order under sub. (2) (b), (d), (f), or (i), both of the following apply: . . .

Subsection (3) corresponds to UIFSA's Section 708(c):

(c) If a tribunal of this state does not recognize a Convention support order under subsection (b)(2), (4), or (9): . . .

The state needs to amend its Act to delete the reference to sub. (2) (f). UIFSA 2008 does not contain such a reference. The Uniform Law Commissioners sent a letter to all state child support directors in February notifying them of the clerical error and correction it had made in the Model Act:

OCSE requests clarification of the following:

1. UIFSA 2008 defines income withholding order as:

(10) "Income-withholding order" means an order or other legal process directed to an obligor's [employer] [or other debtor], as defined by [the income-withholding law of this state], to withhold support from the income of the obligor.

Wisconsin's 769.01 Definitions provides:

(6) "Income-withholding order" means an order, notice or other legal process directed to an obligor's employer or other debtor to withhold support from the income of, or other money owed, the obligor.

Please ask the state to clarify why the above provision does not include the language in the Model Act that links the definition of obligor or debtor to the state's income withholding law.

2. 769.301 Proceedings under this chapter. Please ask state to clarify whether subsection (2) remained in its enacted UIFSA 2008 (see page 19 of attached side-by-side).

3. 769.307 Duties of support enforcement agency. Please ask the state to clarify why in subsection (2) it adds the phrase "as appropriate." That phrase is not in the Model Act. Does the statutory construction mean "as applicable" or does it suggest discretion? UIFSA 2008 does not permit discretion.

4. 769.501 Employer's receipt of income-withholding order of another state

An income-withholding order issued in another state may be sent by or on behalf of the obligee, or by the support enforcement agency, to the obligor's employer without first filing a petition or comparable pleading or registering the income-withholding order with a tribunal of this state.

Section 501 of the Model Act provides:

An income-withholding order issued in another state may be sent by or on behalf of the obligee, or by the support enforcement agency, to the person defined as the obligor's employer under [the income-withholding law of this state] without first filing a [petition] or comparable pleading or registering the order with a tribunal of this state.

Wisconsin's enactment is missing the linkage of the definition of employer to the income withholding law in the state.

Please ask the state to confirm that there are not varying definitions for "employer" depending upon the statute.

5. We noted that Wisconsin's enactment includes a definition for initiating state. That definition was deleted in UIFSA 2008. The only place the term is used is in 769.313(2). If Wisconsin wants to retain the definition, that is acceptable. However, it is recommended that the State delete "or under a law or procedure substantially similar to the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act." Those Acts were superseded by UIFSA and have not been used since 1992. A law substantially similar to URESA or RURESAs would no longer be considered a law substantially similar to UIFSA.

**Sally Kolanowski**

OCSE Program Specialist

Administration for Children and Families



U.S. Department of Health and Human Services  
233 N. Michigan Avenue, Suite 400, Chicago, IL 60601  
Ph: (312)353-7073  
Fax: (312)886-5373  
[sally.kolanowski@acf.hhs.gov](mailto:sally.kolanowski@acf.hhs.gov)  
[www.acf.hhs.gov](http://www.acf.hhs.gov)

