



ERICSA

1963 - 2023

A GEM 60 YEARS
IN THE MAKING

SAVANNAH

60TH ANNUAL TRAINING CONFERENCE & EXPOSITION

MONDAY, MAY 22 - FRIDAY, MAY 26, 2023

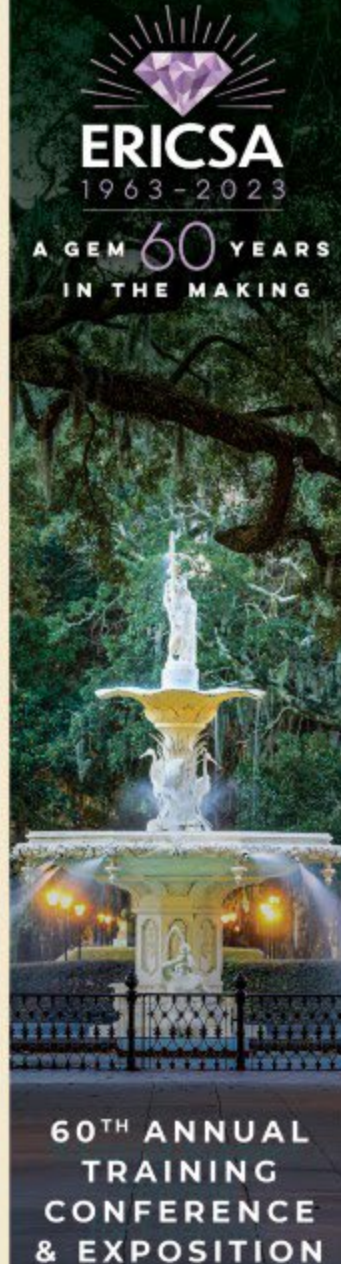
UIFSA Basics and Beyond

Meg Haynes, Esq., Management Consultant, Public Knowledge®
Kelly Micka, Esq., Director, Alvarez and Marsal



Polling Questions

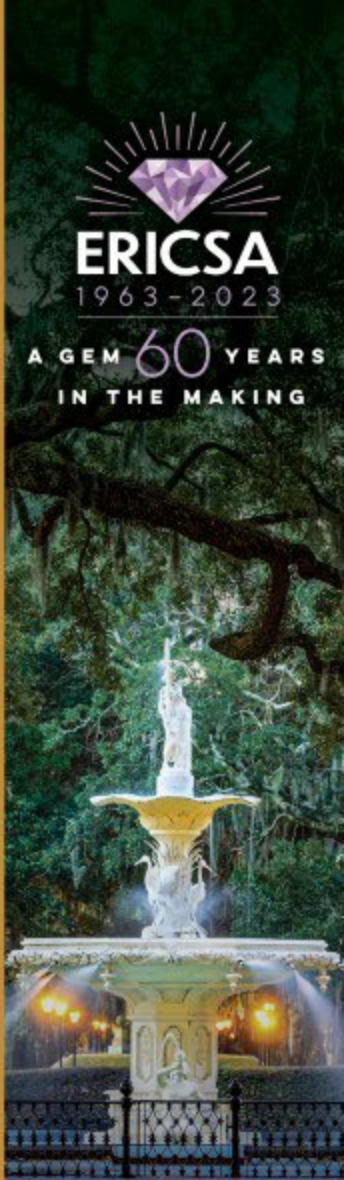
- What is your role in child support?
 - Attorney
 - Caseworker
 - Supervisor/Manager
 - IT
 - Judicial/quasi-judicial/administrative decision-maker
- How many years experience do you have with intergovernmental cases?
 - Newbie – 0 to 2 years experience
 - 3-5 years experience
 - 6-10 years experience
 - More than 10 years experience



Establishment



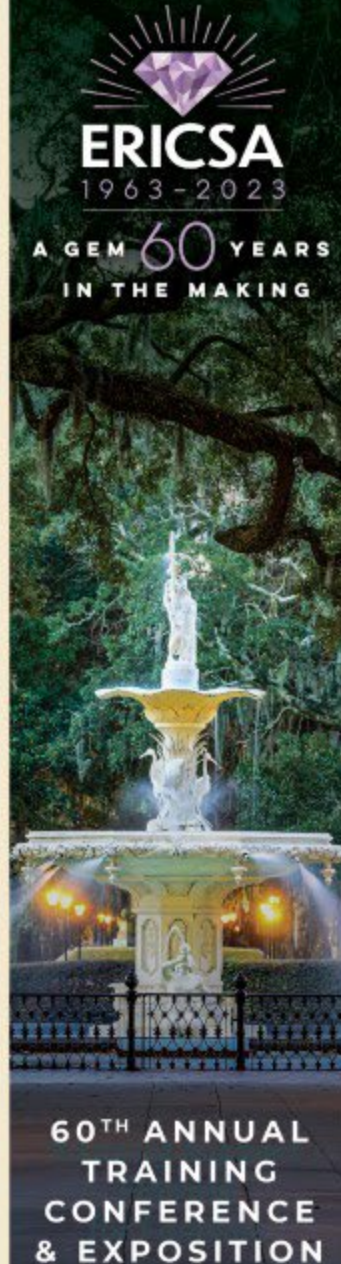
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Goal of UIFSA – One Current Support Order

- One controlling order for current support
 - Same obligor and child(ren)
- If there is no support order entitled to recognition
 - Establish
- If there is a support order entitled to recognition
 - Enforce
 - Modify



No New Order

- If existing support order entitled to recognition under UIFSA, tribunal may not establish a new order
- Section 401 of UIFSA



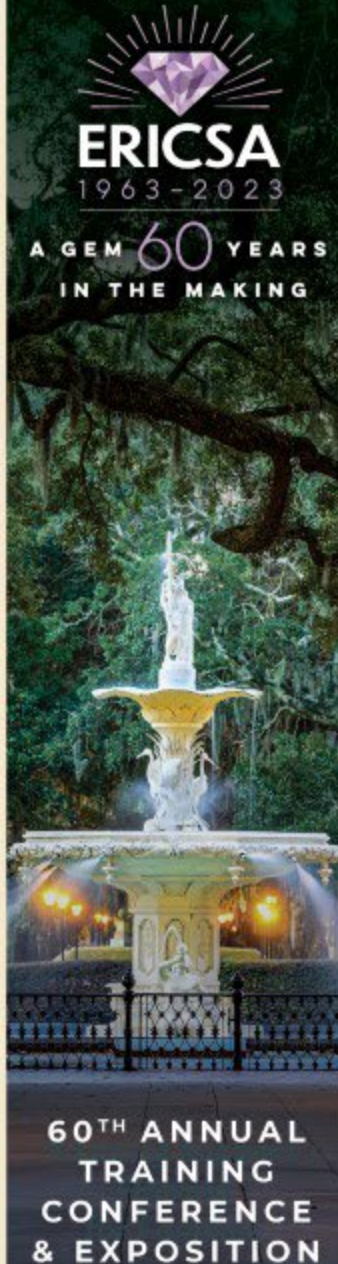
Establishment or Modification?

Case Scenario # 1

- OH divorce order – silent on issue of child support
- Obligor lives in MN
- Obligee is in OH and applies for IV-D services, seeking support

How should OH proceed?

- a. Establishment
- b. Modification
- c. Need more information



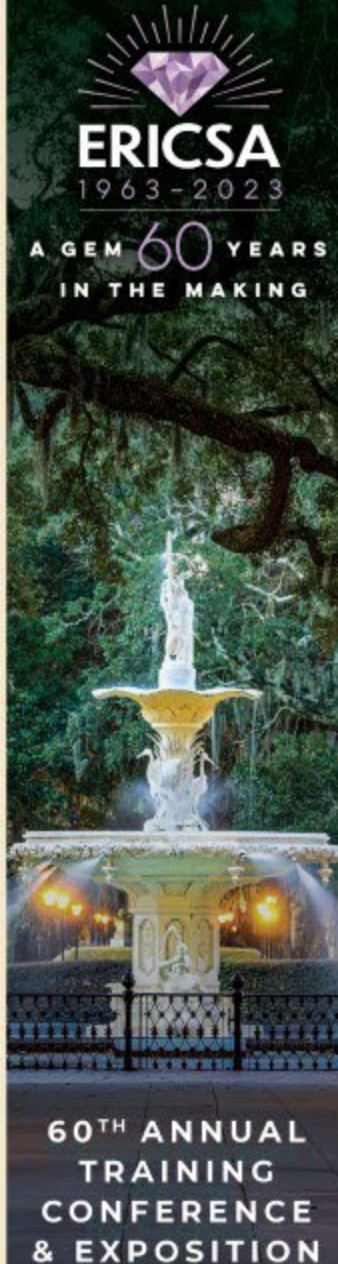
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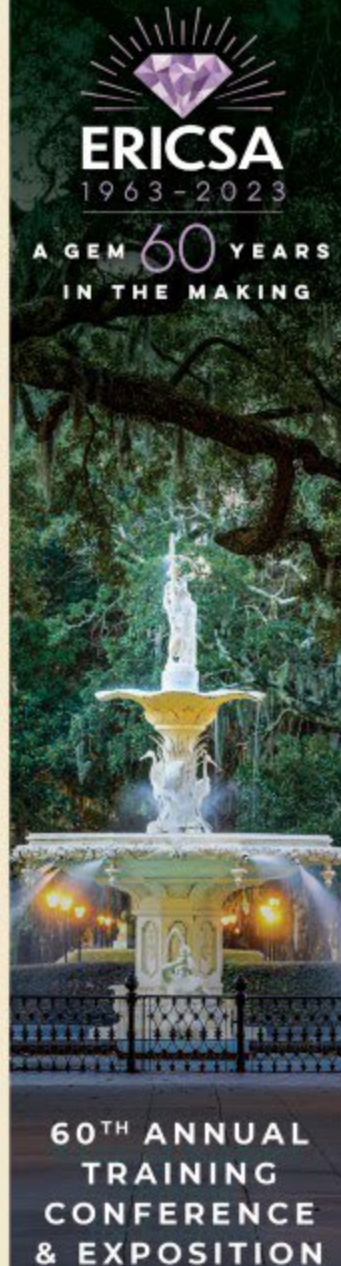
Establishment or Modification?

