



ERICSA

2022

*Jazzin' It Up
for Children
and Families*

New Orleans

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**59TH ANNUAL
TRAINING CONFERENCE
& EXPOSITION**

UIFSA BASICS & BEYOND

Speakers:

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Intergovernmental Child Support Laws

- Uniform Reciprocal Enforcement of Support Act (URESA)
- Revised Uniform Reciprocal Enforcement of Support Act (RURESA)
- Full Faith and Credit for Child Support Orders Act (FFCCSOA) –10/20/94
- Uniform Interstate Family Support Act (UIFSA)



Laws Related to International Child Support

- 42 U.S.C. § 659a
 - Secretary of HHS, in consultation with State Department, can declare a foreign jurisdiction to be a reciprocal country (FRC)
 - States can enter into reciprocal arrangements with countries that are not the subject of a federal declaration
- 2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance

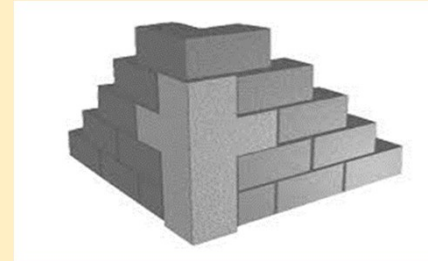


Uniform Interstate Family Support Act

- Model law developed by Uniform Law Commissioners
- Approved 1992. Later amended 3 times.
- PRWORA mandated all states enact UIFSA 1996 by 1/1/98
- Preventing Sex Trafficking and Strengthening Families Act
 - Mandated all states enact UIFSA 2008



Guiding Principles



- The cornerstone of UIFSA and FFCCSOA is one order per obligor and child.
- States must give full faith and credit to valid child support orders issued by other states.
- In the rare case when multiple valid support orders exist, there are rules for determining which support order governs.
- If there is an existing valid order, no new order can be established.
- There are rules that limit modification jurisdiction.



Other Key Principles



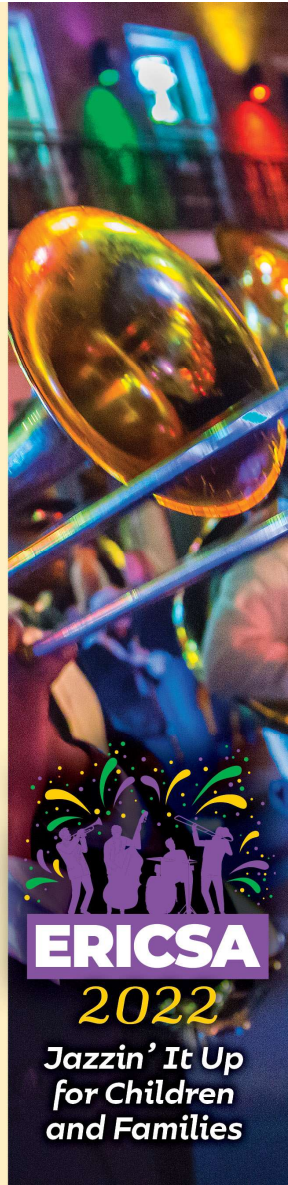
- Visitation may not be raised and is not a defense to nonpayment.
- UIFSA has enhanced rules of evidence.
- Non-parentage is not a defense, if parentage has previously been determined under law.
 - Parentage order
 - Signed acknowledgment of parentage
- There are one-state and two-state procedures.



2007 Hague Child Support Convention

- Became effective in U.S. on January 1, 2017
- Implemented in U.S. through UIFSA 2008
- Article 7 of UIFSA only applies to Convention applications
- List of signatory countries can be found on Hague website:

<https://www.hcch.net/en/instruments/conventions/publications1/?dtid=3&cid=131>



What is an Intergovernmental IV-D Case?

A IV-D case in which the noncustodial parent lives/works in a different jurisdiction than the custodial parent and child(ren)

- State
- Tribe
- Foreign country



AND

The initiating agency has referred it to a responding agency for services.*

*May include arrearage only cases.