769.101

<p>as provided in Section 308;</p> <p>(C) which has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this [act]; or</p> <p>(D) in which the Convention is in force with respect to the United States.</p> <p>(6) "Foreign support order" means a support order of a foreign tribunal.</p> <p>(7) "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.</p> <p>(8) "Home state" means the state or foreign country in which a child 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.</p> <p>(9) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.</p> <p>(10) "Income-withholding order" means an</p>	<p>(c) The country or political subdivision has enacted a law or established procedures for the issuance and enforcement of support orders that are substantially similar to the procedures under this chapter.</p> <p>(d) The country or political subdivision is one in which the convention is in force with respect to the United States.</p> <p>(3g) "Foreign support order" means a support order of a foreign tribunal.</p> <p>(3m) "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a foreign country that is authorized to establish, enforce, or modify support orders or to determine parentage of a child. "Foreign tribunal" includes a competent authority under the convention.</p> <p>(4) "Home state" means the state or foreign country in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately preceding the time of the filing of a petition or comparable pleading for support or, if a child is less than 6 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 6-month or other period.</p> <p>(5) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.</p> <p>(6) "Income-withholding order" means an order, notice or other legal process directed to an obligor's employer or other debtor, to withhold support from the income of, or other money owed</p>	<p>Addition of "notice" in (6) defining an income withholding order is acceptable. Addition of "other money owed to the obligor" is acceptable.</p> <p><i>yes add ✓</i>  <i>specified in 769.101 (c)</i></p>
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<p>order or other legal process directed to an obligor's [employer] [or other debtor], as defined by [the income-withholding law of this state], to withhold support from the income of the obligor.</p> <p>(11) "Initiating tribunal" means the tribunal of a state or foreign country from which a [petition] or comparable pleading is forwarded or in which a [petition] or comparable pleading is filed for forwarding to another state or foreign country.</p> <p>(12) "Issuing foreign country" means the foreign country in which a tribunal issues a support order or a judgment determining parentage of a child.</p> <p>(13) "Issuing state" means the state in which a tribunal issues a support order or a judgment determining parentage of a child.</p> <p>(14) "Issuing tribunal" means the tribunal of a state or foreign country that issues a support order or a judgment determining parentage of a child.</p> <p>(15) "Law" includes decisional and statutory law and rules and regulations having the force of law.</p> <p>(16) "Obligee" means:</p> <p>(A) an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order or a judgment determining parentage of a child has been issued;</p> <p>(B) a foreign country, state, or political subdivision of a state to which the rights under a duty of support or support</p>	<p>to, the obligor.</p> <p>(7) "Initiating state" means a state from which a proceeding is forwarded, or in which a proceeding is filed for forwarding, to a responding state under this chapter or a law or procedure substantially similar to this chapter, or under a law or procedure substantially similar to the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act.</p> <p>(8) "Initiating tribunal" means the tribunal of a state or foreign country from which a petition or comparable pleading is forwarded or in which a petition or comparable pleading is filed for forwarding to another state or foreign country.</p> <p>(8m) "Issuing foreign country" means the foreign country in which a tribunal issues a support order or a judgment determining parentage of a child.</p> <p>(9) "Issuing state" means the state in which a tribunal issues a support order or a judgment determining parentage of a child.</p> <p>(10) "Issuing tribunal" means the tribunal of a state or foreign country that issues a support order or a judgment determining parentage of a child.</p> <p>(11) "Law" includes decisional and statutory law and rules and regulations having the force of law.</p> <p>(12) "Obligee" means any of the following:</p> <p>(a) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order or a judgment determining parentage of a child has been issued.</p>	<p>Please ask state to clarify why the provision does not include the language in the Model Act that defines obligor or debtor with a reference to the applicable state income withholding law.</p> <p>Wisconsin includes a definition for <u>initiating state</u>. That definition was deleted in UIFSA 2008. The only place the term is used is in 769.313(2). If Wisconsin wants to retain the definition, that is acceptable. However, it is recommended that the State delete "or under a law or procedure substantially similar to the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act." Those Acts were superseded by UIFSA and have not been used since 1992.</p> <p><i>no - it was repealed</i></p>
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*specific language 75(1)*

