Modification of Child Support Orders Under the Uniform Interstate Family Support Act (UIFSA)

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Introduction

Time may have a serious impact on the adequacy of a child support order. The costs of raising a child, the needs of a child, and the financial circumstances of the parents may all change dramatically over time. A child support order that was once appropriate for an infant may not be appropriate for a teenage child. Consequently, it may be appropriate in some cases to modify a child support order to reflect changing circumstances.

Family law cases are one of the most common types of cases handled by Army legal assistance offices.[1] Due to the mobile nature of military service, the parties in such cases often reside in different states. Therefore, the legal assistance attorney (LAA) must know the applicable state law and be able to advise clients regarding the modification of child support orders in interstate cases. The Uniform Interstate Family Support Act (UIFSA) governs the interstate modification of child support orders.[2] Every state has adopted the UIFSA. Therefore, every child support modification case involving parties who live in different states is governed by the UIFSA.

The purpose of this article is to provide an overview of the interstate child support modification procedures under the UIFSA. This article outlines the rules for determining which state has subject matter jurisdiction to modify an order, the procedures for registering a support order for modification, and the rules for determining which state's laws apply to the interstate modification action. This article is designed for use by the LAA as a reference and a guide for modifying support orders in interstate cases. It includes illustrative cases and examples to aid the LAA in understanding the application of the UIFSA's legal principles.

Background

In 1996, Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), which required states to enact the UIFSA, with its 1996 amendments, by 1 January 1998 as a condition of receiving federal funds.[3] All states responded by enacting the UIFSA by the deadline. A complete listing of every state's UIFSA statutes is located at the appendix to this article.

Prior to the adoption of the UIFSA, the Uniform Reciprocal Enforcement of Support Act (URESA)[4] and the Revised Uniform Reciprocal Enforcement of Support Act (RURESA)[5] governed interstate child support actions.[6] The URESA and the RURESA were created in response to the need for a simple and consistent interstate child support enforcement process. Prior to the URESA in 1950, there was no uniform system for resolving interstate child support matters. Interstate child support issues were governed by state law, which resulted in a complex and difficult system due to the differences in state laws.[7]

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[1] Family Law has consistently been the second largest category of cases handled by Army legal assistance offices. E-mail from Mr. John T. Meixell, Legal Assistance Policy Division, Office of the Judge Advocate General, to author (Mar. 16, 2004) (on file with author). In Fiscal Year 2003, Army legal assistance offices saw 49,638 family law cases, making up 24.7% of all Legal Assistance cases. E-mail from Mr. John T. Meixell, Legal Assistance Policy Division, Office of the Judge Advocate General, to author (Mar. 13, 2004) (on file with author).

[2] UNIF. INTERSTATE FAMILY SUPPORT ACT (amended 2001), 9 U.L.A. 255 (Supp. 2001).

[3] Pub. L. No. 104-193, 110 Stat. 2166 (1996) (codified as amended at 42 U.S.C. § 666(f) (2000)).

[4] UNIF. RECIPROCAL ENFORCEMENT OF SUPPORT ACT (URESA) (amended 1968), 9 U.L.A. 553 (1987). The 1968 amendments were so extensive that URESA became known as the Revised Uniform Reciprocal Enforcement of Support Act.

[5] REVISED UNIF. RECIPROCAL ENFORCEMENT OF SUPPORT ACT (RURESA) (1968), 9 U.L.A. 381 (1987).

[6] All states enacted some form of URESA or RURESA. The UIFSA superceded URESA and RURESA when it was enacted by all states.

[7] *See* OFFICE OF CHILD SUPPORT ENFORCEMENT, INTERSTATE FAMILY SUPPORT: A BENCHBOOK, *available at* http://ocse.acf.hhs.gov/necsrspub/docs/federal/bbook.htm (last visited Dec. 14, 2004) [hereinafter INTERSTATE FAMILY SUPPORT BENCHBOOK].

Unfortunately, there were numerous problems with the URESA and the RURESA. The main problem was that both Acts authorized the entry of *de novo* child support orders in cases in which support orders already existed.[8] The URESA and the RURESA support orders existed independently from other support orders, allowing conflicting support orders governing the same parties and child to exist at the same time in several states. Consequently, there was often disagreement among the parties about the correct amount of child support owed. Furthermore, the URESA and the RURESA were never truly uniform, because many states modified or omitted certain provisions.[9]

In order to achieve a more efficient interstate child support process, the National Conference of Commissioners on Uniform State Laws (NCCUSL) created the UIFSA in 1992.[10] The UIFSA establishes a priority scheme for the exercise of jurisdiction in order to deal with the inherited multiple order system created by the URESA and the RURESA and to achieve one controlling order for the prospective enforcement of support. The National Conference of Commissioners on Uniform State Laws amended the UIFSA in 1996 and again in 2001 to clarify and improve certain provisions of the Act.[11] While every state enacted the UIFSA with its 1996 amendments as required by the PRWORA, only a few states have enacted the 2001 amendments to the UIFSA.[12] That is partly because Congress has not required states to enact the 2001 UIFSA amendments.