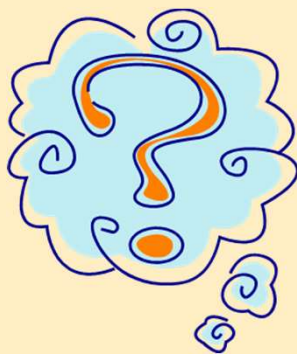


Analyzing an Intergovernmental Case

- No order? – Establish
- One order? – Enforce and/or modify
- Multiple orders – Ask tribunal to determine the valid/controlling order before taking further action



Controlling Order and CEJ



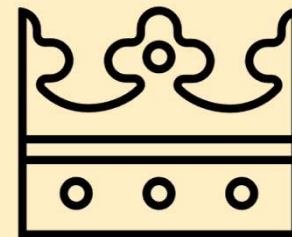
Controlling Order

- Order that governs current support
- Remains enforceable even if everyone has left the issuing state
- Can be registered for enforcement in any state
- Initial controlling order locks in nonmodifiable terms



Continuing Exclusive Jurisdiction (CEJ)

- Specifically pertains to modification
- Relevant only when a party wants to modify the controlling order
- If a state has CEJ, no other state can modify the child support order absent the consent of the parties

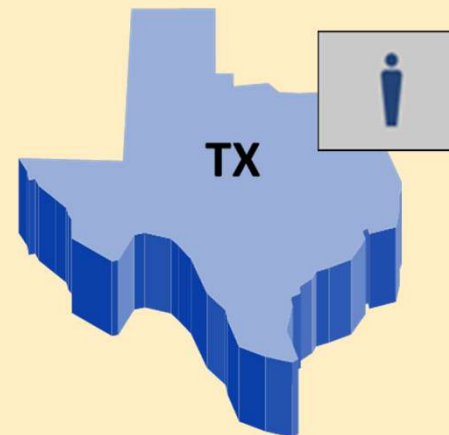
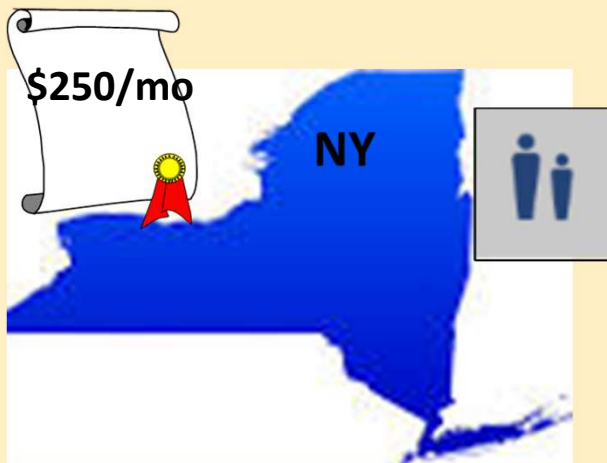


CEJ CROWN!



CEJ and Child Support

- CEJ = controlling order + NCP, individual CP, or child lives in issuing state
- Residence at time of modification request is what matters
- Section 205(a)(1)



CEJ and Child Support (cont'd)

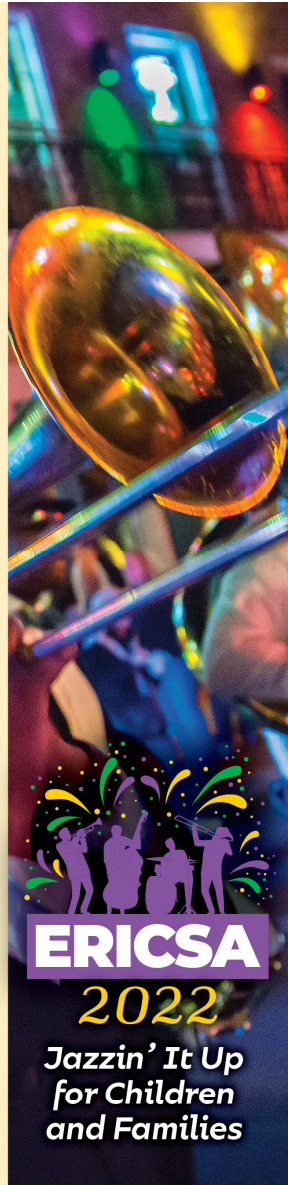
- CEJ = controlling order + consent to retain CEJ
- The issuing tribunal may modify even if no party or child lives there, if:
 - The parties consent in a record or in open court for the tribunal to continue to exercise jurisdiction to modify its order.
- Section 205(a)(2)