<p>order have been assigned or which has independent claims based on financial assistance provided to an individual obligee in place of child support;</p> <p>(C) an individual seeking a judgment determining parentage of the individual's child; or</p> <p>(D) a person that is a creditor in a proceeding under [Article] 7.</p> <p>(17) "Obligor" means an individual, or the estate of a decedent that:</p> <p>(A) owes or is alleged to owe a duty of support;</p> <p>(B) is alleged but has not been adjudicated to be a parent of a child;</p> <p>(C) is liable under a support order; or</p> <p>(D) is a debtor in a proceeding under [Article] 7.</p> <p>(18) "Outside this state" means a location in another state or a country other than the United States, whether or not the country is a foreign country.</p> <p>(19) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.</p> <p>(20) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.</p> <p>(21) "Register" means to [record; file] in a</p>	<p>(b) A foreign country, state, or political subdivision of a state to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee in place of child support.</p> <p>(c) An individual seeking a judgment determining parentage of the individual's child.</p> <p>(d) A person that is a creditor in a proceeding under subch. VII.</p> <p>(13) "Obligor" means an individual, or the estate of a decedent, to whom any of the following applies:</p> <p>(a) The individual or decedent owes or is alleged to owe a duty of support.</p> <p>(b) The individual or decedent is alleged but has not been adjudicated to be a parent of a child.</p> <p>(c) The individual or decedent is liable under a support order.</p> <p>(d) The individual or decedent is a debtor in a proceeding under subch. VII.</p> <p>(13m) "Outside this state" means a location in another state or a country other than the United States, whether or not the country is a foreign country.</p> <p>(13r) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in a perceivable form.</p>	<p>State's use of slightly different language in (13) is acceptable.</p> <p>State needs to add the definition of "Person" that is in UIFSA 2008.</p> <p>990.01(26)</p> <p><i>will be able</i></p> <p><i>status corporate) policies</i></p> <p><i>or retained persons</i></p>
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<p>tribunal of this state a support order or judgment determining parentage of a child issued in another state or a foreign country.</p> <p>(22) "Registering tribunal" means a tribunal in which a support order or judgment determining parentage of a child is registered.</p> <p>(23) "Responding state" means a state in which a [petition] or comparable pleading for support or to determine parentage of a child is filed or to which a [petition] or comparable pleading is forwarded for filing from another state or a foreign country.</p> <p>(24) "Responding tribunal" means the authorized tribunal in a responding state or foreign country.</p> <p>(25) "Spousal-support order" means a support order for a spouse or former spouse of the obligor.</p> <p>(26) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession under the jurisdiction of the United States. The term includes an Indian nation or tribe</p> <p>(27) "Support enforcement agency" means a public official, governmental entity, or private agency authorized to:</p> <p>(A) seek enforcement of support orders or laws relating to the duty of support;</p> <p>(B) seek establishment or modification of child support;</p> <p>(C) request determination of parentage of a child;</p> <p>(D) attempt to locate obligors or their</p>	<p>(14) "Register" means to file in a tribunal of this state a support order or judgment determining parentage of a child issued in another state or a foreign country.</p> <p>(15) "Registering tribunal" means a tribunal in which a support order or judgment determining parentage of a child is registered.</p> <p>(16) "Responding state" means a state in which a petition or comparable pleading for support or to determine parentage of a child is filed or to which a petition or comparable pleading is forwarded for filing from another state or a foreign country.</p> <p>(17) "Responding tribunal" means the authorized tribunal in a responding state or foreign country.</p> <p>(18) "Spousal-support order" means a support order for a spouse or former spouse of the obligor.</p> <p>(19) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States. "State" includes an Indian nation or tribe.</p> <p>(20) "Support enforcement agency" means a public official, governmental entity, or private agency authorized to do any of the following:</p> <p>(a) Seek enforcement of support orders or laws relating to the duty of support.</p> <p>(b) Seek establishment or modification of child support.</p> <p>(c) Request determination of parentage of a child.</p> <p>(d) Attempt to locate obligors or their assets.</p> <p>(e) Request determination of the controlling child</p>	<p>State needs to add "the United States Virgin Islands," or explain why it is missing.</p> <p><i>We did not have it before, either</i></p> <p><i>inclusion over of the U.S. S/B included in insular possession subject to jurisdiction of U.S.</i></p> <p><i>OK to leave</i></p>
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769.103