Subject Matter Jurisdiction to Modify a Support Order

The first step when dealing with a child support modification issue is to determine where the parties are residing and which court issued the support order. If the parties reside in different states or reside in a state other than that which issued the support order, the next step is to determine which state has subject matter jurisdiction to modify the order.[13] Although states specify the grounds for when it is appropriate to modify a support order, the UIFSA specifies who has authority to modify a support order and where the modification should take place.[14] In fact, the UIFSA has very strict modification jurisdiction rules, and any order issued contrary to such rules will most likely be considered void for lack of subject matter jurisdiction.[15]

Under the UIFSA, only a tribunal with *continuing, exclusive jurisdiction* (CEJ) has authority to modify a child support order.[16] A tribunal has CEJ if it issued the support order and the child, the obligee, or the obligor reside in that state.[17] The concept of CEJ is the cornerstone of the UIFSA's one-order system. As long as a state has CEJ, no other state can modify the

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[8] *See* RURESA § 24. *See also* OFFICE OF CHILD SUPPORT ENFORCEMENT, ESSENTIALS FOR ATTORNEYS IN CHILD SUPPORT ENFORCEMENT HANDBOOK (3d ed. 2002), *available at* http://www.acf.hhs.gov/programs/cse/pubs/2002/reports/essentials/ (last visited Dec. 14, 2004) [hereinafter ENFORCEMENT HANDBOOK].

[9] States were free to modify the URESA and the RURESA because Congress did not require states to enact URESA or RURESA as a precondition of receiving federal funds as they later did with the UIFSA.

[10] For a history of the events leading up to the replacement of URESA and RURESA by UIFSA, see UNIF. INTERSTATE FAMILY SUPPORT ACT, 1996 Amendments, Prefatory Note, 9 U.L.A. 235.

[11] *See id.* (providing a history of the events leading up to the 1996 and 2001 amendments to UIFSA).

[12] Currently, only California, Colorado, Illinois, Maine, Nebraska, Texas, Mississippi, Oklahoma, Utah, Washington, and West Virginia have enacted the 2001 amendments to the UIFSA. The 2001 UIFSA amendments are currently pending enactment in Arizona and Kansas. The National Conference of Commissioners on Uniform Laws, *A Few Facts About the Uniform Interstate Family Support Act*, *at* http://www/nccusl.org/nccusl/uniformact_factsheets/uniformacts-fs-uifsa.asp (last visited Dec. 14, 2004).

[13] It is also important to determine whether the desired action is considered a support modification action subject to the UIFSA's strict modification rules. Some actions are considered support establishment actions, which are subject to less stringent rules. For example, an action seeking a support order when a divorce decree is silent on the issue of support is not considered a support modification action. An action seeking an increase in support when the current order lists the support amount at $0, however, is considered a support modification action. An action seeking the addition of a provision for health insurance coverage or reimbursement of medical expenses when the current order does not address health care is also considered a support modification action. *See* ENFORCEMENT HANDBOOK, *supra* note 8, at 356-57.

[14] UNIF. INTERSTATE FAMILY SUPPORT ACT § 205.

[15] *See* State *ex rel.* Harnes v. Lawrence, 538 S.E.2d 223, 228 (N.C. Ct. App. 2000) (providing that the North Carolina state court erred in modifying a New Jersey support order where New Jersey retained continuing exclusive jurisdiction over the support order, resulting in vacation of the North Carolina support order).

[16] UNIF. INTERSTATE FAMILY SUPPORT ACT § 205**.** The UIFSA defines "tribunal" as a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage. *Id.* § 102. Unlike URESA and RURESA, which used a court-to-court process, the UIFSA has a much broader scope and recognizes the role of child support agencies and administrative procedures in child support matters. *See* ENFORCEMENT HANDBOOK, *supra* note 8, at 335. Under the UIFSA, the state designates the tribunal in their state. *Id*. Many states limit the definition of tribunal to the court while other states define tribunal to include both the court and the administrative child support agency. *Id.*

[17] UNIF. INTERSTATE FAMILY SUPPORT ACT § 205(a).

order.[18] The only exception is if the parties file written consent in the CEJ tribunal to have another state assume CEJ.[19] Filing of consent will divest the issuing tribunal of CEJ.