DC order
CP moves to MD
NCP moves to VA
Parties want DC to
retain jurisdiction



Shift of CEJ Based on Consent

- Only state with CEJ can modify the controlling order unless:
 - All parties file consent in a record with the issuing tribunal that a tribunal of another state may modify the order and assume CEJ; and
 - The other state must have jurisdiction over at least one of the parties or be the state where the child resides
 - Section 205(b)



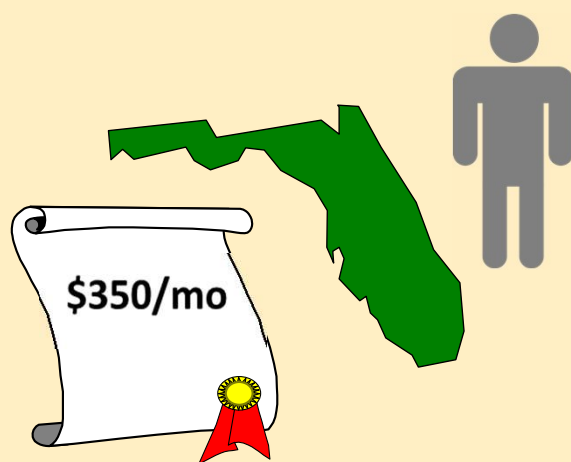
Registration for Modification – CEJ State



- If there is a CEJ state, another state can register and modify the order **only if**:
 - It is the state where the child resides or it has personal jurisdiction over one of the parties; and
 - All the parties have filed consents in a record in the issuing tribunal for the registering tribunal to modify the support order and assume CEJ
 - Section 611(a)(2)



Example of Jurisdiction under Section 611(a)(2)



Parties file consent in
FL tribunal for TX
tribunal to modify order
and assume CEJ



Issuing Tribunal Retains Modification Jurisdiction – International Case

- A U.S. tribunal retains jurisdiction to modify an order it has issued if:
 - One party resides in another U.S. state (as defined by UIFSA); and
 - The other party resides outside the U.S.
- Not exclusive modification jurisdiction
- UIFSA § 611(f)



CEJ – Important Points

- If another state gains CEJ, it cannot modify terms of the original controlling order that are non-modifiable.
- For example:
 - Duration (age of majority)



Jurisdiction

- The power and authority to hear and determine a support matter, which may include, but is not limited to:
 - Establishing parentage
 - Establishing a support order
 - Modifying a support order
 - Enforcing the payment and/or other terms of an existing support obligation



Types of Jurisdiction

- Subject-matter jurisdiction
- Personal jurisdiction
 - Long-arm jurisdiction is a way to acquire personal jurisdiction over a nonresident
- In rem jurisdiction



One State or Two State Case?