Case Scenario #2

- GA issues divorce order that awards \$0 support
- Obligor moves to TN
- Obligee applies for IV-D services in GA, seeking support

How should GA proceed?

- a. Establishment
- b. Modification
- c. Need more information



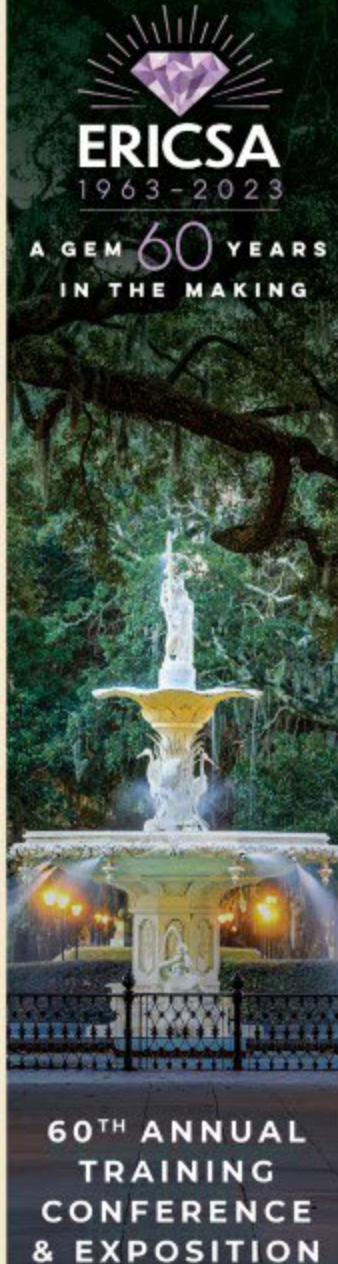
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How should GA proceed?

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- b. Modification**
- c. Need more information



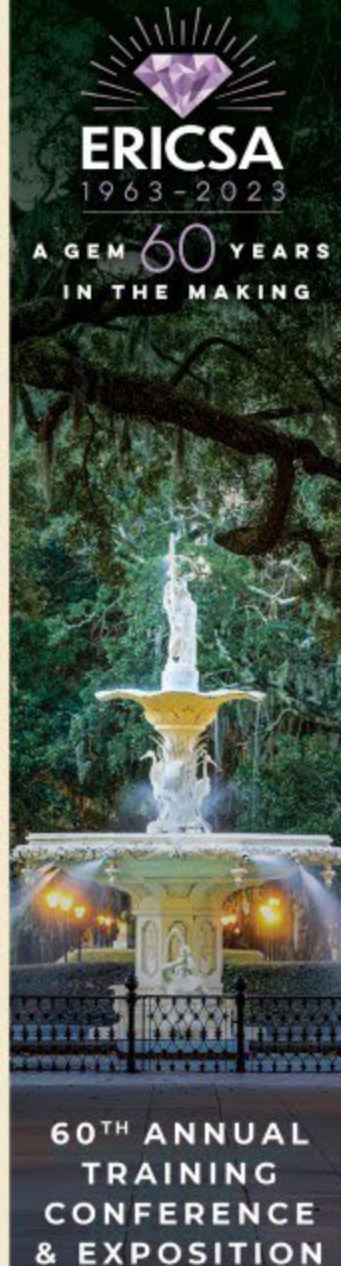
Establishment or Modification?

Case Scenario #3

- NC issues divorce order that requires health insurance coverage but does not establish a current support obligation
- Obligor moves to GA
- Obligee applies for IV-D services in NC, seeking support

How should NC proceed?

- a. Establishment
- b. Modification
- c. Need more information



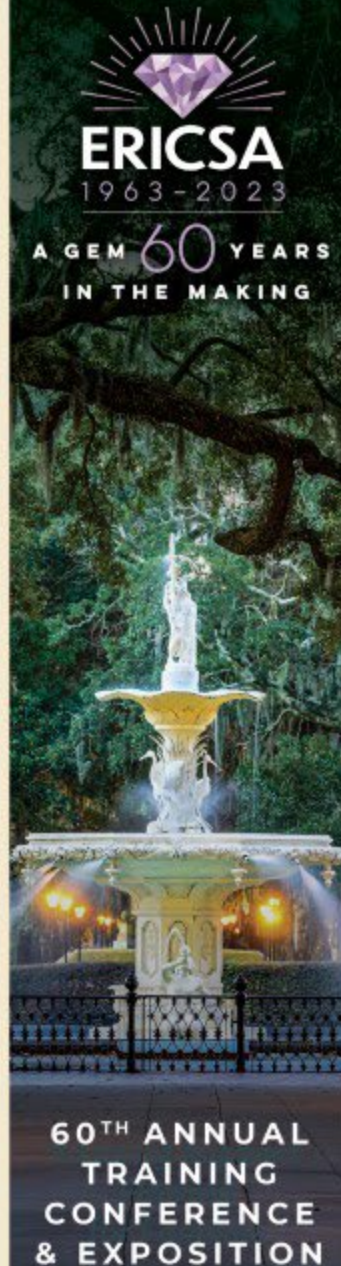
Establishment or Modification?

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- Obligee applies for IV-D services in NC, seeking support

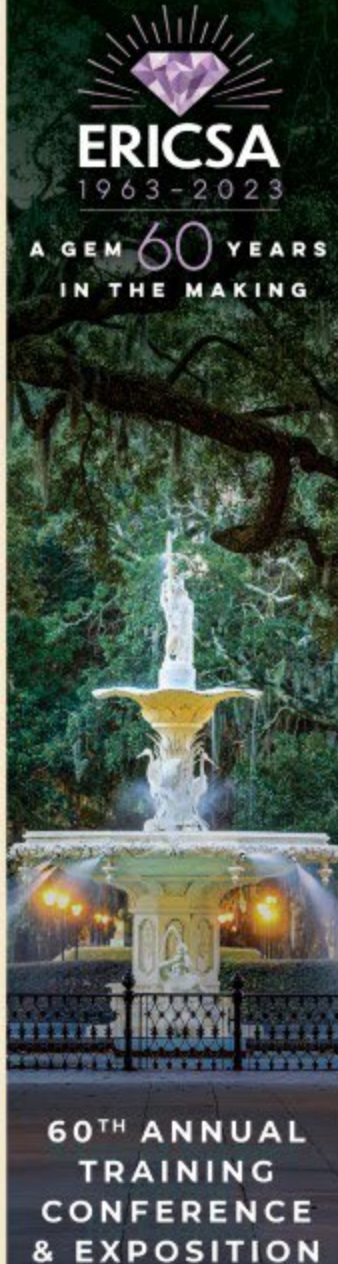
How should NC proceed?

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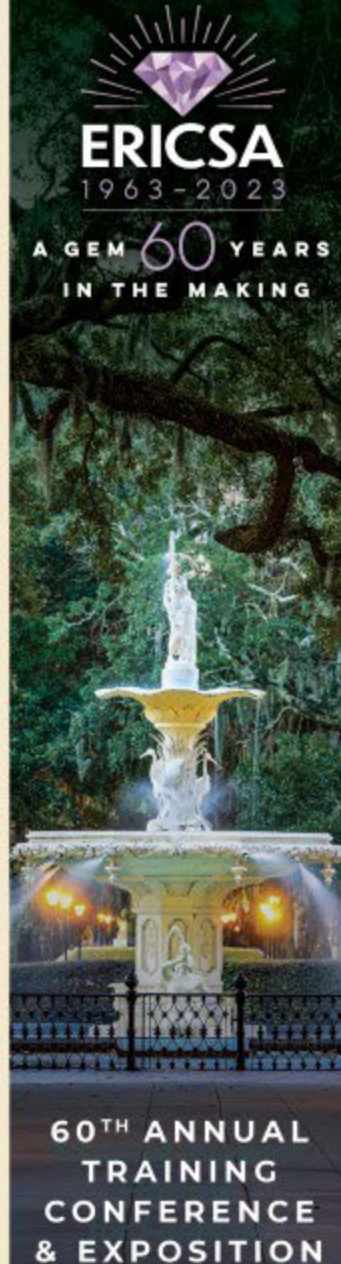
One State or Two State Case?

- 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.



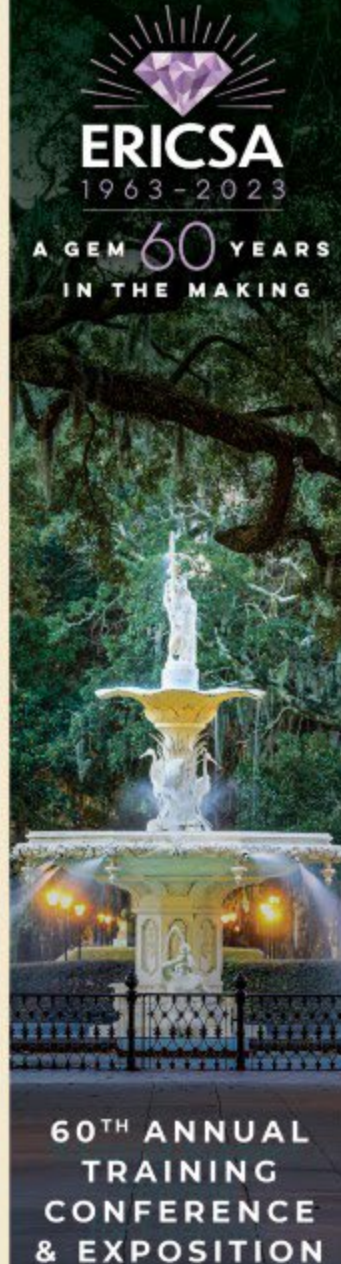
One-State Establishment

- Are there sufficient minimum contacts to permit tribunal to assert personal jurisdiction over someone who lives in another state?
- Even if available, is long-arm jurisdiction appropriate?



