



ERICSA

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IN THE MAKING

SAVANNAH

60TH ANNUAL TRAINING CONFERENCE & EXPOSITION

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Rise to the Challenge: Advanced UIFSA Scenarios

Speakers: Kelly Micka, Rob Velcoff
Moderator: Diane Potts



Multiple Orders

An Indiana court enters a child support order in 2015 for Adam to pay Eve \$500/month for their two sons. In 2016 Adam moves to Illinois. In 2020 Eve also moves to IL where she applies for child support services. IL enters an administrative child support order in 2021 without knowing about the IN order.

- Is IL's order a modification of the IN order? A de novo (new) order?
- Is the IL order valid and does it matter that it was administrative?
- What should happen to determine which is the enforceable order? Where?



Emancipation

Fred and Wilma were married in New York. In 2012 the parties separate and NY establishes a support order for Fred to pay Wilma \$400/month. In 2014 the parties reconcile and the order terminates by operation of law. In 2016 Wilma moves to New Jersey and Fred remains in NY. In 2017 the parties obtain a NJ divorce ordering Fred to pay Wilma \$300/month in support.

- Which state's age of emancipation should be used, NJ's age of 19 or NY's age of 21?
- Can the parties agree as part of the divorce that NY's age will apply?



Long-Arm

Lucy and Ricky have a brief romance while on vacation in Iowa that results in the birth of a son. Ricky has always resided in Minnesota, while Lucy has always resided in Missouri. Ricky signs a Voluntary Acknowledgment of Paternity form at the hospital in MO when the child is born.

- Assuming no other case facts, does MO have long-arm jurisdiction under UIFSA to establish a child support order for Ricky to pay support? Which criteria may apply?
- Does it matter in which state Ricky signs the VAP (or similar) form?



Genetic Testing

Berta comes into the child support office in Ohio and applies for services to establish paternity and support for her son. The two possible fathers are identical twin brothers Charlie and Alan living in Michigan — both having sexual intercourse with Bertha during the same week of conception. OH sends an establishment packet to MI and paternity testing shows that each man is the genetic father.

- What judicial and/or administrative actions should MI do on this case?
- What responsibilities does OH have?



IWO Issued by Non-Order State

There is an 2020 Wisconsin order for Alice to pay Ralph \$300/month in child support. In 2021 Alice moves to Nebraska and applies for services, so payments are now being forwarded from the WI SDU to the NE SDU. In 2022 Ralph also moves to NE. NE requests that WI close their two-state child support case with IN as there are no TANF arrears. NE registers the WI order for enforcement only.

- Can NE now issue an IWO payable to their own SDU on this case? If so, where should the payments be sent?
- If not, what should IN do to receive payments directly to its SDU?



Modifications Gone Awry

There is a 2013 child support order issued by Washington for Betty to pay Barney \$900/month for their three children (unallocated). In 2015 Barney and the children move to Oregon and apply for child support services, so payments are forwarded. Both in 2016 and then again in 2019 the order receives a COLA in WA, so that the amount due is now \$1000/month. In 2018 Betty moved to California, before the second COLA was completed. In 2022 the oldest child emancipates. Betty wants to pay less in support due to the emancipation of the one child.

- What court should hear the modification?
- Since Betty's income has increased, it turns out that the modifying state's guidelines will result in an increase in support even for two children instead of three. Can Betty withdraw her modification petition when she hears about the increase?
- Are there other options? Are all orders on this case legal and proper?



Interest

Florida has a \$700/month order for Tom to pay Gisele child support for their two children, Tom Jr. and Gisele Jr. Tom moves to Georgia, and the FL order is registered there for enforcement. FL charges 10% interest on arrears, which results in a higher arrears amount each month. GA tells FL that since they cannot calculate a 10% interest rate on child support arrears, they are unable to enforce the interest arrears. FL wants their interest arrears enforced.

- What should happen on this case?