ops add

<p>(a) Remedies provided by this [act] are cumulative and do not affect the availability of a foreign support order on the basis of comity.</p> <p>(b) This [act] does not:</p> <p>(1) provide the exclusive method of establishing or enforcing a support order under the law of this state; or</p> <p>(2) grant a tribunal of this state jurisdiction to render judgment or issue an order relating to [child custody or visitation] in a proceeding under this [act].</p>	<p>(1) Remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law.</p> <p>(2) This chapter does not do any of the following:</p> <p>(a) Provide the exclusive method of establishing or enforcing a support order under the law of this state.</p> <p>(b) Grant a tribunal of this state jurisdiction to render judgment or issue an order relating to legal custody or physical placement of a child in a proceeding under this chapter.</p> <p>History: 1993 a. 326; 2009 a. 321</p>	<p>State needs to add "or the recognition of a foreign support order on the basis of comity."</p> <p><i>not add because</i></p> <p><i>live with order under</i></p> <p><i>person / current law</i></p> <p><i>for amendment</i></p> <p><i>by 2008 DIFSA</i></p> <p><i>— canceled —</i></p>
<p><b>Section 105. Application of [Act] to Resident of Foreign Country and Foreign Support Proceeding</b></p> <p>(a) A tribunal of this state shall apply [Articles] 1 through 6 and, as applicable, [Article] 7, to a support proceeding involving:</p> <p>(1) a foreign support order;</p> <p>(2) a foreign tribunal; or</p> <p>(3) an obligee, obligor, or child residing in a foreign country.</p> <p>(b) A tribunal of this state that is requested to recognize and enforce a support order on the basis of comity may apply the procedural and substantive provisions of [Articles] 1 through 6.</p> <p>(c) [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.</p>	<p><b>769.105 Application of chapter to resident of foreign country and foreign support proceeding.</b></p> <p>(1) A tribunal of this state shall apply subchs. 1 to VI and, as applicable, subch. VII, to a support proceeding that involves any of the following:</p> <p>(a) A foreign support order.</p> <p>(b) A foreign tribunal.</p> <p>(c) An obligee, obligor, or child residing in a foreign country.</p> <p>(2) A tribunal of this state that is requested to recognize and enforce a support order on the basis of comity may apply the procedural and substantive provisions of subchs. 1 to VI.</p> <p>(3) Subchapter VII applies only to a support proceeding under the convention. In such a proceeding, if a provision of subch. VII is inconsistent with subchs. 1 to VI, subch. VII controls.</p> <p>NOTE: This section is created by 2009 Wis. Act 321 effective the date stated in the notice published in</p>	

(2) is repeated

<p><b>Section 301. Proceedings Under [Act]</b>                  (a) Except as otherwise provided in this [act], this [article] applies to all proceedings under this [act].                  (b) An individual [petitioner] or a support enforcement agency may initiate a proceeding authorized under this [act] by filing a [petition] in an initiating tribunal for forwarding to a responding tribunal or by filing a [petition] or a comparable pleading directly in a tribunal of another state or a foreign country which has or can obtain personal jurisdiction over the [respondent]</p>	<p><b>769.301 Proceedings under this chapter.</b>                  (1) Except as otherwise provided in this chapter, this subchapter applies to all proceedings under this chapter.                  (3) An individual petitioner or a support enforcement agency may commence a proceeding authorized under this chapter by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state or a foreign country that has or can obtain personal jurisdiction over the respondent.                  History: 1993 a. 326; 2009 a. 321.</p>	<p>Please ask state to clarify:                  Is this language that is currently in Wisconsin's statute still in its enacted UIFSA 2008?                  (2) This chapter provides for all of the following proceedings:                  (a) Under subch. IV, establishment of an order for spousal support or child support.                  (b) Under subch. V, enforcement of a support order and income--withholding order of another state without registration.                  (c) Under subch. VI, registration of an order for spousal support or child support of another state for enforcement.                  (d) Under subch. II, modification of an order for child support or spousal support issued by a tribunal of this state.                  (e) Under subch. VI, registration of an order for child support of another state for modification.                  (f) Under subch. VII, determination of parentage.                  (g) Under subch. II, assertion of jurisdiction over nonresidents.                  If it is, then it needs to be amended because the subchapter numbers and headings are no longer accurate.</p>
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769.307 ✓ yes - appropriate w/ 2-1