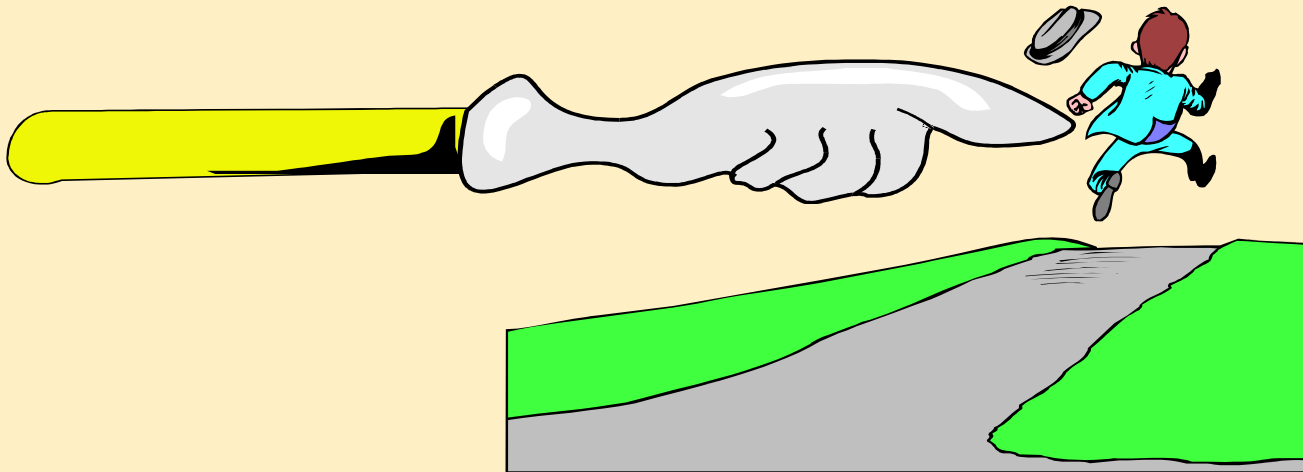
- When the parents live in two different states, tribes, or countries, you must decide whether to:
 - Work the case without involving the other jurisdiction, or
 - File an interstate/intergovernmental case
- When possible, keep the case in your state.
 - How do I do that, you ask?

1 vs 2



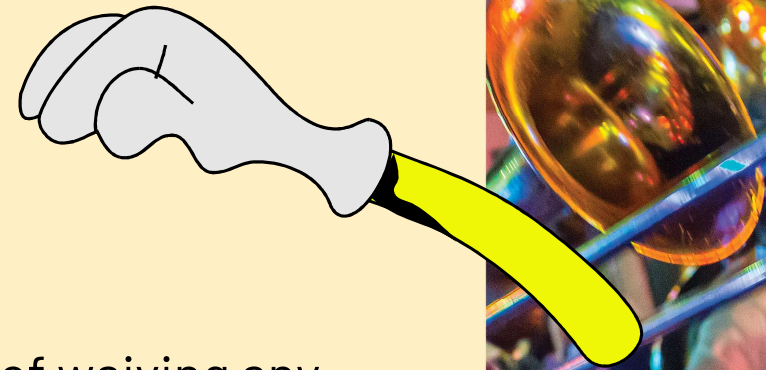
Establishment

- Is long-arm jurisdiction available and appropriate?
- Sufficient contacts to permit a tribunal to assert personal jurisdiction over someone who lives in another state



Long-Arm Statute – UIFSA Section 201

- NCP submitted to jurisdiction of the state
 - By consent
 - By entering a general appearance
 - By filing a responsive document having the effect of waiving any contest to personal jurisdiction
- NCP lived with the child in the state
- NCP lived in the state and provided prenatal expenses or support for the child



Long-Arm Statute (cont'd)

- Child is living in the state due to directives or acts of NCP
- NCP had sexual intercourse in the state, possibly resulting in conception of the child
- NCP asserted parentage of the child in the [putative father registry] maintained in the state
- There is any other basis for personal jurisdiction consistent with state and U.S. Constitutions



Enforcement

- Is direct income withholding appropriate?
- Remedy that allows the agency to send an income withholding order (IWO) directly to an employer in another state



Direct Income Withholding

- Use federal IWO form.
- Not available for foreign support orders.
- Can't change payment SDU in order.
- If another state issued the order:
 - Communicate with the other state.
 - Keep issuing state informed of any payments.
 - May be able to ask the other state to change the payment location to your SDU
 - Section 319
 - OCSE-AT-17-07



Advantages of a One-State Action

- Saves time – no need to involve another agency
- If establishment, means your state's law applies
 - Support guidelines
 - Duration of support
- You will be more familiar with the order's provisions
- Your state has CEJ to modify as long as a party or child lives in the state
- Enforcement stays within your control