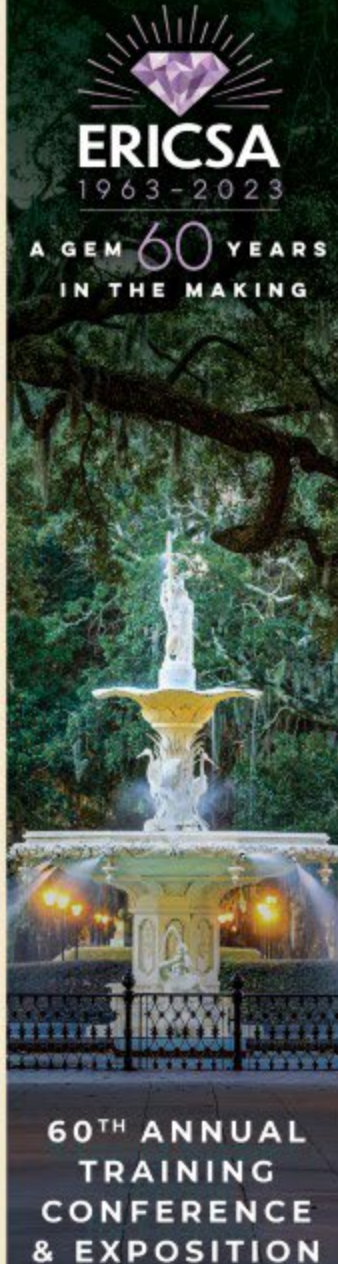
Long-Arm Establishment – UIFSA Section 201

- 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



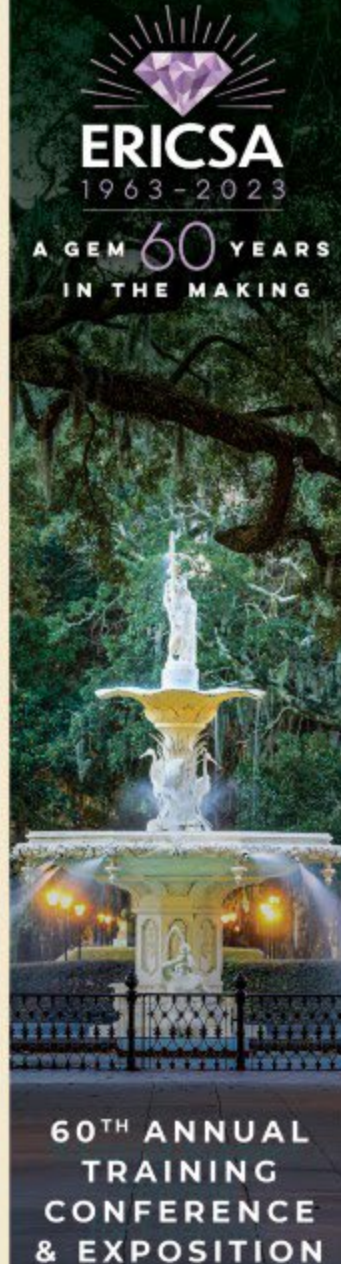
Long-Arm Statute (cont'd)

- 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



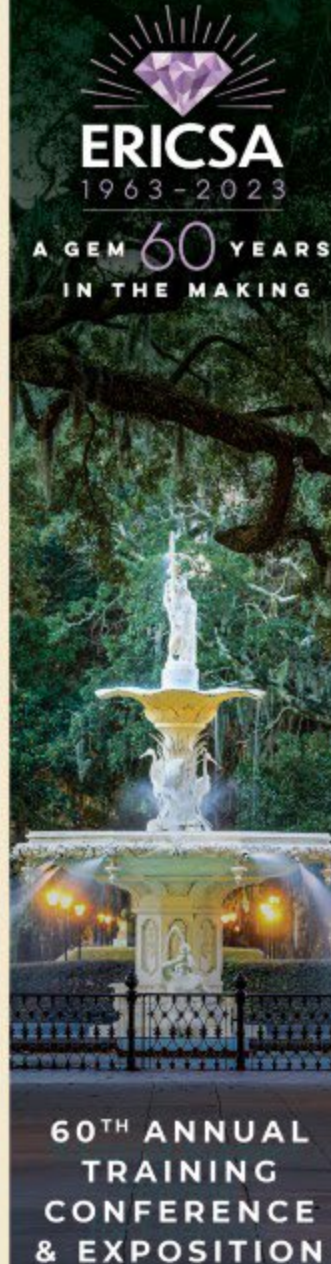
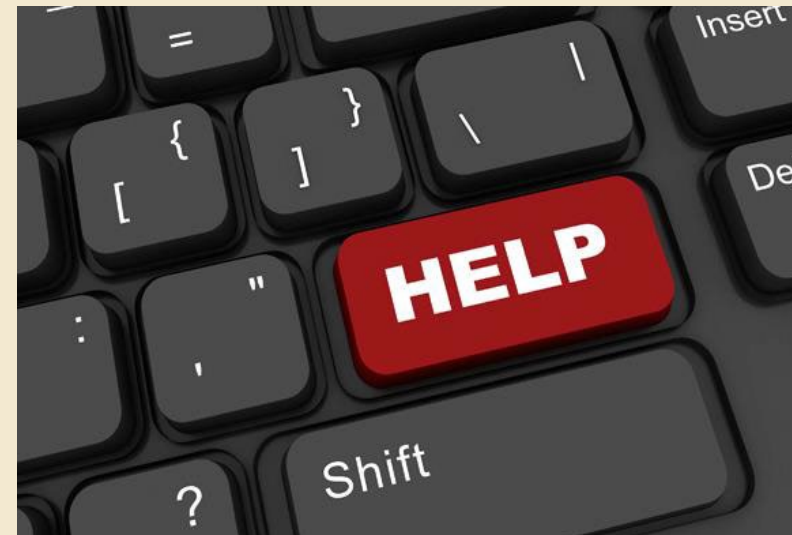
Benefits of Long-Arm Establishment

- Saves time – no need to involve another agency
- Your state's law applies:
 - Support guidelines
 - Duration of support
- Your state has CEJ to modify so long as a party or child lives in the state
- Enforcement stays within your control



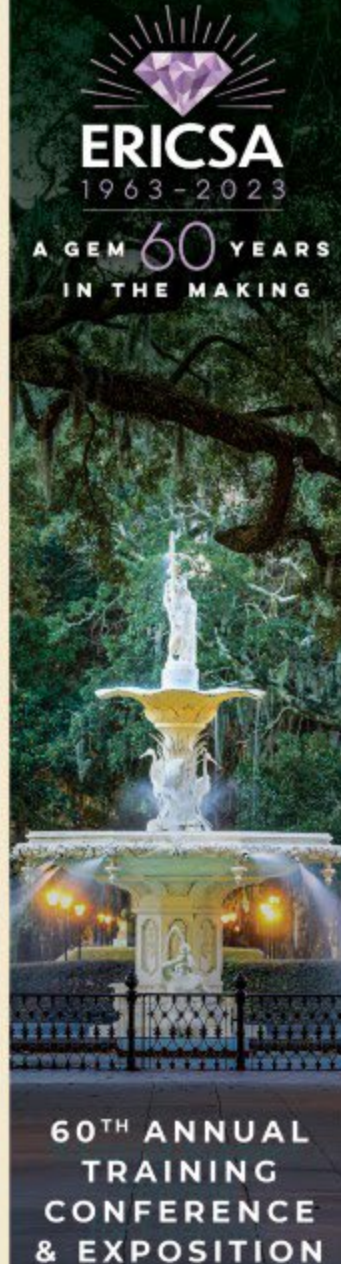
Limitations of Long-Arm Establishment

- Might have trouble locating NCP or serving process
 - Will a limited services request help?
- Might need agency where NCP lives or has assets to use their enforcement remedies
- Domestic violence considerations



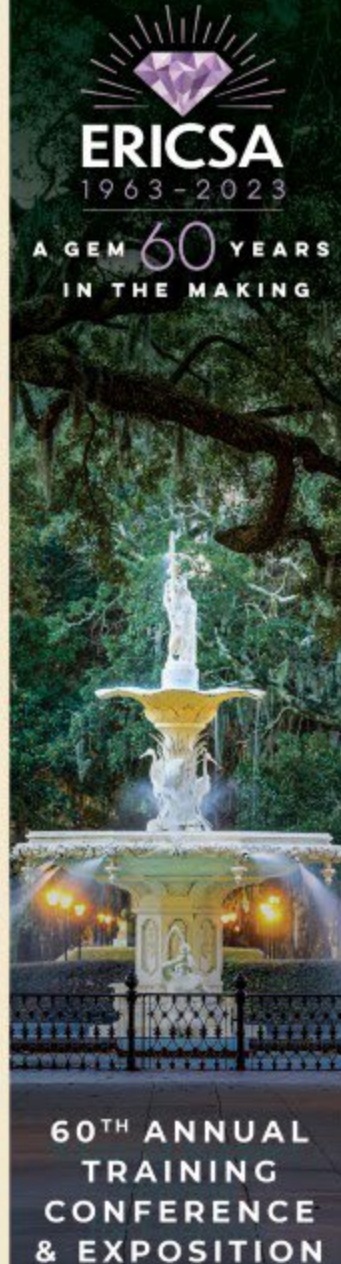
Two-State Case: Initiating

- 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
 - Timely responding to requests from responding jurisdiction for additional information