<p>residing in a state;</p> <p>(2) shall provide services to a [petitioner] requesting services through a central authority of a foreign country as described in Section 102(5)(A) or (D); and</p> <p>(3) may provide services to a [petitioner] who is an individual not residing in a state</p> <p>(b) A support enforcement agency of this state that is providing services to the [petitioner] shall:</p> <p>(1) take all steps necessary to enable an appropriate tribunal of this state, another state, or a foreign country to obtain jurisdiction over the [respondent];</p> <p>(2) request an appropriate tribunal to set a date, time, and place for a hearing;</p> <p>(3) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;</p> <p>(4) within [two] days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of notice in a record from an initiating, responding, or registering tribunal, send a copy of the notice to the [petitioner];</p> <p>(5) within [two] days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of communication in a record from the [respondent] or the [respondent's] attorney, send a copy of the communication to the [petitioner]; and</p> <p>(6) notify the [petitioner] if jurisdiction over the [respondent] cannot be obtained.</p> <p>(c) A support enforcement agency of this state that requests registration of a child-support</p>	<p>(2) A support enforcement agency of this state that is providing services to the petitioner shall do all of the following as appropriate:</p> <p>(a) Take all steps necessary to enable an appropriate tribunal of this state, another state, or a foreign country to obtain jurisdiction over the respondent.</p> <p>(b) Request an appropriate tribunal to set a date, time and place for a hearing.</p> <p>(c) Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties.</p> <p>(d) Within 2 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of notice in a record from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner.</p> <p>(e) Within 2 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of communication in a record from the respondent or the respondent's attorney, send a copy of the communication to the petitioner.</p> <p>(f) Notify the petitioner if jurisdiction over the respondent cannot be obtained.</p> <p>(3m) A support enforcement agency of this state that requests registration of a child support order in this state for enforcement or for modification</p>	<p>State needs to clarify why it added the phrase "as appropriate." Does the statutory construction mean "as applicable" or does it suggest discretion? UIFSA 2008 does not permit discretion.</p> <p>yes it means all of the following that are applicable (can change) can't say <u>shall do all of the following</u> if not do not apply</p> <p>Slightly different language in (3m) is acceptable.</p>
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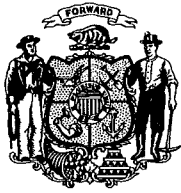


<p>(5) shown by clear and convincing evidence to be the father of the child;</p> <p>(6) an acknowledged father as provided by [applicable state law];</p> <p>(7) the mother of the child; or</p> <p>(8) an individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.</p> <p>(c) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to Section 305.</p>	<p>convincing evidence to be the father of the child.</p> <p>(f) An individual who has acknowledged paternity of the child under s. 767.805.</p> <p>(g) The mother of the child.</p> <p>(h) An individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.</p> <p>(3) Upon finding, after notice and an opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders under s. 769.305.</p> <p>History: 1993 a. 326; 2009 a. 321.</p>	
<p><b>Section 402. Proceeding to Determine Parentage</b></p> <p>A tribunal of this state authorized to determine parentage of a child may serve as a responding tribunal in a proceeding to determine parentage of a child brought under this [act] or a law or procedure substantially similar to this [act].</p>	<p><b>769.402 PROCEEDING TO DETERMINE PARENTAGE.</b></p> <p>A tribunal of this state authorized to determine parentage of a child may serve as a responding tribunal in a proceeding to determine parentage of a child brought under this chapter or a law or procedure substantially similar to this chapter.</p> <p>Note: this section is created by 2009 wis. Act 321 effective the date stated in the notice published in the wisconsin administrative register under s. 769.904.</p>	<p><i>for other orders</i></p> <p><i>child not named in original tax does not</i></p> <p><i>tax does not</i></p>
<p><b>Section 501. Employer's Receipt of Income Withholding Order of Another State</b></p> <p>An income-withholding order issued in another state may be sent by or on behalf of the obligee, or by the support enforcement agency, to the person defined as the obligor's</p>	<p><b>769.501 Employer's receipt of income-withholding order of another state.</b></p> <p>An income-withholding order issued in another state may be sent by or on behalf of the obligee, or by the support enforcement agency, to the obligor's employer without first filing a petition or</p>	<p>Omission of words "the person defined as" and "under [the income withholding law of this state]" is likely okay although it would have been preferable to include.</p>

