



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2011**

ON THE FOLLOWING MEASURE:

H.B. No. 871, RELATING TO THE UNIFORM INTERSTATE FAMILY SUPPORT ACT.

BEFORE THE:

HOUSE COMMITTEES ON HUMAN SERVICES AND ON INTERNATIONAL AFFAIRS

DATE: Thursday, February 10, 2011 **TIME:** 10:30 a.m.

LOCATION: Conference Room 329

TESTIFIER(S): David M Louie, Attorney General, or
Garry L. Kemp, Administrator, Child Support
Enforcement Agency

Chairs Mizuno and Awana and Members of the Committees:

The Department of the Attorney General opposes this bill.

The provisions of this bill seek to update the Uniform Interstate Family Support Act (UIFSA) to reflect the changes made to the Act by the National Conference of Commissioners on Uniform State Laws and to also include the requirements of the Hague Convention of the International Recovery of Child Support and Other Forms of Family Maintenance.

Currently, the State of Hawaii is in compliance with section 466(f) of the Social Security Act (42 U.S.C. § 666(f)) that specifically requires states to adopt the 1996 version of UIFSA. Unless and until federal law is changed to require the states to adopt this version of UIFSA, the State will be out of compliance with existing federal law if this bill is passed.

In addition, the Uniform Law Commission Reference Book reflects that only five states, Maine, Nevada, North Dakota, Tennessee, and Wisconsin have enacted this version of UIFSA. Because those states are out of compliance with federal law, they are required to apply for and be granted an exemption by the United States Secretary of the Department of Health and

Human Services. Also, the uniform aspect of the law becomes meaningless when different states have enacted different versions of the law.

Furthermore, there are inconsistencies in the wording of the proposed bill and it does not reflect how processing of these types of requests actually takes place in this State.

The definition of "initiating state" beginning on page 3, line 18, is being stricken, but the reference to "initiating state" on page 38, line 15, remains. The definition of "initiating state" should not be stricken but amended to include additional language consistent with the model act. If the definition of "initiating state" is not stricken, page 3, line 18, should be amended to read as follows: "Initiating state" means a state from which a [proceeding] petition or comparable pleading is forwarded or in which a [proceeding] petition or comparable pleading is filed for forwarding to ~~[a responding state under this chapter or a law or procedure substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act]~~ another state or foreign country." Alternatively, page 38, line 15, should be amended to replace "initiating" with "state 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". If this option is selected, page 38, line 15, should be amended to read as follows: "the [initiating] state 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, ~~[or]~~ the responding state, or foreign country,".

Because of the changes made to the definitions of "register" and "registering tribunal" (page 6, beginning from line 12) and the new sections dealing with the Hague Convention requirements (article 7, beginning on page 67), the section now referred to as section 576B-103(a) on page 9, lines 12 through 17, does not accurately describe the responsibilities of the Child Support Enforcement Agency, the Family Court, and the Office of Child Support Hearings as tribunals of this state. This section should be amended to indicate that the Family Court is the tribunal for registering a support order issued in another state or foreign country. It should also state that the Child Support Enforcement Agency is the registering tribunal for the receipt and processing of all registration requested by another state's support enforcement agency operating under Title IV-D, by a foreign country, or by an individual who has applied for child support enforcement agency services. The Family Court is the registering tribunal for all other requests. The section now referred to as section 576B-103(a) on page 9, lines 12 through 17, should be amended to read as follows: "~~[[576B-102] Tribunals of State.] The family court, the child support enforcement agency as defined by the registering tribunal in section 576B-101, and the office of child support hearings are the tribunals of this State.]~~ §576B-103 State tribunal and support enforcement agency. (a) The family court is the tribunal in which all support orders issued in another state or a foreign country are filed for the purposes of registering the order in this State.

(b) The child support enforcement agency established by section 576D-2 is the registering tribunal for the receipt and processing of all registration requests received from another

state's support enforcement agency operating under Title IV-D of the federal Social Security Act, a foreign country, or an individual who has applied for Title IV-D services. The family court is the registering tribunal for all other requests.

(c) For all other purposes, the family court, the child support enforcement agency established by section 576D-2, and the office of child support hearings are the tribunals of this State.

(d) The child support enforcement agency established by section 576D-2 is the support enforcement agency of this State."

To be consistent with the model act and with the reference on page 31, line 21, line 18 on that page should be amended to delete "The child" and should be replaced with "A". Page 31, line 18, should be amended to read as follows: "agency. (a) [~~The child~~] A support enforcement agency of this".

To be consistent with other amendments, the reference to the Child Support Enforcement Agency should include the phrase "established by section 576D-2" on page 35, line 3; page 69, line 17; page 72, line 2; and page 77, line 12. Page 35, line 3, should be amended to read as follows: "agency established by section 576D-2 is the state information agency under this chapter." Page 69, line 17, should be amended to read as follows: "agency established by section 576D-2 shall:". Page 72, line 2, should be amended to read as follows: "to assistance from the child support enforcement agency established by section 576D-2." Page 77, line 12, should be amended to read as follows: "(2) The child support enforcement agency established by section 576D-2 shall take all".

The word "article" should not have a strikethrough on page 67, line 15.

We respectfully ask the Committee to hold this bill. If this bill is to be passed, we ask that the members of the committee consider the above proposed amendments.