The following case illustrates support order modification utilizing CEJ under the UIFSA. In *McCarthy v. McCarthy*, an Alabama appeals court reversed a lower court decision modifying a Georgia support order, holding that the Alabama court lacked subject matter jurisdiction to modify the Georgia support order under the UIFSA.[20] The mother and children resided in Alabama and the father resided in Georgia. The Alabama appeals court noted that neither party had filed a written consent with the Georgia court for the Alabama court to assume CEJ. The Alabama appeals court therefore concluded that the Georgia court maintained CEJ to modify the support order, because the father resided in Georgia, and that the Alabama court was required to recognize their jurisdiction.[21]

The courts reached the same result in the following three cases. In the first case, *In re Henderson*, a Texas court dismissed the mother's petition to modify an Oklahoma support order, because the father remained in Oklahoma and had not consented to modification in a Texas court.[22] In the second case, *Office of Child Support Enforcement v. Cook*, an Arkansas court held that it lacked subject matter jurisdiction to modify a Florida support order under the UIFSA, because the mother and her children resided in Florida, and the mother had not consented to modification in Arkansas.[23] Finally, in *Lawlor v. Rasmussen*, a Florida court dismissed a mother's petition to modify a Pennsylvania child support order for lack of subject matter jurisdiction under the UIFSA even though the mother and child had relocated to Florida.[24] The Florida court found that the issuing court in Pennsylvania retained CEJ, because the father remained in Pennsylvania.[25]

It is interesting to note that once a tribunal has CEJ, it may not decline jurisdiction to modify a support order based on forum *non conveniens*.[26] For example, in the case of *Rosen v. Lantis*, a New Mexico court with CEJ held that it lacked authority to transfer modification jurisdiction over a support case to Tennessee, even though the mother and child resided in Tennessee, because the father remained in New Mexico and had not consented to modification in Tennessee.[27]

On the other hand, a tribunal loses CEJ when all the relevant parties no longer reside in the issuing state.[28] If there is no state with CEJ and only one support order, the person seeking modification must register the support order in a state, other than his or her own state, with personal jurisdiction over the other party.[29] It is important to remember that the party petitioning for modification in such a case must be a nonresident of the responding tribunal state.[30] The petitioner must also submit to the personal jurisdiction of the responding tribunal state. Because the responding tribunal state is almost always the state where the respondent resides, this requirement all but eliminates any problems with personal jurisdiction.[31] For example, in *Parry v. Bellinson*, a Connecticut court held that it could modify a New Jersey child support order since none of

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[18] *Id.* § 205(d).

[19] *Id.* § 205(a)(2).

[20] 785 So. 2d 1138, 1140 (Ala. Civ. App. 2000).

[21] *Id.* at 1140.

[22] 982 S.W.2d 566, 567 (Tex. Ct. App. 1998).

[23] 959 S.W.2d 763,765 (Ark. Ct. App. 1998).

[24] 745 So. 2d 561, 565 (Fla. Ct. App. 1999).

[25] *Id.* at 563.

[26] *See, e.g.*, Rosen v. Lantis, 938 P.2d 729 (N.M. Ct. App. 1997); Early v. Early, 499 S.E.2d 329 (Ga. 1998).

[27] *Rosen*, 938 P.2d at 735.

[28] UNIF. INTERSTATE FAMILY SUPPORT ACT § 205. Under the 2001 amendments to the UIFSA § 205, the parties may agree in writing for the issuing tribunal to continue to exercise CEJ over its support order even if the parties and the child move away from the issuing state. *Id.* The drafters contemplated such an arrangement when the parties have moved a short distance, continue to have a close affiliation with the issuing tribunal, perhaps through employment, or wish to return to a tribunal familiar with the facts and issues of the case. *Id*.

[29] *Id.* § 611.

[30] *Id.* This requirement is often described by saying that the modification movant, whether obligor or obligee, must "play an away game on the other party's home field." *Id*.

[31] It is important to remember that a tribunal must have personal jurisdiction as well as subject matter jurisdiction in order to modify a support order.

the parties remained in New Jersey, the petitioner father was a resident of New York, and the mother and child were residents of Connecticut.[32]

There are only two exceptions to the nonresident petitioner rule. The first exception is when the parties have filed written consent for another state to exercise CEJ.[33] The second exception is when the parties and the child have all moved from the issuing state and all reside in the same state.[34] In that case, the state where the parties and the child currently reside has CEJ to modify the support order.[35]

It is possible to have more than one state with CEJ if multiple support orders were created under the URESA or the RURESA prior to enactment of the UIFSA. If there is more than one state with CEJ, the next step is to determine the controlling support order.[36] If one of the states with CEJ is the child's *home state*, the controlling support order will be the one issued by the child's home state.[37] If there is more than one state with CEJ and none of the states is the child's home state, the controlling support order will be the most recent order. In both cases, the state that issued the controlling order will be the only state with CEJ to modify the order.[38] If there are multiple support orders and no CEJ state, however, there is no controlling support order. In that case, instead of filing a modification action the petitioner must file a petition to establish support in a state with jurisdiction over the respondent.[39]

In determining whether a tribunal has CEJ, the UIFSA looks at where the parties are residing at the time the modification request is filed.[40] Residence is a question of fact for the trial court to decide, keeping in mind that the issue is residence and not domicile. A tribunal will not lose CEJ just because the parties are absent between the date the support order was issued and the date the modification request was filed. A tribunal retains CEJ as long as either party or the child returns to reside in the issuing state at the time of filing and as long as the order was not modified during the absence.[41] It is therefore crucial that LAAs ascertain where the parties and the child will be residing on the date the modification request is filed.