<p>employer under [the income-withholding law of this state] without first filing a [petition] or comparable pleading or registering the order with a tribunal of this state</p>	<p>comparable pleading or registering the income-withholding order with a tribunal of this state. History: 1993 a. 326; 1997 a. 27; 2009 a. 321.</p>	<p>Please ask state to confirm that there are not varying definitions for "employer" depending upon the statute.</p>
<p><b>Section 502. Employer's Compliance with Income Withholding Order of Another State</b> (a) Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor. (b) The employer shall treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state. (c) Except as otherwise provided in subsection (d) and Section 503, the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order which specify: (1) the duration and amount of periodic payments of current child support, stated as a sum certain; (2) the person designated to receive payments and the address to which the payments are to be forwarded; (3) medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment; (4) the amount of periodic payments of fees and costs for a support enforcement</p>	<p><b>769.502 Employer's compliance with income-withholding order of another state.</b> (1) Upon receipt of an income-withholding order under s. 769.501, the obligor's employer shall immediately provide a copy of the order to the obligor. (2) The employer shall treat an income-withholding order issued in another state that appears to be regular on its face as if it had been issued by a tribunal of this state. (3) Except as provided in sub. (4) and s. 769.503, the employer shall withhold and distribute the funds as directed in the income-withholding order by complying with the terms of the order, as applicable, that specify any of the following: (a) The duration and amount of periodic payments of current child support, stated as a sum certain. (b) The person or agency designated to receive payments and the address to which the payments are to be forwarded. (c) Medical support, whether in the form of periodic cash payments, stated as a sum certain, or the provision of health insurance coverage for the child under a policy available through the obligor's employment. (d) The amounts of periodic payments of fees and</p>	<p>Different language is okay</p>

<p>may be modified only if the requirements of Section 611 or 613 have been met.</p>	<p>been met. History: 1993 a. 326; 2009 a. 321.</p>	
<p><b>Section 611. Modification of Child Support Order of Another State</b> (a) If Section 613 does not apply, upon [petition] a tribunal of this state may modify a child-support order issued in another state which is registered in this state if, after notice and hearing, the tribunal finds that: (1) the following requirements are met: (A) neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing state; (B) a [petitioner] who is a nonresident of this state seeks modification; and (C) the [respondent] is subject to the personal jurisdiction of the tribunal of this state; or (2) this state is the residence of the child, or a party who is an individual is subject to the personal jurisdiction of the tribunal of this state, and all of the parties who are individuals have filed consents in a record in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction. (b) Modification of a registered child-support order is subject to the same requirements, procedures, and defenses that apply to the</p>	<p><b>769.611 Modification of child support order of another state.</b> (1) After a child support order issued in another state has been registered in this state, unless s. 769.613 applies a tribunal of this state may, upon petition, modify that child support order if, after notice and hearing, it finds one of the following: (a) That all of the following requirements are met: 1. The child, the obligee who is an individual, and the obligor do not reside in the issuing state. 2. A petitioner who is a nonresident of this state seeks modification. 3. The respondent is subject to the personal jurisdiction of the tribunal of this state. (b) That this state is the residence of the child, or a party who is an individual is subject to the personal jurisdiction of the tribunal of this state, and that all of the parties who are individuals have filed consents in a record in the issuing tribunal providing that a tribunal of this state may modify the child support order and assume continuing, exclusive jurisdiction. (2) Modification of a registered child support order is subject to the same requirements, procedures and defenses as apply to the modification of an order issued by a tribunal of this state, and the order may be enforced and satisfied in the same manner.</p>	<p>Different wording in subsection (1) is okay. Says the same thing as in the Model Act. <i>OK to change</i> State needs to amend subsection (1)(a)(1). As written it requires that none of the parties or child reside in the issuing state. That is not what the Model Act requires. Section 611(a)(1)(A) requires that neither the child, nor the obligee, nor the obligor resides in the issuing state. If any of those named individuals reside in the issuing state, that state would have continuing, exclusive jurisdiction to modify. CEJ only requires the residence of the obligee, the obligor, or the child; it does not require the residence of all three. <i>I think it means the same thing - was not changed from previous</i></p>