Two-State Case: Responding

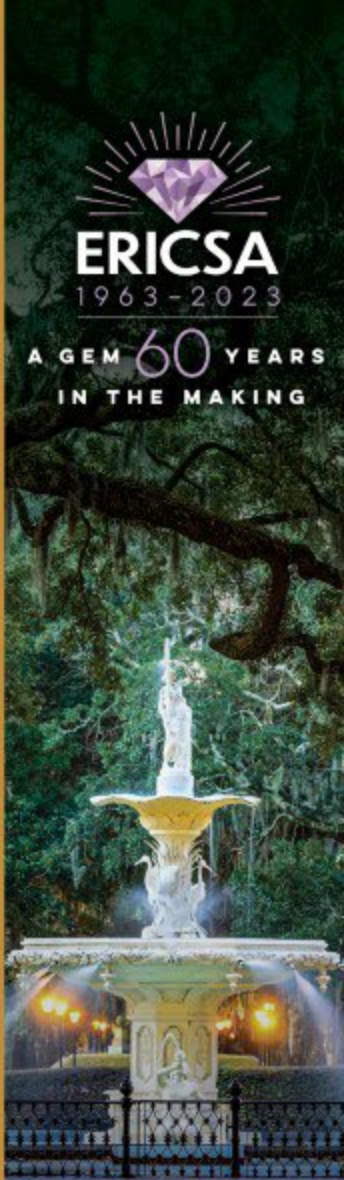
- 45 CFR 303.7(b) and (d)
- Responding process includes:
 - Acknowledging the request
 - Providing necessary services as it would in an intrastate IV-D case
 - Establishing paternity and support, if requested
 - Enforcing the support order
 - Modifying the order, if requested and tribunal has modification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



Enforcement



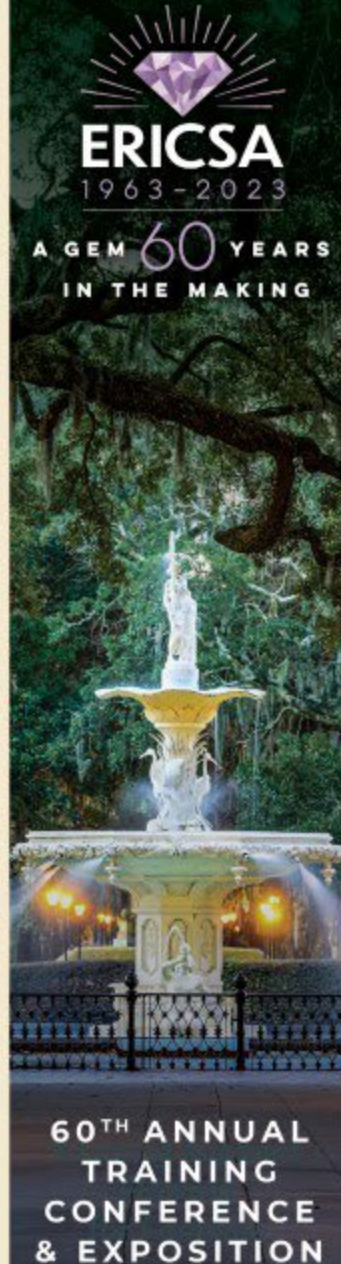
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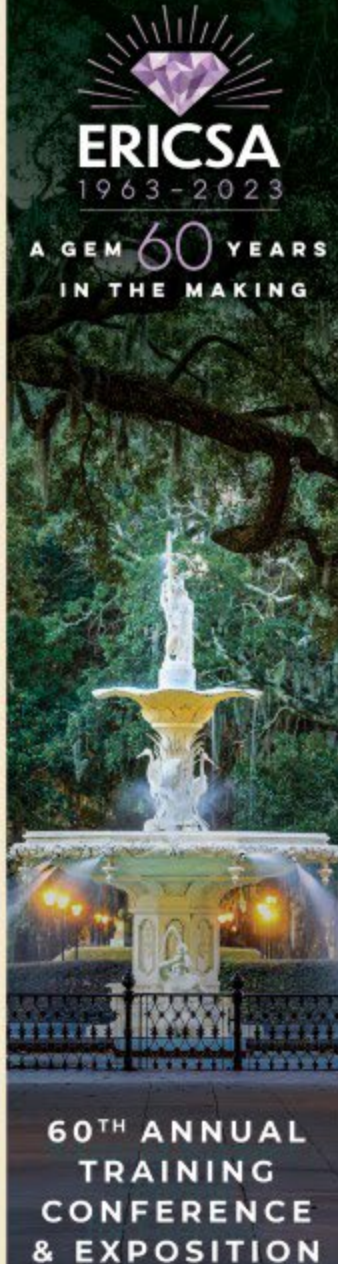
Controlling Order

- 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



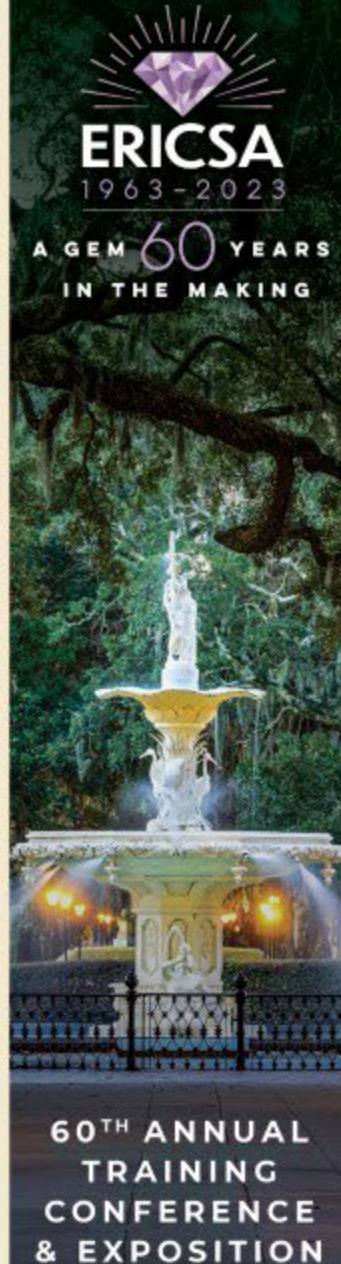
Enforcement

- Is one-state enforcement appropriate?
 - Does obligor have income or assets in your state that can be attached?
 - Is direct income withholding appropriate?
 - Remedy that allows the agency to send an income withholding order (IWO) directly to an employer in another state
 - OCSE-AT-17-07: Interstate Child Support Payment Processing, https://www.acf.hhs.gov/sites/default/files/documents/ocse/at_17_07_a.pdf



Direct Income Withholding

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



Benefits and Limitations of Direct Income Withholding

Benefits

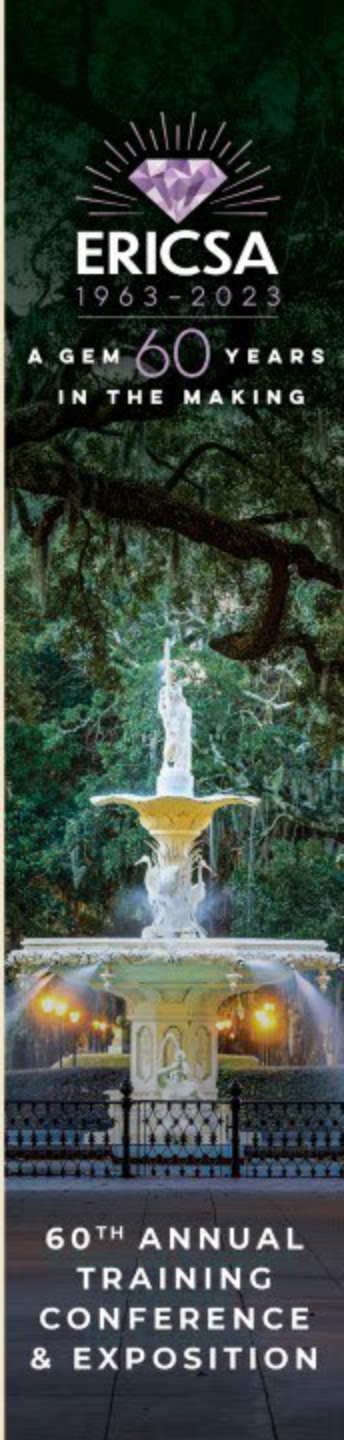
- Faster
- Enforcement Stays within your control

Limitations

- If Obligor is a job hopper or self-employed
- If there's an open IV-D case in another state



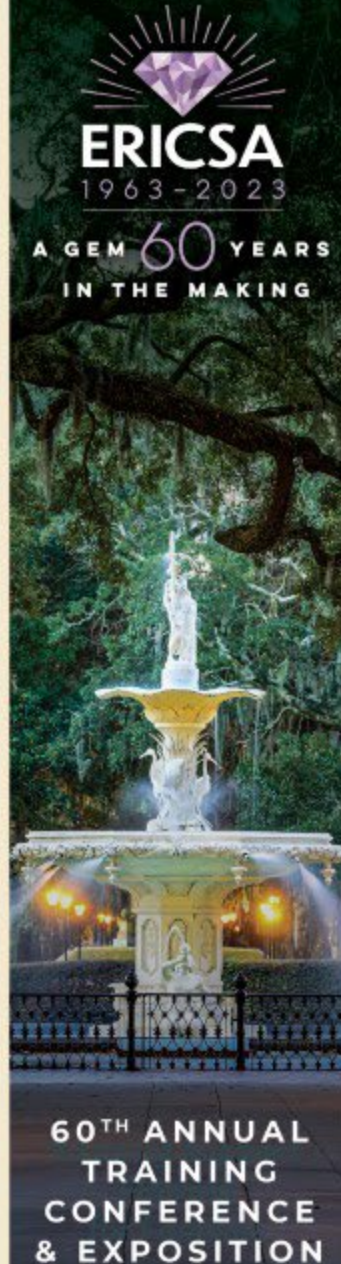
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Registration for Enforcement

- Registration/filing of controlling order in any state for sole purpose of enforcement
- 20-day contest period available for the non-registering party
- Limited defenses
- Confirms validity of order and alleged arrearage amount
- Consider administrative enforcement without registration



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?