Limitations of a One-State Action

- If establishment, might have trouble locating NCP or serving process
 - Will a limited services request help?
- If enforcement, obligor might be a job hopper
- Might need agency where obligor lives or has assets to use their enforcement remedies
- Direct income withholding not appropriate if there's an open IV-D case in another state



Two-State Case: Initiating

- 45 CFR 303.7(c)
- Initiating process includes:
 - Verifying party's location
 - Completing all UIFSA required paperwork
 - Forwarding the documents to the Central Registry of the responding state
 - Following up on the case



Two-State Case: Responding

- 45 CFR 303.7(b) and (d)
- Responding process includes:
 - Acknowledging the request
 - Providing necessary services as it would in an intrastate IV-D case
 - Establishing paternity and support, if requested
 - Enforcing the support order
 - Modifying the order, if requested and tribunal has modification jurisdiction
 - Providing details and updates to the initiating state



Registration

- Process by which a support order issued by one tribunal is filed in another tribunal
- Types
 - Enforcement-only
 - Modification-only
 - Modification and enforcement
- Allows the state in which the order is registered to take the action requested



Registration for Enforcement

- Allows the order to be registered in any state for the sole purpose of enforcement.
- Confirms validity of order and the amount of the arrears.
- No objection possible to the substantive provisions of the order.
- 20-day contest period available for the non-registering party.
 - Burden of proof on the respondent
 - Limited grounds for challenge



Valid Defenses

- 1) Issuing tribunal lacked personal jurisdiction over the contesting party.
- 2) Order was obtained by fraud.
- 3) Order has been vacated, suspended, or modified by a later order.
- 4) Issuing tribunal has stayed the order pending appeal.



Valid Defenses (cont'd)

- 5) There is a defense under the law of this State to the remedy sought
- 6) Full or partial payment has been made.
- 7) The statute of limitations precludes enforcement of some or all of the alleged arrearage.
(See Section 604 Choice of Law)
- 8) The alleged controlling order is not the controlling order.



Defenses that are Not Valid

- The order amount is too high. It exceeds my ability to pay.
- I'm not the father of the child.
- I'm not allowed to see my child.



Which State's Laws Apply?

Order Issuing State

- Amount of support
- Duration of support
- Interest rate, if any
- Nature of the order (e.g., step down, flat/fixed, per child)

Enforcing State

- Remedies used (e.g., driver's license, professional license suspension)
- Judicial registration or administrative enforcement

Statute of limitations for enforcing arrears is governed by law of issuing state or enforcing state, whichever is longer.



Registration for Modification

- UIFSA packet should include Uniform Support Petition as well as Letter of Transmittal Requesting Registration.
- Tribunal must have jurisdiction to modify.
- Same defenses apply to registration of the order and alleged arrears.

For cases with existing orders from another jurisdiction (not the responding state):

- Register, modify, and enforce
- Register, modify, then close the intergovernmental IV-D case

1. Child Support Enforcement Transmittal #1 – Initial Request (Check action 4.B or C.)
2. Child Support Agency Confidential Information Form
3. Letter of Transmittal Requesting Registration
4. Uniform Support Petition
5. General Testimony
6. Personal Information Form for UIFSA § 311



Registration for Modification – No CEJ State

- If no state has CEJ and parties live in different states:
 - Sections 609 - 611
- If no state has CEJ and all parties live in the same state:
 - Section 613