Legal Assistance Attorneys must also understand that a temporary absence from the CEJ state for employment purposes will not affect residency in the CEJ state. In the case of *State* ex rel. *Havlin v. Jamison*, a Missouri court held that they lacked subject matter jurisdiction to modify a Tennessee support order where the father was absent from Tennessee and employed overseas and the mother and children resided in Missouri.[42] The court listed many factors in determining that the father remained a resident of Tennessee despite his overseas employment, including the following: he had personal effects in storage in Tennessee; he had bank accounts in Tennessee; he had a Tennessee driver's license; he was registered to vote in Tennessee; he paid Tennessee income tax; he intended to return to Tennessee after completing his overseas job; and his employment outside of Tennessee was of a temporary nature.[43]

Registering a Support Order for Modification

Once a party determines which state has subject matter jurisdiction to modify a support order, the party must register the order for modification in that state. The petitioner should use the Registration Statement form published by the Office of

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[32] 1998 Conn. Super. LEXIS 2830 (Conn. Super. Ct. Oct. 3, 1998).

[33] UNIF. INTERSTATE FAMILY SUPPORT ACT § 611.

[34] *Id.* § 613.

[35] *Id.*

[36] *Id.* § 207.

[37] UNIF. INTERSTATE FAMILY SUPPORT ACT § 102. The UIFSA incorporates the concept of a child's "home state" using the definition found in the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) and the Parental Kidnapping Prevention Act (PKPA). *Id*. The UIFSA defines "home state" as the state 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 a petition for modification. *Id*. If a child is less than 6 months old, the home state is the state in which the child lived from birth. *Id*. A period of temporary absence is counted as part of the six month or other period. *Id*.

[38] *Id.* § 207.

[39] *Id.*

[40] *Id.* § 205(a)(1).

[41] A 2001 amendment to UIFSA § 205(a)(1) substituted the term "is the residence" for the term "remains the residence" in order to clarify the original intent of the drafting committee that any interruption of residence between the date the order is issued and the date the modification request is filed does not affect jurisdiction to modify. *Id.* § 205.

[42] 971 S.W.2d 938 (Mo. App. 1998).

[43] *Id.* at 939.

Management and Budget (OMB) when registering the order.[44] The UIFSA requires the nonresident petitioner to provide specific information and documentation to the responding state tribunal in order to register the order for modification.

First, the petitioner must file a complaint, petition, or comparable pleading alleging the grounds for modification.[45] The petitioner should use the OMB Uniform Support Petition form.[46] Although Section II of the Uniform Support Petition form includes a category which states, "[a] modification is appropriate due to a change in circumstances," the petitioner should still include evidence supporting the specific basis for the changed circumstances—education bills, medical bills, or wage and earning statements.

Second, the petitioner must submit two copies (one certified) of the support order to be registered.[47] If there are multiple support orders and the controlling order has not been determined, the petitioner must forward each support order so the tribunal may determine the controlling support order.[48] If there are multiple support orders and the controlling order has already been determined, only the controlling order should be registered for modification. The petitioner should use OMB Child Support Enforcement Transmittal #1—Initial Request form.[49] The form includes a section to request registration of the support order for modification and a section to indicate whether the order is the controlling order or the presumed controlling order.[50]

Third, the petitioner must submit a statement indicating the amount of arrears, if any.[51] The Federal Registration Statement form may be used to provide the necessary information regarding arrears. Failure to provide this information may result in dismissal of the modification action. For example, in *Allen v. Allen*, the court found that the petitioner's failure to allege a specific amount of arrears was a procedural defect requiring the registration to be vacated.[52] Furthermore, in In re *Chapman*, the court stated that the documentary requirements under the UIFSA's registration provisions were mandatory and petitioner's failure to submit a statement regarding arrears was a deficiency that precluded registration of the order.[53]

Once the registering tribunal receives the petition for modification and the required documentation, it must register the order and provide specific notice to the nonregistering party. Most significantly, the registering tribunal is required to inform the nonregistering party of the following three things: that they may request a hearing to contest the validity or enforcement of the registered order within a specified number of days after notice (the UIFSA suggests twenty days but states have discretion in setting the number of days); that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and of the amount of any alleged arrearages; and that the registered order is enforceable as of the date of registration in the same manner as an order issued by the registering tribunal.[54]

If the nonregistering party requests a hearing to contest the registered support order within the specified timeframe, the registering tribunal must schedule a hearing and give notice of the hearing to all parties.[55] The nonregistering party has the burden of establishing one of several limited defenses to registration at the hearing. The specified defenses to registration include the following: that the issuing tribunal lacked personal jurisdiction over the contesting party; that the order was obtained by fraud; that the order has been vacated, suspended, or modified by a later order; that the issuing tribunal has

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[44] U.S. Office of Management and Budget, OMB Form 0970-0085, Registration Statement, *available at* http://www.acf.hhs.gov/programs/cse/forms (last visited Dec. 14, 2004).