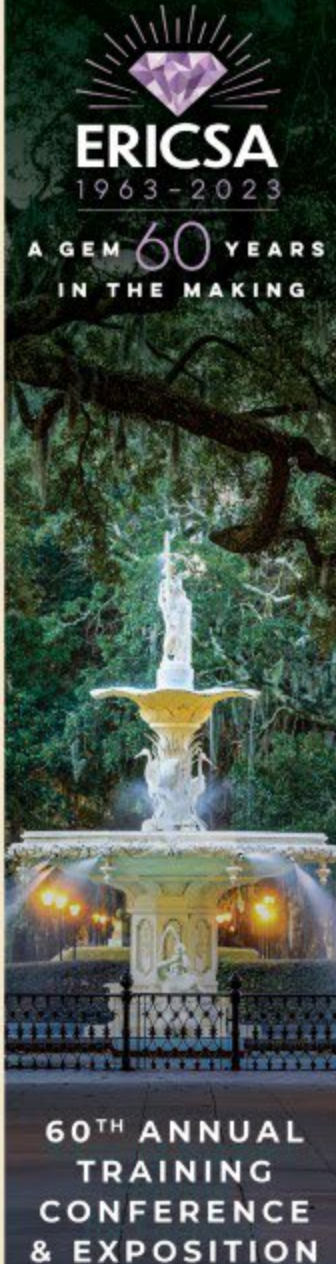
Order Issuing State

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

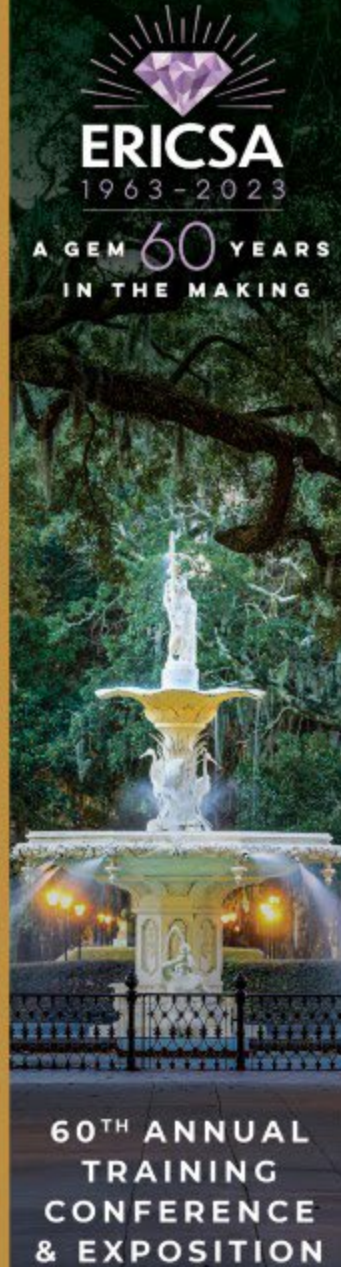
Enforcing State

- Remedies available (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.

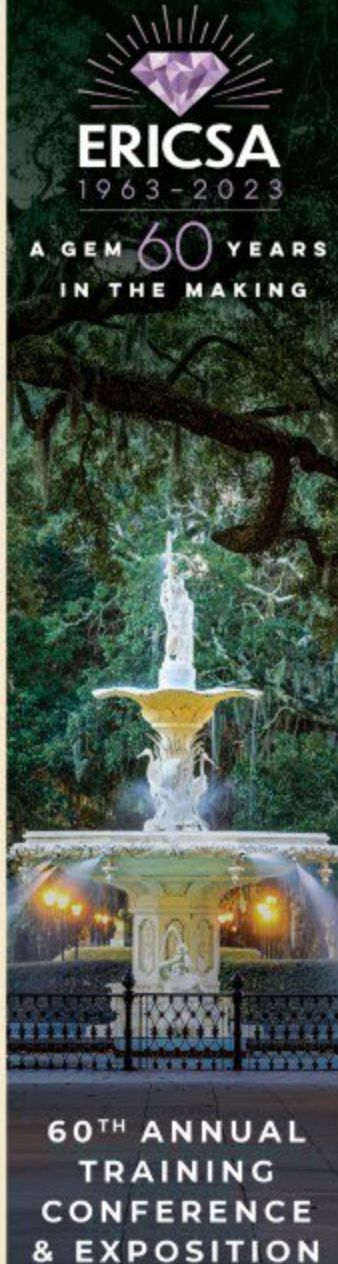


Modification



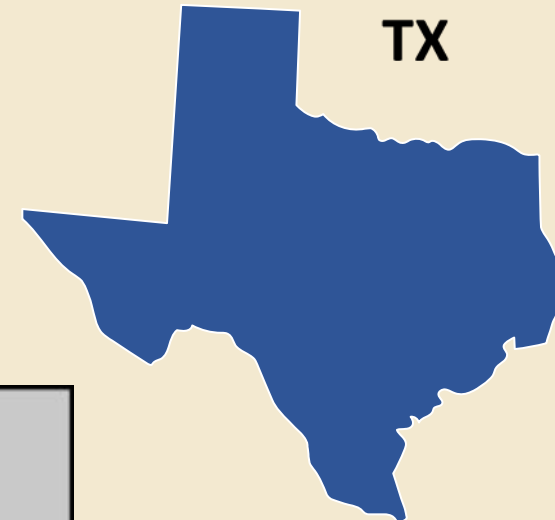
Continuing Exclusive Jurisdiction (CEJ)

- 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 Definition – UIFSA Section 205(a)(1)

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

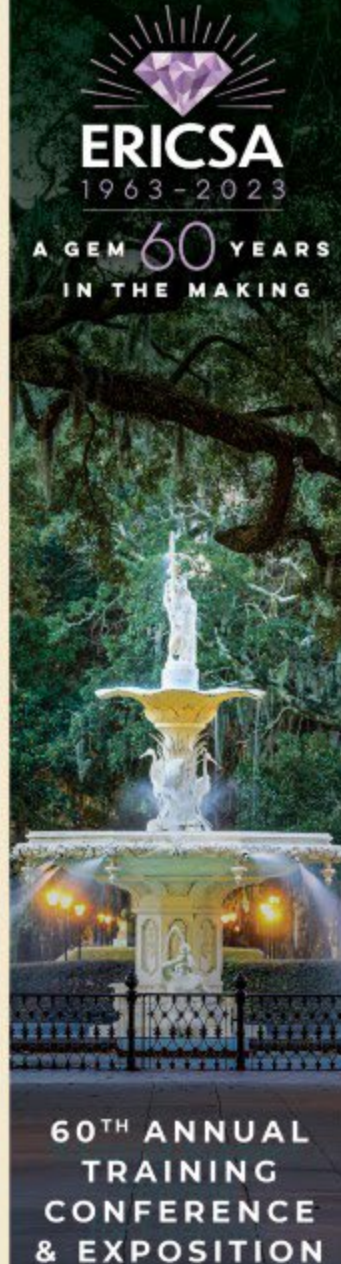


CEJ – Case Scenario #1

- Florida order
- Obligee lives in IA with child
- Obligor lives in FL where support order issued
- Obligor wants reduction in support

What state has CEJ to modify order?

- a. Iowa
- b. Florida
- c. No state has CEJ

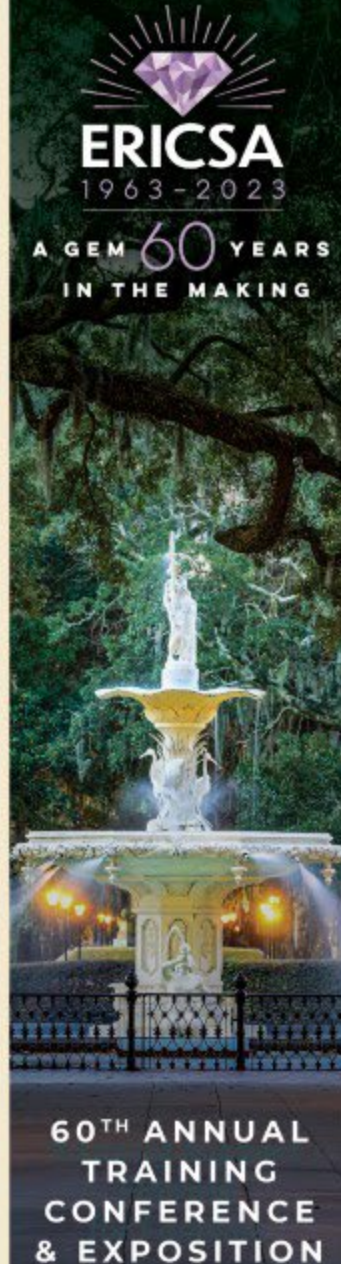


CEJ – Case Scenario #1

- Florida order
- Obligee lives in IA with child
- Obligor lives in FL where support order issued
- Obligor wants reduction in support

What state has CEJ to modify order?

