



STATEMENT OF

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U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

ON

HAGUE CONVENTION ON THE INTERNATIONAL RECOVERY OF CHILD

SUPPORT AND OTHER FORMS OF FAMILY MAINTENANCE

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS

UNITED STATES SENATE

OCTOBER 6, 2009

Senator Cardin, thank you and Chairman Kerry and Senator Lugar, for the opportunity to testify on the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance.

This Hague Convention establishes a new and more effective international system for ensuring the receipt of child support in cases where the custodial parent and child live in one country and the non-custodial parent in another. Ratification of the Convention will mean that more children living in the United States will receive the financial support they need and deserve from their parents, even when one of their parents lives in another country. Currently, the United States recognizes certain foreign orders requiring child support. This Convention would require other countries that are parties to the Treaty to reciprocate.

The Convention builds upon existing United States law and practice to establish uniform, simple, fast, and inexpensive procedures for processing international child support cases. The Convention can be fully implemented with minimal changes to existing United States law and will not impose additional financial or administrative burdens on the Federal or state governments.

The Department of Health and Human Services supports the State Department's efforts to secure ratification of this Convention by the United States. State child support programs and judges, other United States child support interests, the American Bar Association, the National Conference of Commissioners on Uniform State Laws (NCCUSL), the National Center for State Courts, and the National Child Support

Enforcement Association (NCSEA) have expressed unequivocal support for the Convention.

Background: The Child Support Enforcement Program

In 1975, Congress established a federally-supervised and state-administered program for the enforcement of family support cases under title IV-D of the Social Security Act. The U.S. Department of Health and Human Services (HHS) is charged with oversight of the Child Support Enforcement program. All states and territories administer a child support program, usually located within the state's human services agency, revenue department, or Attorney General's office, with the help of prosecuting attorneys and the courts. In addition, 36 tribes operate comprehensive child support programs. States receive Federal matching funds covering approximately two-thirds of the costs of administering the child support program. Successful state child support programs also receive incentive payments for their performance.

In 2008, the Child Support Enforcement program served 17 million children and collected \$26.6 billion in support payments. Services are available to all children living apart from one of their parents, regardless of family income or residence. Services are provided automatically, and free of charge, to families receiving assistance under the Temporary Assistance for Needy Families, Medicaid, and Foster Care programs. Other families may apply for services at a nominal cost.

Extensive Federal and state child support data exchanges allow state child support programs to locate parents and assets across state lines. Cases in which parents and their children live in different states comprise about one-fourth of the child support

caseload. In such interstate cases, states may either seek the assistance of another state in securing parental support or take action directly across state lines when jurisdiction to do so exists. For example, a state may initiate an income withholding order directed to an employer in another state.

We estimate that, currently, a small percentage (perhaps one percent) of state child support enforcement cases are international in nature, with the majority of those cases flowing between the United States and its neighbors in Canada and Central America, and between the United States and those European Union countries with which the United States has bi-lateral arrangements to cooperate in enforcing child support. However, we anticipate that the percentage of international cases received and initiated by the Child Support Enforcement program will increase over the next ten years, particularly given the increasing emphasis on international child support cooperation.

Development of the Convention

The Convention was unanimously adopted at the Twenty-First Diplomatic Session of the Hague Conference on Private International Law on November 23, 2007. The United States was one of two countries that signed it the same day it was adopted. As head of the Federal Child Support Enforcement program, I believe that this Convention fulfills the needs of the United States, is widely supported throughout the country by all interested groups, and will greatly enhance procedures in international cases to the benefit of all of those American citizens seeking support from non-custodial parents residing in other Convention countries as well as foreign citizens seeking support from non-custodial parents living in the United States.

The United States actively participated in the development of the Convention from the beginning of negotiations in 2003. The U.S. worked to ensure that a treaty would be compatible with our system of jurisprudence and patterned closely after the best procedures available in the United States and other countries with advanced child support enforcement procedures. The goal was a Convention process that was comprehensive, consistent, simple, expedited, essentially cost-free and fair. The final text of the Hague Convention creates just such a system.

Impact of the Convention

Ratification of the Convention will serve the interests of U.S. families by providing for international enforcement of support orders issued in the United States. More American children will receive the financial support they need from both of their parents, even when one parent lives in another country. The Convention will not affect intrastate or interstate child support cases in the United States. It will only apply to cases where the custodial parent and child live in one country and the non-custodial parent lives in another.

The Convention could help a Florida mother who wrote to my office:

Hello!! My son is 14 years old and my daughter is 9 years old, their father lives in Peru and I never collect child support. Is there anyway that you guys can help me with some information about this issue? Thank you.