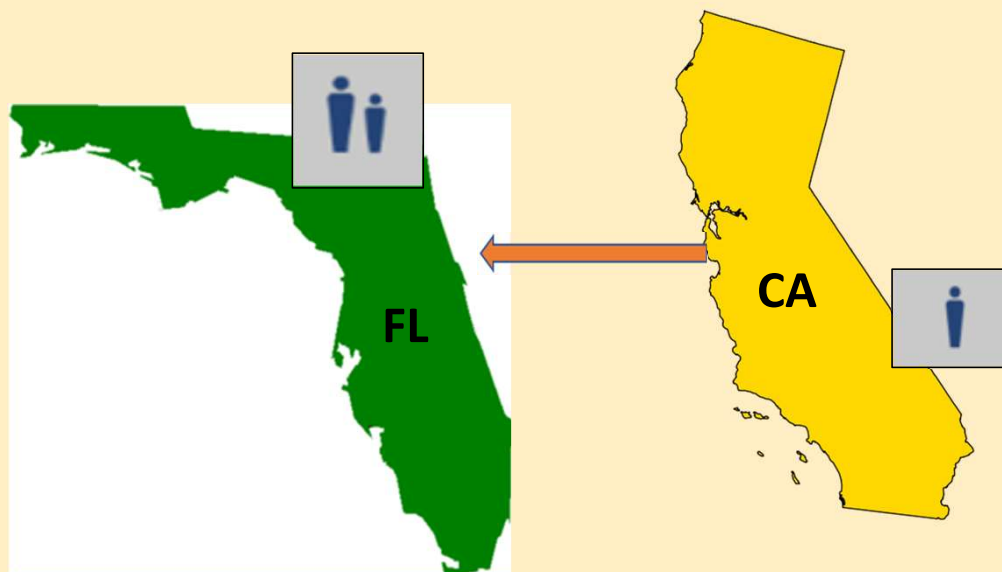
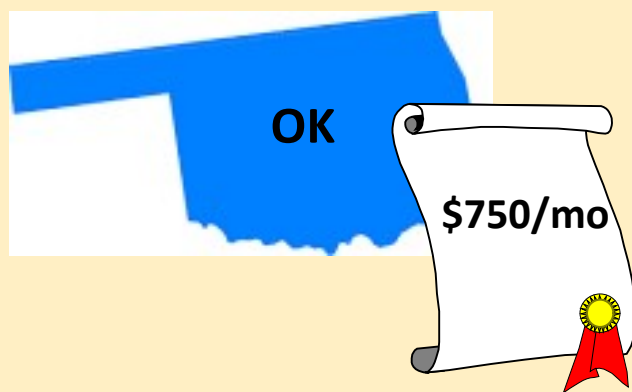


Registration for Modification – Section 611(a)(1)

- Tribunal must find all requirements are met:
 - (A) There is no CEJ state;
 - (B) The petitioner is a nonresident of the state in which modification is sought; **and**
 - (C) The respondent is subject to the personal jurisdiction of the registering tribunal.
- Known as “play away”



Example of Jurisdiction under Section 611(a)(1)

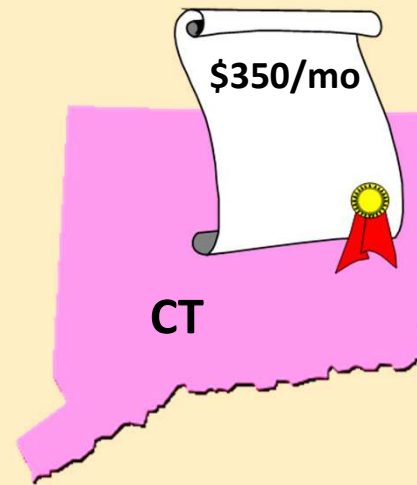
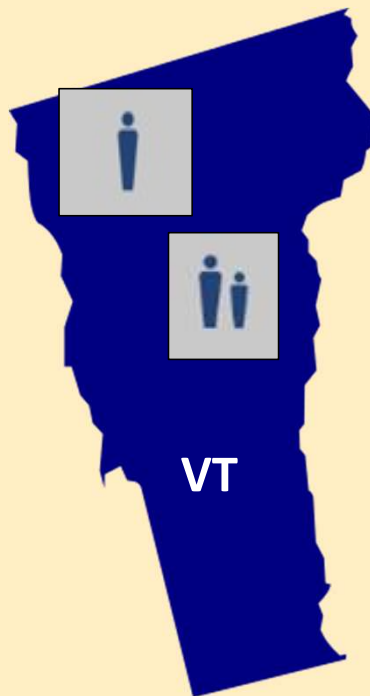


Registration for Modification – Section 613

- Tribunal must find all requirements are met:
 - (A) All individual parties reside in registering state; **and**
 - (B) Child does not reside in issuing state.
- A tribunal exercising jurisdiction under this section must apply Articles 1, 2, and 6 of UIFSA, and the procedural and substantive law of the registering state to the proceeding for modification.
 - UIFSA Articles 3, 4, 5, 7, and 8 do not apply



Example of Jurisdiction under Section 613



Which State's Laws Apply?