- a. Iowa
- b. **Florida**
- c. No state has CEJ



CEJ Definition – UIFSA Section 205(a)(2)

- 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.

- DC Order
- CP moves to MD
- NCP moves to VA
- Parties want DC to retain jurisdiction

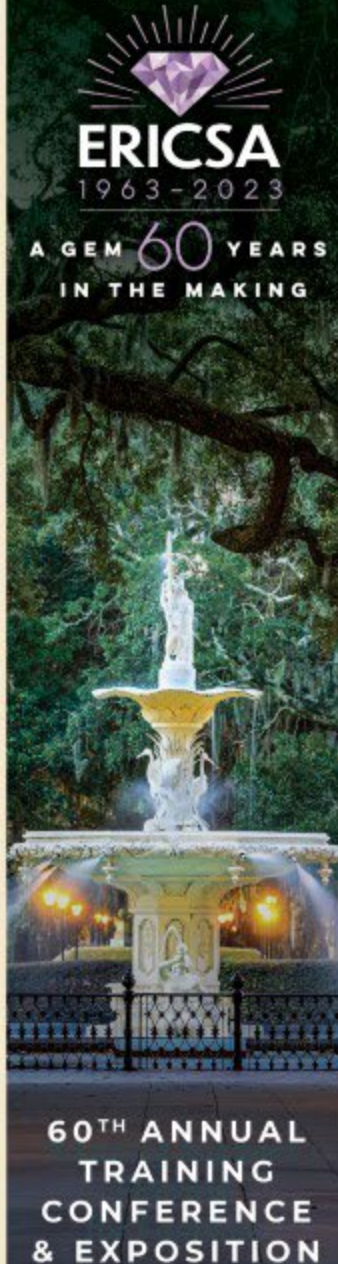


CEJ – Case Scenario #2

- Florida order
- Obligee lives in IL with child
- Obligor lives in NJ

Can obligee seek modification in FL?

- a. Yes, because FL is issuing state
- b. No, because no party lives there
- c. Yes, if both parties consent for FL to retain jurisdiction to modify its order

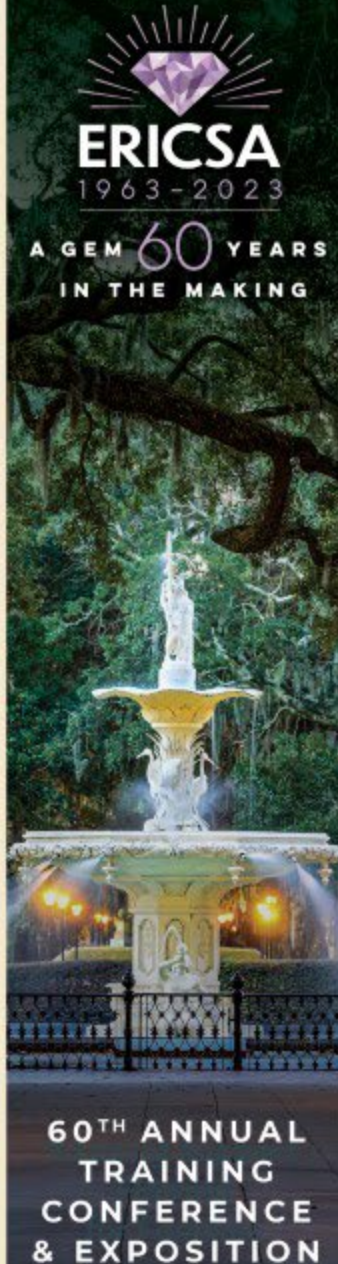


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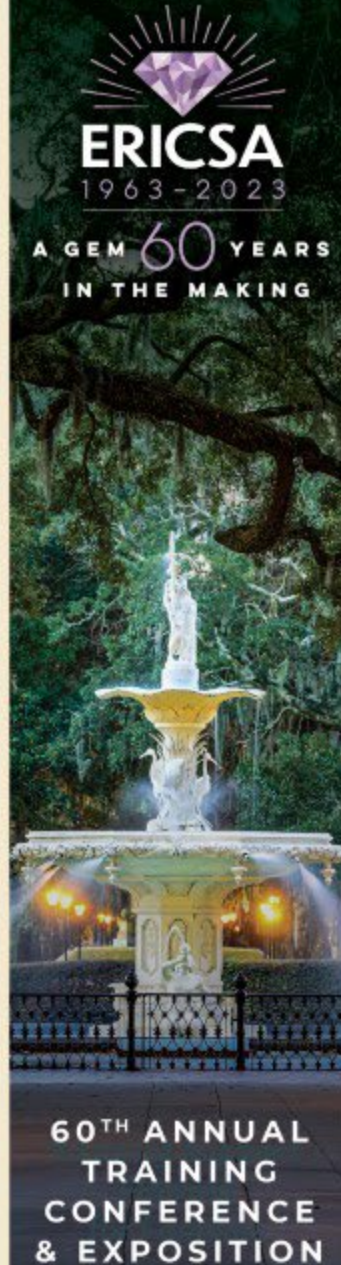
Can obligee seek modification in FL?

- a. Yes, because FL is issuing state
- b. No, because no party lives there
- c. **Yes, if both parties consent for FL to retain jurisdiction to modify its order**



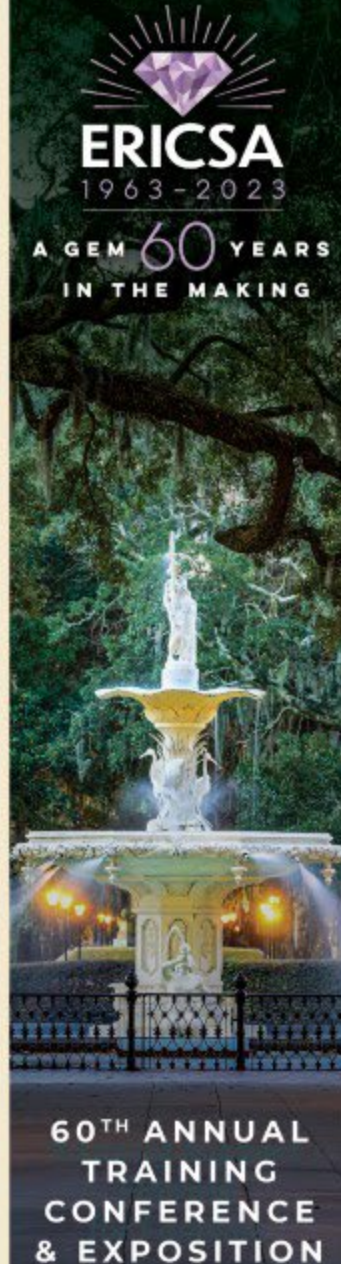
Shift of CEJ Based on Consent

- 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)



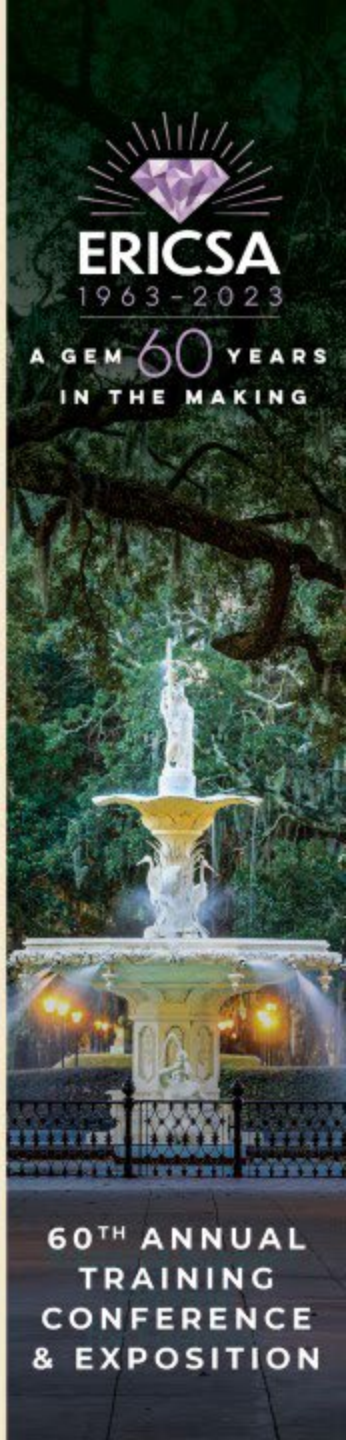
Example of Jurisdiction under Section 611(a)(2)

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



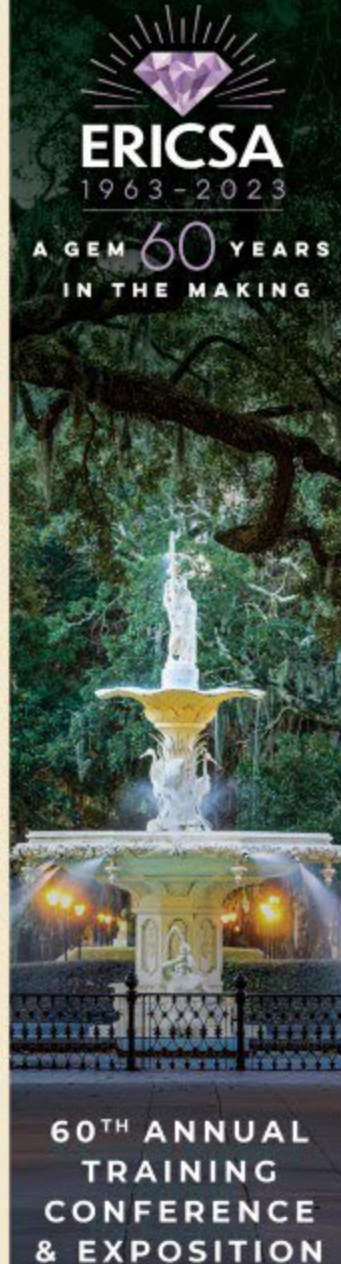
Registration for Modification – No CEJ State