[45] UNIF. INTERSTATE FAMILY SUPPORT ACT § 609.

[46] U.S. Office of Management and Budget, OMB Form 0970-0085, Uniform Support Petition, *available at* http://www.acf.hhs.gov/programs/cse/forms (last visited Dec. 14, 2004).

[47] UNIF. INTERSTATE FAMILY SUPPORT ACT §§ 602, 609.

[48] *Id.* § 602.

[49] U.S. Office Management and Budget, OMB Form 0970-0085, Child Support Enforcement Transmittal #1—Initial Request, *available at* http://www.acf.hhs.gov/programs/cse/forms (last visited Mar. 22, 2004).

[50] *See id*.

[51] UNIF. INTERSTATE FAMILY SUPPORT ACT § 602.

[52] No. A-95-1047, 1996 Neb. App. LEXIS 205 (Neb. Ct. App. Sept. 17, 1996).

[53] 973 S.W.2d 346, 348 (Tex. Ct. App. 1998).

[54] UNIF. INTERSTATE FAMILY SUPPORT ACT § 605.

[55] *Id.* § 606(c).

stayed the order pending appeal; that the alleged controlling order is not in fact the controlling order; or that there is a defense in the registering state to the remedy sought.[56]

For example, in *South Carolina Department of Social Services v. Bess*, the obligor challenged registration of a Florida child support judgment against him in South Carolina, claiming that the issuing tribunal in Florida lacked personal jurisdiction over him because it had failed to properly serve him.[57] The South Carolina appeals court found that the trial court erred in holding that it did not have authority to review the validity of the Florida order.[58]

The nonregistering party is specifically prohibited from raising reduced income and nonpaternity as defenses to registration.[59] For example, in *Villanueva v. Office of the Attorney General of Texas*, the obligor contested registration of an Indiana child support order against him in Texas, asserting that paternity was at issue.[60] The court first noted that nonparentage was not one of the limited defenses to registration listed in the UIFSA.[61] The court then held that the language in the Indiana divorce decree constituted a determination of paternity that must be given full faith and credit by the Texas courts.[62]

If registration is not contested or the nonregistering party does not establish a valid defense to registration, the registering tribunal must issue an order confirming the registered support order.[63] Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the support order with respect to any matter that could have been asserted at the time of registration.[64]

Lastly, LAAs should be aware that a petitioner may obtain assistance from their state support enforcement agency in registering an order for modification in another state.[65] The support enforcement agency must provide the following services to the petitioner: take all steps necessary to enable an appropriate tribunal in the state or another state to obtain jurisdiction over the respondent; request an appropriate tribunal to set a date, time, and place for a hearing; make a reasonable effort to obtain all relevant information, including information as to income and property of the parties; send a copy to the petitioner of any written notice received from the initiating, responding, or registering tribunal; send a copy to the petitioner of any written communication received from the respondent or the respondent's attorney; and notify the petitioner if jurisdiction over the respondent cannot be obtained.[66] The UIFSA also explicitly authorizes petitioners to employ private counsel to represent them in the UIFSA proceedings.[67]

Choice of Law Under the UIFSA

Once a petitioner registers a support order for modification and the registering tribunal has properly assumed jurisdiction over the parties, the registering tribunal will apply its own law regarding modification.[68] The registering tribunal will apply its threshold for determining whether modification is appropriate and will also apply its support guidelines. For example, if a state conditions modification on a substantial change of circumstances or a numerical standard, such as a twenty-five percent change in the order amount, that standard applies to the registered order.[69]

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[56] *Id.* § 607.

[57] 489 S.E.2d 671 (S.C. Ct. App. 1997).

[58] *Id*. at 675.

[59] UNIF. INTERSTATE FAMILY SUPPORT ACT § 315.

[60] 935 S.W.2d 953 (Tex. Ct. App. 1996).

[61] *Id*. at 956.

[62] *Id*.

[63] UNIF. INTERSTATE FAMILY SUPPORT ACT §§ 606(b), 607(c). The comment to § 607 in the 2001 amendments states that, "it seems likely that res judicata requires that both the registering and nonregistering party who fail to register the 'true' controlling order will be estopped from subsequently collaterally attacking the confirmed order on the basis that the unmentioned 'true order should have been confirmed instead.'"