A mother from New Mexico shared:

I have been trying for almost 4 years to figure out how I can get a Child Support Order enforced in Montreal, Quebec Canada. I understand it is not a reciprocating province and the state, in which I live, New Mexico, does not have an agreement on a state level either. Isn't there some way to get the order enforced? Or some sort of consequence for non payment? He owes me over \$20,000 so far.

It could provide answers to a child support worker trying to help a family:

I have a Georgia Divorce order dated 2004. It was never made payable through a Child Support Office. The non-custodial parent moved to the Philippines. Not working as far as we know. Not supporting the 8 year old child on the order. The Philippines is not one of the UIFSA [Uniform Act] countries. The custodial parent wants to apply for services but is wondering what type of support enforcement could be done?

Long-standing arrangements permit the Child Support Enforcement program to cooperate with a few countries to collect child support payments. Current law authorizes the Secretary of State, with the concurrence of the Secretary of HHS, to enter into a bilateral agreement or declare any country a "foreign reciprocating country," if it enforces family support obligations in a manner substantially similar to the process in the United States. Currently there are 25 such arrangements in place, including those with 11 Canadian Provinces. Despite these arrangements, enforcement procedures vary from country-to-country and many barriers remain – such as lack of standard forms, wide variations in the ability of other countries to establish paternity or support orders, limited enforcement remedies, translation issues, and problems with currency exchange. In

addition, many countries do not enforce our orders and are unlikely to cooperate in the absence of a treaty obligation.

While the United States will maintain its bi-lateral arrangements with these countries, the new Convention will operate in many of our on-going cases to greatly streamline operations and serve to provide new means of communication and administrative cooperation between countries. The Convention provides for cooperation between the child support authorities of Contracting States, that is, those countries that are party to the Convention. The Convention requires cooperation in establishing paternity and support orders, establishes procedures for the recognition of child support orders, and requires effective measures for prompt enforcement. (Details of the Convention, including specific and necessary U.S. reservations and declarations, were included in the President's September 2008 transmittal package to the Senate.)

We do not anticipate an increase in costs as a result of the Convention because the United States already provides extensive services in international cases and will handle such actions using the expansive automated processing systems which are in place to handle the huge volume of domestic cases. However, we anticipate a significant improvement in the level of assistance by other countries when the Convention is fully implemented, resulting in more child support paid to custodial parents and their children living in the United States when the non-custodial parents lives in another country. The Secretary of Health and Human Services has the responsibility, as the United States Central Authority, to facilitate support enforcement in these cases and we are fully prepared and committed to continue providing oversight, assistance and coordination of such activities under the new Convention.

International support enforcement under the Convention will operate in a manner very similar to existing interstate processes. The Convention establishes procedures for administrative cooperation which will greatly improve the efficiency of processing incoming international cases, and we anticipate it also will open many new avenues for American citizens seeking enforcement of their child support orders abroad in countries which do not currently have well-established systems.

U.S. Treaty Obligations under the Convention

Compliance with our obligations under the Convention will require minimal changes to existing Federal and state law. This is because the Convention is largely modeled after our laws and child support enforcement system. Most cases under the Convention will be handled in the United States in accordance with the Uniform Interstate Family Support Act (UIFSA), which establishes procedures for processing interstate and international child support cases and is in force in all states. In July 2008, the National Conference of Commissioners on Uniform State Laws (NCCUSL), working collaboratively with federal and state child support experts from around the country, adopted changes to UIFSA needed to ensure compliance with the Convention.

Proposed implementing legislation, recently transmitted by the Secretary of HHS to the Congress, would make minimal changes to existing law to ensure all current child support enforcement services are available to cases covered by the Convention. The legislation would mandate that all states enact the 2008 version of UIFSA, and would make other technical changes to title IV-D of the Social Security Act, for example, to

include specific reference to treaty cases. States will be required to enact those changes expeditiously as a condition of continued Federal funding under title IV-D of the Social Security Act.

The Convention will not have a major impact on states, as all states operate federally-regulated child support programs and routinely provide child support services in international cases. In order to ensure that the United States is fully able to comply with its obligations under the Convention, the U.S. will not deposit the instrument of ratification for the Convention until all the necessary changes in federal law have been enacted and the UIFSA amendments have been adopted by all states.

Conclusion

On behalf of the Administration, I urge the Committee to take prompt and favorable action on the Convention. The Convention recognizes that children need the support of two parents, even when one of the parents lives in another country.

I appreciate the opportunity to appear before the Committee in support of this historic and important step forward for children and families and would be happy to answer any questions you may have.