- 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

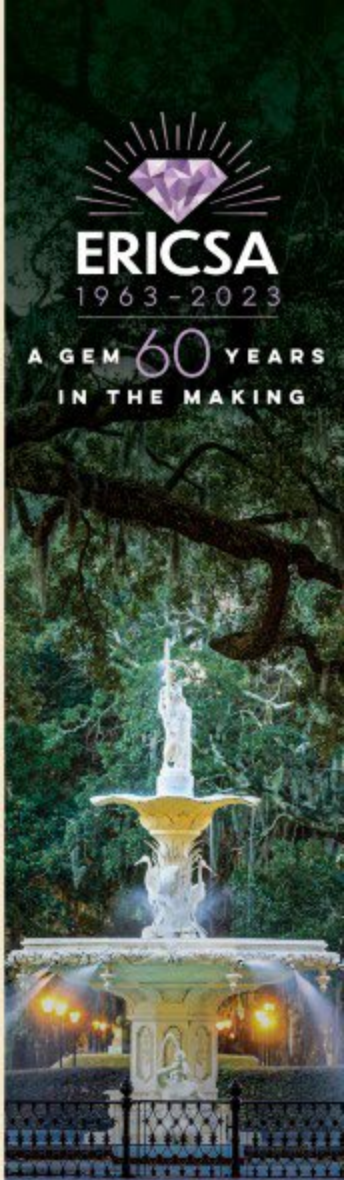
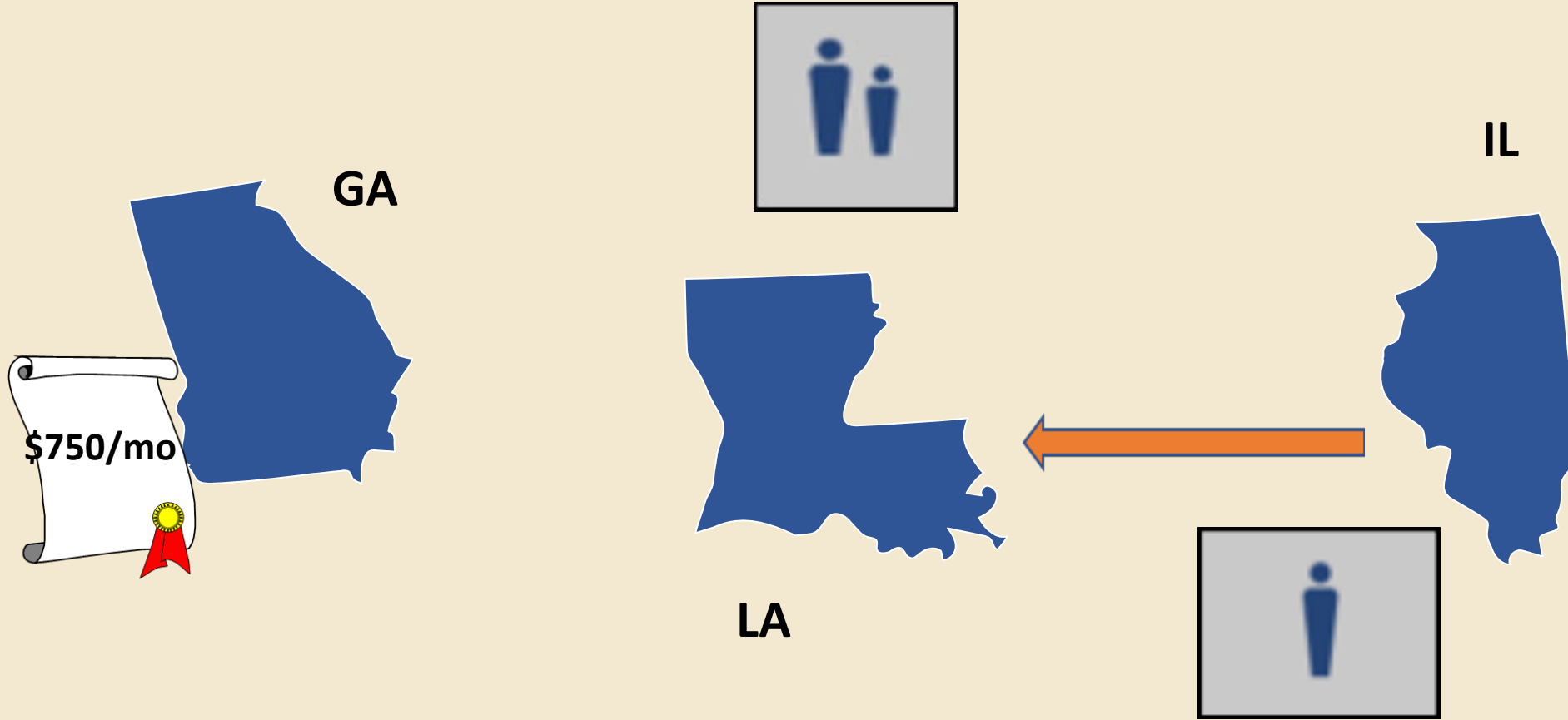


Registration for Modification – Section 611(a)(1)

- 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)



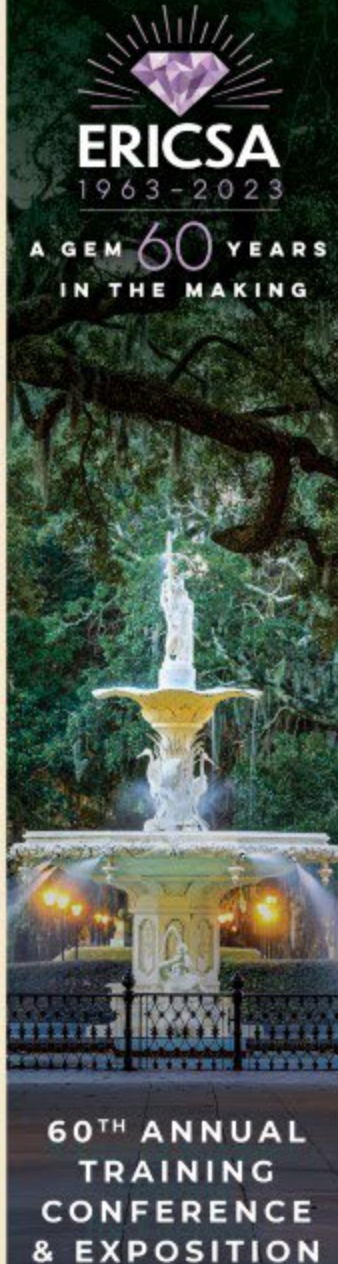
Registration for Modification – Section 613

Tribunal must find all requirements are met:

- (A) All individual parties reside in registering state; and
- (B) Child does not reside in issuing state.

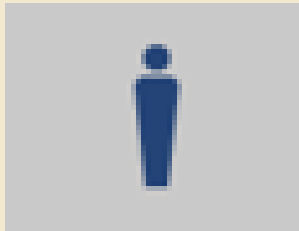
A tribunal exercising jurisdiction under this section must apply Articles 1, 2, and 6 of UIFSA, and the procedural and substantive law of the registering state to the proceeding for modification.

UIFSA Articles 3, 4, 5, 7, and 8 do not apply.