[64] *Id.* § 608.

[65] *Id.* § 307.

[66] *Id.*

[67] *Id.* § 309.

[68] *Id.* § 611(b).

Under the UIFSA, however, the registering tribunal cannot modify any aspect of the support order that would be nonmodifiable in the state that issued the order.[70] The UIFSA makes it clear that the law of the state that issued the order governs the nonmodifiable terms of the order.[71] The most common example of a nonmodifiable term is the duration of the support obligation. For example, the issuing state may have ordered child support through age twenty-one in accordance with its laws. The law of the registering state, however, may specify that the obligation of support terminates at age eighteen. In such a case, the law of the issuing state governs the duration of support and the registering state may not affect the duration of the support through age twenty-one.

The case law has been absolutely consistent in applying this UIFSA choice of law principle. For example, in *Robdau v. Department of Social Services*, a Virginia court denied the father's request to terminate his support obligation in accordance with Virginia law after the child reached the age of eighteen, because New York law required him to provide support until the child was twenty-one.[72] In that case, the father resided in Virginia, and the mother and child continued to reside in New York. The Virginia court clearly articulated the rationale behind the UIFSA choice of law principle when it stated that accepting the father's contention would encourage obligors to move to a state with a lower age requirement for child support to avoid the issuing state's child support order.[73] The court further stated that through such "forum shopping," the parent would be able to control the duration of child support, which would undermine the very purpose of UIFSA.[74]

In *Cooney v. Cooney*, an Oregon court held that it was entitled to reduce the amount of the father's support obligation but lacked the authority to extend the duration of support established by the original Nevada divorce order.[75] The father resided in Tennessee, and the mother and children resided in Oregon. The Oregon court approved the father's request to reduce the amount of his support obligation in accordance with Oregon's child support guidelines based on a reduction in his income.[76] The Oregon court, however, denied the mother's request to extend the duration of the father's support obligation from age eighteen to age twenty-one pursuant to Oregon law.[77]

Further, in *Vancott-Young v. Cummings*, an Ohio court with jurisdiction to modify a New York child support order held that it lacked authority to reduce the duration of the child support obligation established by the New York support order.[78] The Ohio court denied the father's request to reduce the duration of his support obligation from age twenty-one to age eighteen pursuant to Ohio law, despite that the mother and children resided in Ohio.[79]

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[69] Just as states have different guidelines for calculating the amount of child support, they also have various standards for modifying the amount of child support. Most states permit modification when there is a threshold percentage difference (usually ten percent or fifteen percent) between the current support amount and the presumptive child support guideline amount. *See* ENFORCEMENT HANDBOOK, *supra* note 8, at 317. For example, Maryland allows modification if the guidelines calculation results in a support amount that is at least twenty-five percent higher or lower than the current order. *Id.* Most states also continue to use some variation of the change in circumstances standard for modification. *Id.* at 314-317. Some states allow for modification pursuant to its support guidelines if a requisite time has passed, without the need for a threshold change or a change in circumstances. *Id.* at 318. The support guidelines for each state can be found at http://www.supportguidelines.com.

[70] UNIF. INTERSTATE FAMILY SUPPORT ACT 611(c).

[71] *Id.* § 611. The 2001 UIFSA amendments to § 611 make it clear that the duration of the child support obligation should be fixed by the controlling order. Amended § 611(d) provides that "the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support." *Id.* The 2001 UIFSA amendments to § 611 also state that a registering tribunal cannot establish a new support order under its laws after a child has reached the age specified under the duration of support law of the issuing state. *Id.* Amended § 611(d) further provides that "[t]he obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of this state." *Id.* Some courts have previously held that completion of the obligation to support a child through age eighteen established by the now-completed controlling order did not preclude the imposition of a new obligation thereafter to support the child through age twenty-one or even to age twenty-three if the child was enrolled in higher education. *Id.* The 2001 UIFSA amendments were designed to eliminate such attempts at creating multiple, albeit successive, support obligations. *Id.*

[72] Robdau v. Dep't of Soc. Servs., 543 S.E.2d 602 (Va. App. Ct. 2001).

[73] *Id*. at 605.

[74] *Id*.

[75] 946 P.2d 305, 307 (Ore. App. Ct. 1997).

[76] *Id*.

[77] *Id*.

[78] No. CA98-09-122, 1999 Ohio App. LEXIS 2342 (Ohio Ct. App. May 24, 1999).

[79] *Id*.

Lastly, it is important for the LAA to understand that the Federal Full Faith and Credit for Child Support Orders Act (FFCCSOA) does not permit modification of any support period prior to the date of filing the modification request.[80] That is because the FFCCSOA provides that every child support installment becomes a judgment by operation of law as it comes due and is not subject to retroactive modification.[81] Therefore, an obligor requesting modification must file the modification request as soon as possible to avoid paying any arrears that accumulated prior to filing.