Controlling Order State Closes Case

There is a Kentucky child support order for Jack to pay Diane \$550/month. There is an open IV-D case in KY for current support and arrears including interest. Diane and the child move to West Virginia and go on Public Assistance, so a IV-D case is opened in WV. Jack moves to Tennessee and stops paying.

- As the WV child support worker, do you register the KY order in TN for enforcement, or do you ask KY to do this?
- Do you ask KY to close their child support case?
- Where do the payments go? What about the official determination of arrears? What about interest?



Domestic Violence and Modifications

There is a \$400/month Alaska divorce decree from 2018 for Tony to pay support to Carmella for their child. In 2019 Carmella moves to Hawaii and claims domestic violence, although she has no order of protection or non-disclosure order. Tony remains in AK. Annie applies for services in HI requesting an upward modification, and she wants all future hearings to take place in HI because she is afraid to return to AK.

- As the HI worker, what do you do?
- What action do you request, and to where?
- Is long-arm an option?



Birth/Death of a Child

Archie and Veronica were never married and there is an Utah support order for Archie to pay \$750/month for their 2 children, Reggie and Betty. Veronica and the children move to Nevada. A new child, Jughead, is born in Utah and Veronica informs your child support agency that Archie is the father. Before any action is taken, Archie (who still lives in UT) informs you that Betty just passed away and asks about modifying the support obligation. When you ask him if he wants to open a IV-D case, he says no.

- As the NV worker, what action do you file, and where?



Differing Enforcement Thresholds

There is a Kansas child support order for Kate to pay \$450/month in support to Leopold. Kate moves to Colorado and stops paying, so KS registers the order in CO for enforcement. Kate has a bank account in CO, but the threshold for a financial institution lien in CO is, for purposes of this example, three months worth of arrears, and the arrears on this case are only \$1200, so there is no attachment. KS's threshold is only two months in arrears so KS sends a lien to the bank. CO tells KS that they are enforcing the order, and KS must remove their lien. KS says they are allowed to seize the bank account as long as CO is not also doing so.

- Who is correct?
- Can both states simultaneously enforce the order?



Remarriage of Parties

Otto and Octavia were married and have a child. They later divorced in Arizona which included child support. Octavia moved to New Mexico. Otto and the child moved to Texas. Octavia fell behind in child support. Two years after the divorce, Octavia and Otto remarried in Arkansas. However, old issues arose and they divorced again a year later (still in AR). Octavia moved back to New Mexico and Otto and the child moved back to Texas. Otto applies for child support services in Texas.

- What is the impact of the divorce, remarriage and second divorce on the original divorce's child support order regarding arrearages?
- Which state has CEJ? If none, which state will be the forum state?
- What if there was no second divorce in AR but Otto still wanted support?



Physical vs Legal Custody of Child

George and Martha were married and had two children – Georgie and Marti. They divorced in Virginia. Martha got custody of both children and moved to Maryland. George moved to Delaware, where the VA order was registered for enforcement. When Georgie turned 13, she wanted to move in with George. George and Martha agreed to try it out for a while. After six months they decided Georgie could stay with George. No legal custody change occurred. Marti wants to stay with Martha in MD.

- Is a change in legal custody required? If not, when did the permanent physical custody change occur?
- What happens to support payments during the physical custody change?
- What state can entertain a change in support? Is a new application needed?
- What if Marti moved in with George too (in DE)?



Interstate Foster Care

Mary Ann is the child of Gilligan and Ginger, who live in Vermont. Mary Ann was taken by Vermont child protective services and placed in foster care. Soon after, Ginger and Gilligan move to New Hampshire but end up getting a divorce; no child support is mentioned in the divorce decree. Ginger moved back to Vermont and Sherman moved to Maine.

Vermont is seeking IV-E reimbursement.

- Which state should be the forum state?
- Is this a modification or establishment support action?
- What if the divorce mentioned Mary Ann as a child of the marriage and set the child support at \$0?
- Who is (are) the defendant(s)?