<p>in this state;</p> <p>(8) payment, to the extent alleged arrears have been paid in whole or in part;</p> <p>(9) In a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country:</p> <p>(A) if the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or</p> <p>(B) if the law of that country does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal; or</p> <p>(10) the order was made in violation of Section 711.</p> <p>(c) If a tribunal of this state does not recognize a Convention support order under subsection (b)(2), (4), or (9):</p> <p>(1) the tribunal may not dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new Convention support order; and</p> <p>(2) the [governmental entity] shall take all appropriate measures to request a child-support order for the obligee if the application for recognition and enforcement was received under Section 704.</p>	<p>(i) In a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country, if either of the following applies:</p> <ol style="list-style-type: none"> <li>1. If the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard.</li> <li>2. If the law of that country does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal.</li> </ol> <p>(j) The order was made in violation of s. 769.711.</p> <p>(3) If a tribunal of this state does not recognize a convention support order under sub. (2) (b), (d), (f), or (i), both of the following apply:</p> <p>(a) The tribunal may not dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new convention support order.</p> <p>(b) The department shall take all appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under s. 769.704.</p> <p>History: 2009 a. 321.</p>	<p>Slightly different language in subsection (i) is okay.</p> <p><i>Amend 769.708 (3) (intro)</i></p> <p>The slightly different language in subsection (3) is okay.</p> <p>HOWEVER, the state needs to amend Act to delete reference to sub. (2) (f). UIFSA 2008 does not contain such a reference. The Uniform Law Commissioners sent a letter to all state child support directors in February notifying them of the clerical error and correction it had made in the Model Act:</p> <p>Dear State Director:</p> <p><i>The attached letter from the Uniform Law Commission identifies two clerical errors in the version of the Uniform Interstate Family Support Act previously on the ULC website. Please note that the current version of UIFSA on the ULC website is correct.</i></p>
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State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-1955/4  
PJK:cjs&jld/rs

2  
TWJ WJ

2015 BILL

D-note  
today or tomorrow

Due  
4-29

Regan

1 AN ACT *to repeal* 769.904 of the statutes; and *to affect* 2009 Wisconsin Act 321,  
2 section 172m (1c) and 2009 Wisconsin Act 321, section 172m (2); **relating to:**  
3 the effective date of amendments to the Uniform Interstate Family Support  
4 Act.

***Analysis by the Legislative Reference Bureau***

2009 Wisconsin Act 321 amended the Uniform Interstate Family Support Act (UIFSA) primarily to clarify UIFSA's application to foreign countries, in recognition of and in conformity with the ratification by the United States of the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (the convention), concluded at The Hague on November 23, 2007. Under 2009 Wisconsin Act 321, the amendments to UIFSA do not go into effect until the day the United States deposits the instrument of ratification for the convention. This bill makes the amendments go into effect on the day the United States deposits the instrument of ratification for the convention or on the day the 2015-17 biennial budget act goes into effect, whichever is earlier. → insert A

December 18, 2015

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

5 SECTION 1. 769.904 of the statutes, as created by 2009 Wisconsin Act 321, is  
6 repealed.

Insert 1-5

**BILL**

**SECTION 2**

1 **SECTION 2.** 2009 Wisconsin Act 321, section 172m (1c) is amended to read:

2 [2009 Wisconsin Act 321] Section 172m (1c) ~~This~~ Except as provided in  
3 subsection (2), this act takes effect on the date stated in the notice published in the  
4 Wisconsin Administrative Register under section 769.904 of the statutes, as created  
5 by this act, or on the day after publication of the 2015-17 biennial budget act,  
6 whichever is earlier. *December 18, 2015*

7 **SECTION 3.** 2009 Wisconsin Act 321, section 172m (2) is created to read:

8 [2009 Wisconsin Act 321] Section 172m (2) The creation of section 769.904 of  
9 the statutes takes effect on the day after publication.

10

(END)

*Insert 2-9*

*D-Note*

**2015-2016 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1955/2ins  
PJK:.....

**INSERT A**

*WGT* The bill also makes some minor technical modifications to more closely align *er* the language of the statutes with the language of UIFSA.

(END OF INSERT A)

**INSERT 1-5**

1           **SECTION 1.** 769.101 (6) of the statutes is amended to read:

2           769.101 (6) "Income-withholding order" means an order, notice, or other legal  
3 process directed to an obligor's employer or other debtor, as specified in s. 767.75 (1f),  
4 to withhold support from the income of, or other money owed to, the obligor.

*History:* 1993 a. 326; 1997 a. 27; 2009 a. 321.