Assumption of CEJ After Modification

After the registering tribunal has modified a support order under the UIFSA, it assumes CEJ over the support order.[82] The new support order consists of the newly modified terms, the nonmodifiable terms of the original order, and any arrearage amounts that accrued before modification. Every state is required to recognize the assumption of CEJ by the registering tribunal, and every state is required to enforce all aspects of the new support order.[83] The UIFSA requires the petitioner for modification to file a certified copy of the new order with the issuing tribunal that had CEJ over the earlier order and with every tribunal in which the petitioner knows the earlier order has been registered.[84] The petitioner is required to file the new order within thirty days of modification.[85]

Special Evidentiary Provisions Under the UIFSA

The ultimate goal of the UIFSA is the efficient processing of interstate child support cases. To achieve that goal, the UIFSA contains many special rules of evidence and procedure. For example, the physical presence of the petitioner in the responding tribunal is not required.[86] In addition, a party or witness may give testimony by telephone, audiovisual, or other electronic means at a location designated by the tribunal.[87] Furthermore, documents transmitted from one state to another by fax or other means that do not provide an original may not be excluded from evidence based on the means of transmission.[88] Verified and sworn pleadings, affidavits, documents complying with federally mandated forms, and documents incorporated by reference therein are admissible in evidence in another state by a witness or party, so long as they would not otherwise be excluded under the hearsay rule if given in person.[89] Lastly, the UIFSA authorizes state tribunals to communicate with each other in writing, by phone, or other means, in order to obtain information about another state's laws, the legal effect of a judgment, decree, or order, and the status of a proceeding in the state.[90] The UIFSA also authorizes state tribunals to call on each other for assistance in obtaining discovery or in compelling a person to respond to a discovery order.[91]

Conclusion

The life of a child support order may be very long, seeing a child from infancy through adulthood. During that time, the circumstances of the parties and the needs of the child may dramatically change. Modification of child support orders helps address these changes and can ensure the child support order remains appropriate for the parties and the children throughout the order's duration.

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[80] Pub. L. No. 103-383, 108 Stat. 4063 (codified as amended at 28 U.S.C. § 1738B (2000)).

[81] 42 U.S.C. § 666 (2000).

[82] UNIF. INTERSTATE FAMILY SUPPORT ACT § 611(d) (amended 2001), 9 U.L.A. 235 (Supp. 2001).

[83] *Id.* §§ 610, 612.

[84] *Id.* § 614.

[85] *Id.* Failure to file a certified copy of the new order with the other tribunals does not affect the validity or enforceability of the modified order, but it could result in sanctions against the party. *Id.*

[86] *Id.* § 316(a). This provision was designed to ensure expeditious hearings, with minimal continuances, and to assure that evidence is fully and fairly placed before the decision-maker. *Id.*

[87] *Id.* § 316(f).

[88] *Id.* § 316(e).

[89] *Id.* § 316(b).

[90] *Id.* § 317.

[91] *Id.* § 318.

Family law cases make up a substantial part of the Army Legal Assistance practice, and thus, LAAs must be able to provide competent legal advice to clients regarding the modification of child support orders. Furthermore, because the parties in such cases often reside in different states due to the highly mobile nature of military service, LAAs must understand the special rules applicable to interstate modification cases under the UIFSA. More specifically, LAAs must be able to explain the basic UIFSA modification process to clients, to include where the modification action must be filed, what law will apply to the modification action, and how to register an order for modification or respond to an order registered for modification. Legal assistance attorneys who have a working knowledge of these areas will be able to provide an invaluable service to their clients. Such legal advice can contribute greatly to military readiness and the military mission by improving soldier morale and by giving soldiers some peace of mind so they can better focus on their military duties.

Appendix

State UIFSA Statutes[92]