Terms of Arrears Repayment

There is a 2018 Montana child support order for Clark to pay Lois \$800/month in support for their two children. A subsequent enforcement petition in 2019 resulted in a money judgment for \$5,000 and a repayment amount of \$100/month. Now Clark moves to Idaho and is not paying support, so the MT order is registered there for enforcement. Clark gets a job and ID sends an IWO to the employer for \$800/month + \$200/month to collect the arrears, as ID regulations require an additional administrative amount of 25% of the current support obligation to recoup arrears. MT informs ID of the \$100/month arrears recoupment amount as per their court order.

- What should the correct recoupment amount be?



Surrogacy and Change of Custody

In 2018 Ellen and Portia are married and have a child using a gestational surrogate Gretel with sperm donation from their friend Hansel. After the baby is born, a Massachusetts court issues an order establishing Ellen and Portia as the legal parents. In 2020 Ellen and Portia divorce in MA. Portia is ordered to pay child support directly to Ellen and there is no IV-D involvement. Ellen moves to Connecticut and comes into your child support office complaining that Portia (who still lives in MA) is not paying support.

- As the CT worker, what do you file and where?
- A year later the child goes to live with Ellen's mother in Rhode Island. Grandma applies for services and provides proof that she has custody of the child. Ellen now resides in Oklahoma and Portia is living in Wyoming. As the RI worker, what do you file, and where? Against whom?



Suspension of Support During Incarceration

A 2019 North Carolina child support order for Elvis to pay Priscilla \$600/month is registered for enforcement in South Carolina, where Elvis resides. Priscilla and the child remain in NC. Elvis is incarcerated in SC for a minimum of 2 years. SC policy states that all orders are suspended by operation of law if the NCP is incarcerated more than 6 months, so child support payments are suspended.

- Is this considered a modification of the NC order? If so, what basis does SC have to modify the NC order?
- If not a modification, how can SC suspend payments on the NC order?



Multiple Income Withholding Orders

In 2015 North Dakota issued a child support order for David to pay Victoria \$700/month in support for their three children. In 2017 David moved to South Dakota and stopped paying support, so Victoria went on Public Assistance and the ND order was registered in SD for enforcement. In 2019 Victoria and the children also moved to SD and the ND order was registered for modification in SD. In 2021 SD sends David's new employer an IWO for current support as well as an additional amount to recover a large arrearage owed to Victoria. Now ND sends their own IWO to the employer to recover their Public Assistance arrears.

- Is this permissible? Or is this considered double dipping?



Change of Custody – Multiple Children

McDonald and Wendy have a 2016 Mississippi child support order requiring Wendy to pay McDonald \$600/month for their 3 children. In 2017, the oldest child Big Mac moves in with Grandma in Alabama. In 2018, the middle child Ham moves in with an Aunt in Louisiana. In 2019, the youngest child Burger moves in with Wendy, still in Mississippi. McDonald has since moved to Pennsylvania. Your Mississippi child support office learns all of this anecdotally. None of the parties have filed any petitions (yet).

- As the MS worker, what actions do you take on this case?

{PART ONE}



Change of Custody – Multiple Children

Same scenario:

- MS order for Wendy to pay McDonald \$600/month for 3 children.
- Oldest child Big Mac now lives with Grandma in AL.
- Middle child Ham moves in with Aunt in LA.
- Youngest child Burger moves in with Wendy in MS.
- McDonald currently resides in PA.
- Wendy and Grandma and Aunt all apply for services in MS. First, is this allowed?
- As the MS worker, what actions do you take on this case? Against whom? Where?

{PART TWO}



THANK YOU!

**Rob Velcoff , Owner and Independent Consultant
Intergovernmental Support Services
robvelcoff@intergovernmentalsupportservices.com
<https://intergovernmentalsupportservices.com>**

**Kelly Micka, Director
Alvarez and Marsal, LLC
kmicka@alvarezandmarsal.com**

**Diane Potts, Director
National Strategy Team
CGI Inc.
diane.potts@cgi.com**