5           **SECTION 2.** 769.101 (13p) of the statutes is created to read:

6           769.101 (13p) "Person" means an individual, corporation, business trust,  
7 estate, trust, partnership, limited liability company, association, joint venture,  
8 public corporation, government or governmental subdivision, agency,  
9 instrumentality, or any other legal or commercial entity.

10           **SECTION 3.** 769.103 (1) of the statutes, as affected by 2009 Wisconsin Act 321,  
11 is amended to read:

12           769.103 (1) Remedies provided by this chapter are cumulative and do not affect  
13 the availability of remedies under other law or the recognition of a foreign support  
14 order on the basis of comity.

*History:* 1993 a. 326; 2009 a. 321.

15           **SECTION 4.** 769.307 (2) (intro.) of the statutes, as affected by 2009 Wisconsin  
16 Act 321, is amended to read:

17           769.307 (2) (intro.) A support enforcement agency of this state that is providing  
18 services to the petitioner shall do all of the following as ~~appropriate~~ applicable:

*History:* 1993 a. 326; 1997 a. 27; 2009 a. 321.

1 SECTION 5. 769.501 of the statutes, as affected by <sup>2009</sup>2015 Wisconsin Act 321, is  
2 amended to read:

3 **769.501 Employer's receipt of income-withholding order of another**  
4 **state.** An income-withholding order issued in another state may be sent by or on  
5 behalf of the obligee, or by the support enforcement agency, to the obligor's employer  
6 or other debtor, as specified in s. 767.75 (1f), without first filing a petition or  
7 comparable pleading or registering the income-withholding order with a tribunal of  
8 this state.

History: 1993 a. 326; 1997 a. 27; 2009 a. 321.

9 **SECTION 6. 769.611 (1) (a) 1.** of the statutes, as affected by 2009 Wisconsin Act  
10 321, is amended to read:

11 769.611 (1) (a) 1. The Neither the child, the (individual) obligee and nor the  
12 obligor ~~do not reside~~ resides in the issuing state.

History: 1993 a. 326; 1997 a. 27; 2009 a. 321.

13 **SECTION 7. 769.708 (3) (intro.)** of the statutes, as affected by 2009 Wisconsin  
14 Act 321, is amended to read:

15 769.708 (3) (intro.) If a tribunal of this state does not recognize a convention  
16 support order under sub. (2) (b), (d), (f), or (i), both of the following apply:

(END OF INSERT 1-5)

INSERT 2-9

17 **SECTION 8. Effective date.**

18 (1) This act takes effect on December 18, 2015.

(END OF INSERT 2-9)

Insert  
WLT

plain

nor  
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who is an individual,  
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**2015-2016 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1955/2ins  
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**INSERT WLJ**

1           **SECTION 1.** 769.502 (3) (b) of the statutes is amended to read:

2           769.502 (3) (b) The person ~~or agency~~ designated to receive payments and the  
3 address to which the payments are to be forwarded.

4           **SECTION 2.** 769.506 (2) (c) of the statutes is amended to read:

5           769.506 (2) (c) Except as provided in par. (d), the person ~~or agency~~ designated  
6 to receive payments in the income-withholding order.

7           **SECTION 3.** 769.506 (2) (d) of the statutes is amended to read:

8           769.506 (2) (d) If no person ~~or agency~~ is designated to receive payments in the  
9 income-withholding order, the obligee.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1955/2dn

PJK:.....

WY

Date

Ideally, this bill would be passed by both houses, signed, and published long before December 18, 2015. If it appears that this will not happen by December 18, I can draft an amendment that changes the December 18 dates to December 31, or even January 1, 2016, just so that we do not have an effective date that is retroactive.

Pamela J. Kahler  
Senior Legislative Attorney  
(608) 266-2682  
pam.kahler@legis.wisconsin.gov

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1955/2dn  
PJK:wlj:rs

April 24, 2015

Ideally, this bill would be passed by both houses, signed, and published long before December 18, 2015. If it appears that this will not happen by December 18, I can draft an amendment that changes the December 18 dates to December 31, or even January 1, 2016, just so that we do not have an effective date that is retroactive.

Pamela J. Kahler  
Senior Legislative Attorney  
(608) 266-2682  
[pam.kahler@legis.wisconsin.gov](mailto:pam.kahler@legis.wisconsin.gov)