State	Citation
Alabama	ALA. CODE §§ 30-3A-101 to 30-3A-906 (2000).
Alaska	ALASKA STAT. §§ 25.25.010 to 25.25.903 (Michie 2000).
Arizona	1998 ARIZ. SESS. LAWS 25-621 *et seq* (2000).
Arkansas	ARK. CODE ANN. §§ 9-17-101 to 9-17-903 (Michie 1999).
California	CAL. FAM. CODE §§ 4900 to 5005 (Deering 2000).
Colorado	COLO. REV. STAT. ANN. §§ 14-5-101 to 14-5-10007 (1999).
Connecticut	CONN. GEN. STAT. ANN. §§ 46b-212 to 46b-214 (1999).
Delaware	DEL. CODE ANN. tit. 13, §§ 601-691 (1999).
District of Columbia	D.C. CODE ANN. §§ 30-341.1 *et seq.* (2000).
Florida	FLA. STAT. ANN. §§ 88.0011 to 88.9051 (1999).
Georgia	GA. CODE ANN. §§ 19-11-100 to 19-11-191 (2000).
Hawaii	HAW. REV. STAT. §§ 576B-101 to 576B-902 (2000).
Idaho	IDAHO CODE §§ 7-1001 to 7-1087 (2000).
Illinois	750 ILL. COMP. STAT. §§ 22/100 to 22/999 (West 2000).
Indiana	IND. CODE ANN. §§ 31-9-2-13 *et seq.* (Burns Ind. Code Ann. 2000).
Iowa	IOWA CODE ANN. §§ 252K.101 to 252K.904 (1999).
Kansas	KAN. STAT. ANN. §§ 23-9,101 to 23-9,903 (1999).
Kentucky	KY. REV. STAT. ANN. §§ 407.5101 to 407.5902 (1998).
Louisiana	LA. REV. STAT. ANN. §§ 1301.1 to 1308.2 (West 1999).
Maine	ME. REV. STAT. ANN. tit. 19-A, §§ 2801 to 3401(West 1999).
Maryland	MD. CODE ANN. FAM. LAW §§ 10-301 to 10-359 (1999).
Massachusetts	MASS. GEN. LAWS ANN. ch. 209D, §§ 1-101 *et seq.* (LEXIS 2000).
Michigan	MICH. STAT. ANN. §§ 25.223 (101) (LEXIS 1999).
Minnesota	MINN. STAT. ANN. §§ 518C.101 to 518C.902 (1999).
Mississippi	MISS. CODE ANN. §§ 93-25-1 to 93-25-117 (2000).
Missouri	MO. REV. STAT. tit. 30, §§ 454.850 to 454.997 (2000).
Montana	MONT. CODE ANN. §§ 40-5-101 *et seq.* (1999).
Nebraska	NEB. REV. STAT. ANN. §§ 42-701 to 42-751 (LEXIS 2000).
Nevada	NEV. REV. STAT. §§ 130.0902 to 130.802 (2000).
New Hampshire	N.H. REV. STAT. ANN. §§ 546-B: 1 to 546-B: 60 (1999).
New Jersey	N.J. REV. STAT. §§ 2A: 4-30.24 to 2A: 4-30.124 (2000).
New Mexico	N.M. STAT. ANN. §§ 40-6A-101 to 40-6A-903 (2000).
New York	N.Y. FAM. CT. ACT §§ 580-101 to 580-905 (Consol. 2000).
North Carolina	N.C. GEN. STAT. §§ 52C-1-100 to 52C-9-902 (1999).
North Dakota	N.D. CENT. CODE §§ 14-12.2-01 to 14-12.2-49 (2000).
Ohio	OHIO REV. CODE ANN. §§ 3115.01 to 3115.59 (Anderson 2000).
Oklahoma	OKLA. STAT. tit. 43, §§ 601-100 to 601-901 (1999).
Oregon	OR. REV. STAT. §§ 110.300 to 110.441 (1998).
Pennsylvania	23 PA. CONS. STAT. ANN. §§ 7101 to 7901 (West 1999).
Rhode Island	R.I. GEN. LAWS §§ 15-23.1-101 to 15-23.1-907 (2000).
South Carolina	S.C. CODE ANN. §§ 20-7-965 *et seq.* (Law Co-op 1999).
South Dakota	S.D. CODIFIED LAWS §§ 25-9B-101 to 25-9B-903 (2000).
Tennessee	TENN. CODE ANN. §§ 36-5-2001 to 36-5-2902 (1999).
Texas	TEX. FAM. CODE ANN. §§ 159.001 to 159.902 (West 2000).
Utah	UTAH CODE ANN. §§ 78-45f-100 to 78-45f-902 (2000).
Vermont	VT. STAT. ANN. tit. 15B, §§ 101 to 904 (2000).
Virginia	VA. CODE ANN. §§ 20-88.32 to 20-88.82 (2000).
Washington	WASH. REV. CODE §§ 26.21.005 to 26.21.916 (2000).
West Virginia	W. VA. CODE §§ 48B-1-101 to 48B-9-903 (2000).
Wisconsin	WIS. STAT. ANN. §§ 769.101 to 769.903 (West 1999).
Wyoming	WYO. STAT. ANN. §§ 20-4-139 to 20-4-194 (2000).
Guam	GUAM CIV. CODE § 5-35 (2000).
Puerto Rico	P.R. LAWS ANN. tit. 8, §§ 541 *et seq.* (1997).
Virgin Islands	V.I. CODE ANN. tit. 16, §§ 391 *et seq.* (2000).

[92] *See* ENFORCEMENT HANDBOOK, *supra* note 8, at exhibit 12-1, 397.