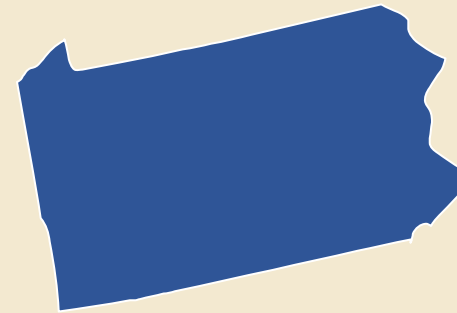


Example of Jurisdiction under Section 613

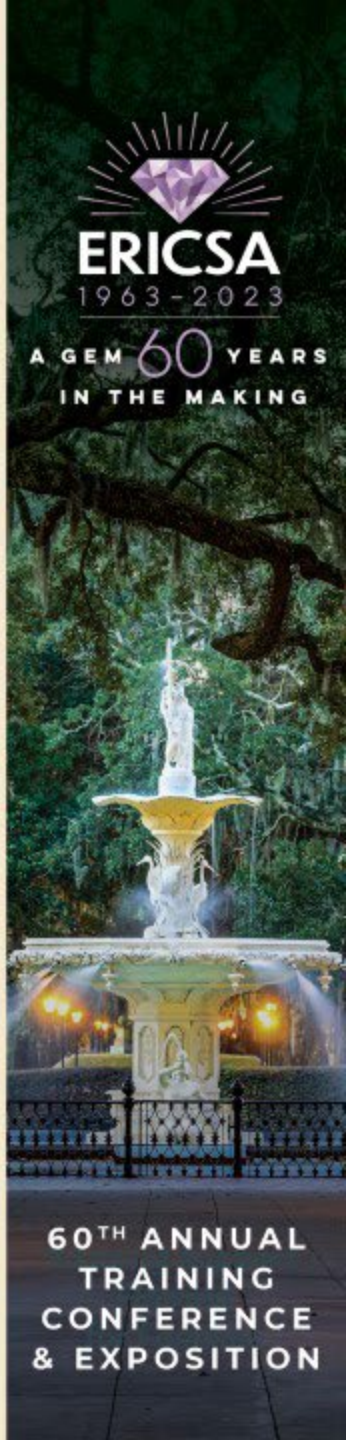
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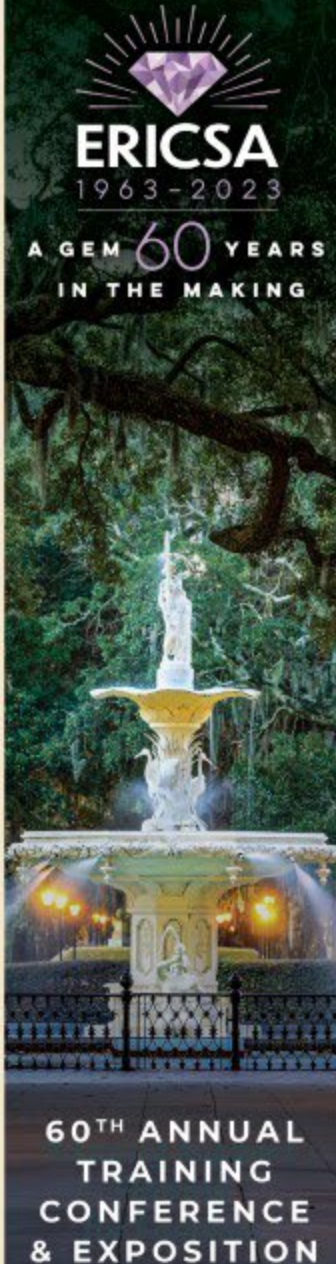
Which State's Laws Apply?

Order Issuing State

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

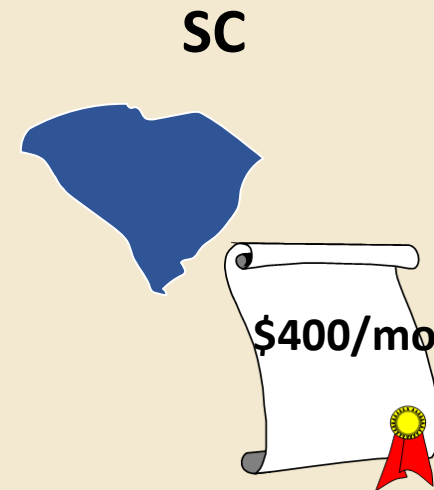
Modifying State

- Grounds for modification
- Support Guidelines
- Interest rate on arrears after the order is modified (arrears under both prior and modified orders). See OCSE-AT-20-14



Issuing Tribunal Retains Modification Jurisdiction – International Case but U.S. Order

- 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)



Modification of Foreign Support Orders

**Order Issued
by Hague
Child Support
Convention
Country**

Register for modification under Article 7 of UIFSA

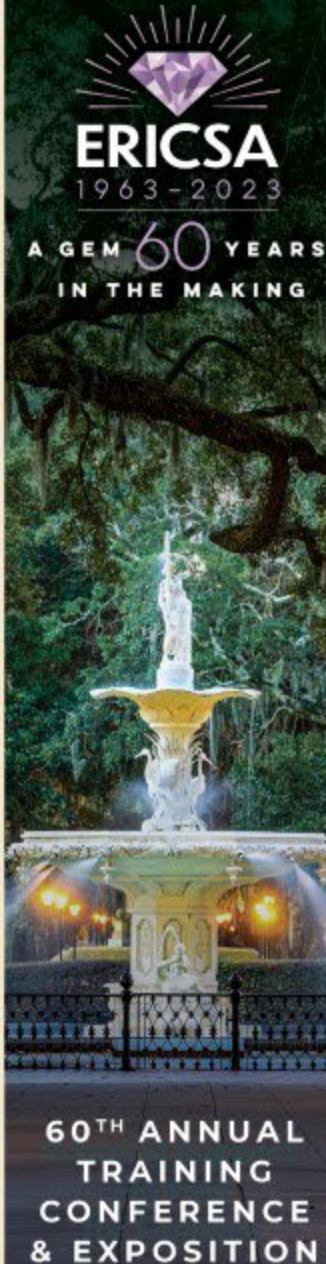
**Order Issued
by Non-
Convention
Foreign
Country**

Register for modification under Article 6 of UIFSA

Note Section 615

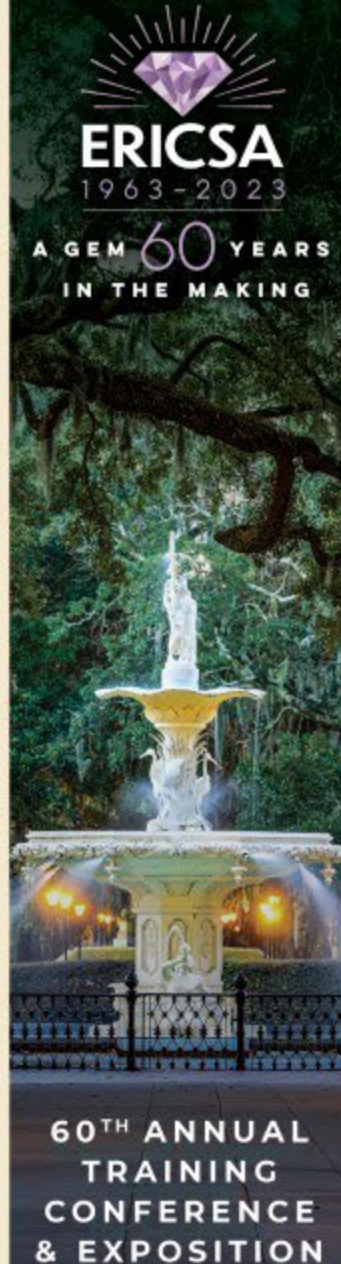
A U.S. tribunal can modify a foreign support order, even if that country would have CEJ, if

- Issuing country cannot or will not modify its order and
- U.S. tribunal has personal jurisdiction over the parties



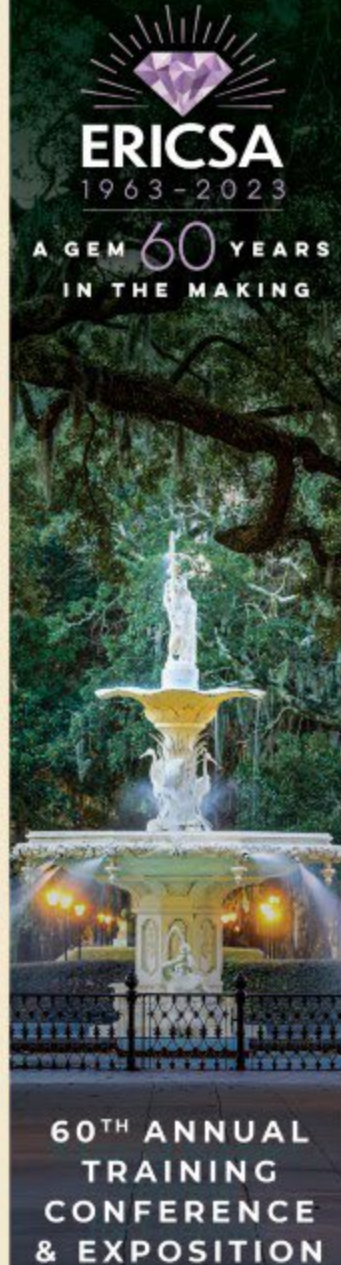
Electronic Tools

- IRG
- QUICK
- FCR Query
- CSENet
- EDE
- Comm Center



Resources - UIFSA

- UIFSA 2008: Model Act version of UIFSA 2008 with comments,
<https://www.uniformlaws.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=951958bf-6e09-0d8e-820f-cde7a095a0e7&forceDialog=0>
- OCSE-AT-20-14: Updated Interstate Child Support Policy
- OCSE-AT-19-08: OMB-Approved Standard Intergovernmental Child Support Enforcement Forms —December 2019
- OCSE-AT-23-02: [OMB-Approved Standard Intergovernmental Child Support Enforcement Forms](#)
- OCSE-PIQ-20-01: Using the Intergovernmental Forms for Case Processing
- OCSE Intergovernmental Forms Matrix,
https://www.acf.hhs.gov/sites/default/files/documents/ocse/intergovernmental_forms_matrix.pdf
- 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>



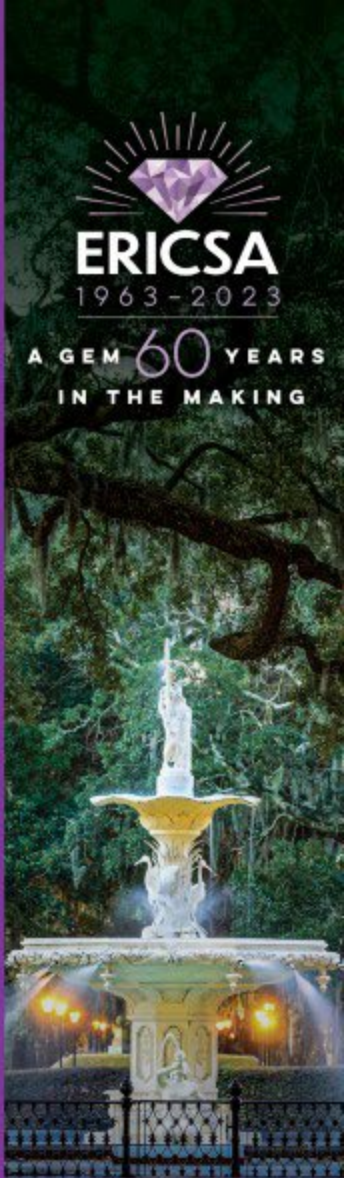
THANK YOU!

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