Order Issuing State

- Calculation of arrears prior to modification, including interest rate
- Nonmodifiable terms, which usually includes duration
- If obligor has fulfilled support duty under law of issuing state, modifying state can't impose a new support duty

State Modifying the Order

- Grounds for modification
- Support guidelines
- Interest rate on arrears after order is modified (arrears under prior order and any prospective arrears under modified order). See OCSE-AT-20-14

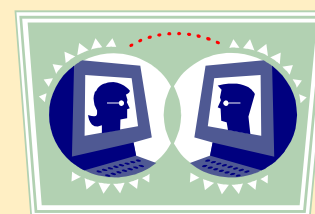
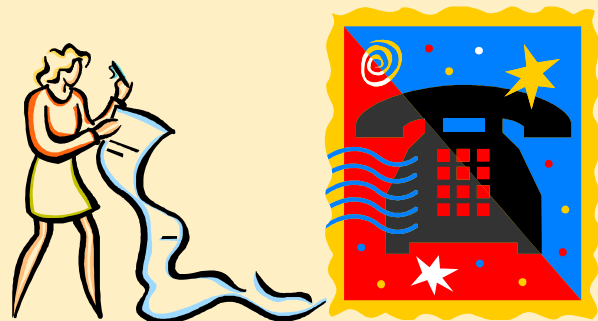
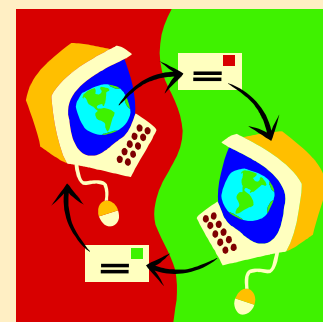


Modification of Foreign Support Orders

- If Convention order:
 - Register for modification under Article 7 of UIFSA
- If non-Convention foreign support order:
 - Register for modification under Article 6 of UIFSA
 - Note Section 615
 - A U.S. tribunal can modify a foreign support order, even if that country would have CEJ, if
 - Issuing country cannot or will not modify its order and
 - U.S. tribunal has personal jurisdiction over the parties



What Happens Next?



Electronic Tools

- Use the electronic tools available
 - IRG
 - QUICK
 - FCR Query
 - CSENet
 - EDE
 - Comm Center



Resources - UIFSA

- UIFSA 2008: [Model Act version of UIFSA 2008 with comments](#)
 - Or your own state's online statute site
- OCSE-AT-20-14: Updated Interstate Child Support Policy
- OCSE-AT-19-08: OMB-Approved Standard Intergovernmental Child Support Enforcement Forms – December 2019
- OCSE-PIQ-20-01: Using the Intergovernmental Forms for Case Processing



Resources – 2007 Hague Child Support Convention

- OCSE website: <https://www.acf.hhs.gov/css>
- Practical Handbook for Caseworkers under the 2007 Child Support Convention, published by The Hague Conference on Private International Law (2013): <https://www.hcch.net/en/publications-and-studies/details4/?pid=6095&dtid=3>
- OCSE-AT-20-05: OMB approved Hague Child Support Convention Forms
- OCSE-PIQ-22-01: Processing Incoming Cases under the 2007 Hague Child Support Convention
- OCSE-IM-15-01: Interstate Family Support Act (2008) and The Hague Treaty Provisions



Resources (cont'd)

- Essentials for Attorneys in Child Support Enforcement, 4th Ed. (July 2021), Chapter 13: Intergovernmental Child Support Cases, <https://www.acf.hhs.gov/css/training-technical-assistance/essentials-attorneys-child-support-enforcement>



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