Helping Hands
Bridging Bright
Futures for Families
ERICSA
2024
Grand Rapids
ERICSA 61ST ANNUAL
TRAINING CONFERENCE & EXPOSITION
APRIL 7–11, 2024

Intergovernmental Hearings

Moderator

Teddy Andreopoulos
Support Magistrate
New York City Family Court
New York, New York

Presenters

Robert Bishop
Child Support Director
Kosciusko County
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Warsaw, Indiana

Tommy Howard
First Assistant Prosecuting Attorney
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Warren County CSEA
Lebanon, Ohio

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Assistant Attorney General
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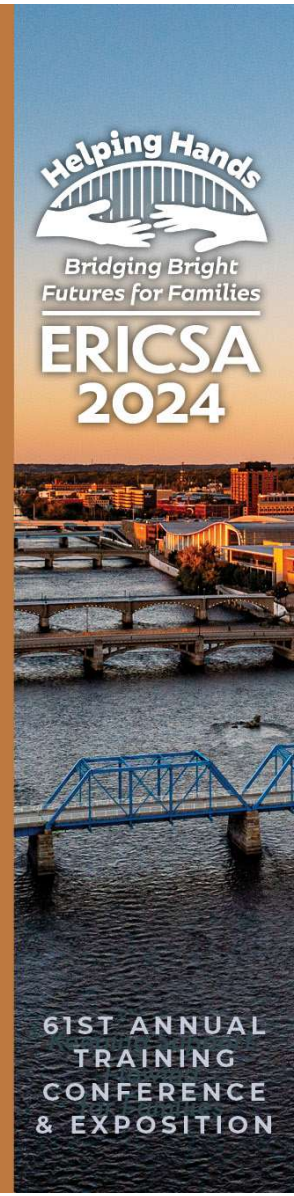
Austin, Texas

What are some of the differences between a local child support court hearing and an interstate child support court hearing?

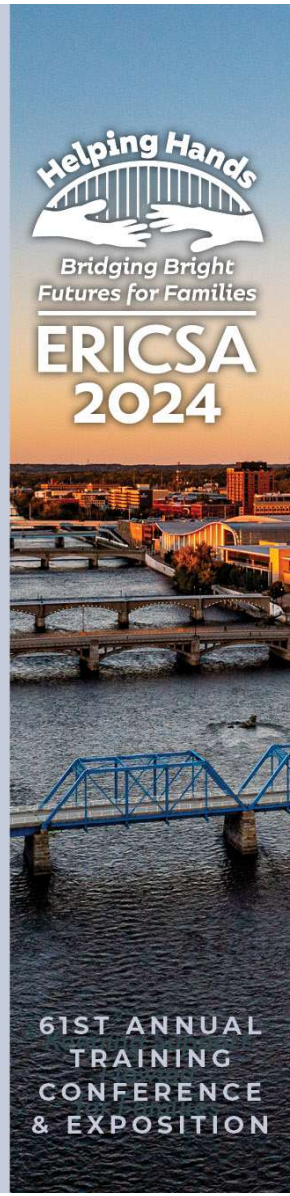
And, what are the best ways of dealing with these differences?

Topics include case preparation, telephonic and electronic testimony, rules and realities for admitting documentation into evidence across state lines, what individual magistrates and judges require, how the parties to the case are involved, attorneys appearing pro hac vice, and much more.



Sending / Receiving Petitions

- How does a two-State case get started anyways?
  - Section 304 of UIFSA details the duties of the Initiating tribunal
- When your agencies are initiating, what all goes into preparation?
- How do the individual Central Registries handle the incoming petitions?
- What if there are errors in the petition? What do you do?



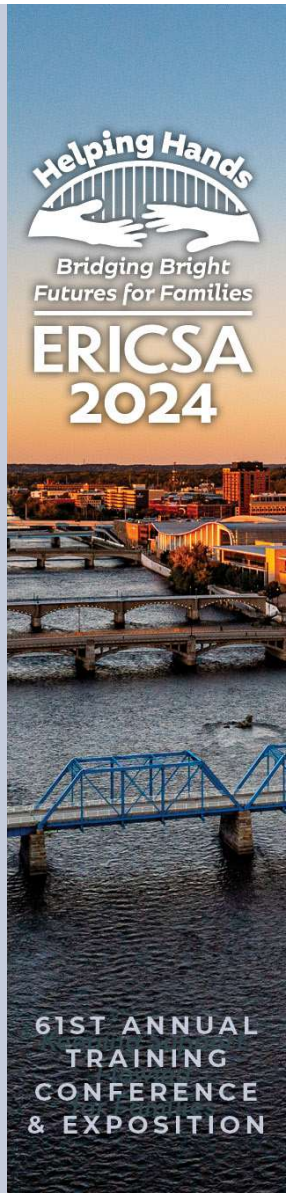
In Ohio…

When Ohio receives a case from another State it is in the form of a "petition"

The Ohio Central Registry acts a clearinghouse for all income petitions from other States or countries

The Central Registry forwards the petitions to the local county where the responding party resides

The local CSEA is then tasked with working the case



Incoming Legal Actions - Texas

Initiating State prepares Transmittal

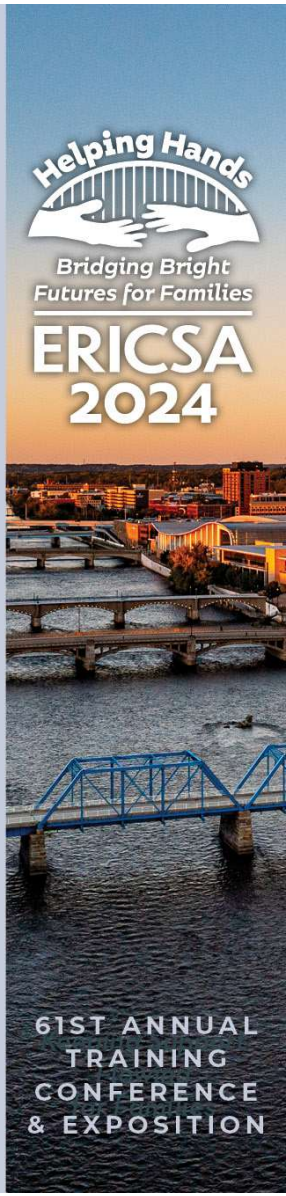
Transmittal sent to Texas Interstate Central Registry

Texas ICR assess case for appropriate action

Transmittal routed to local field office

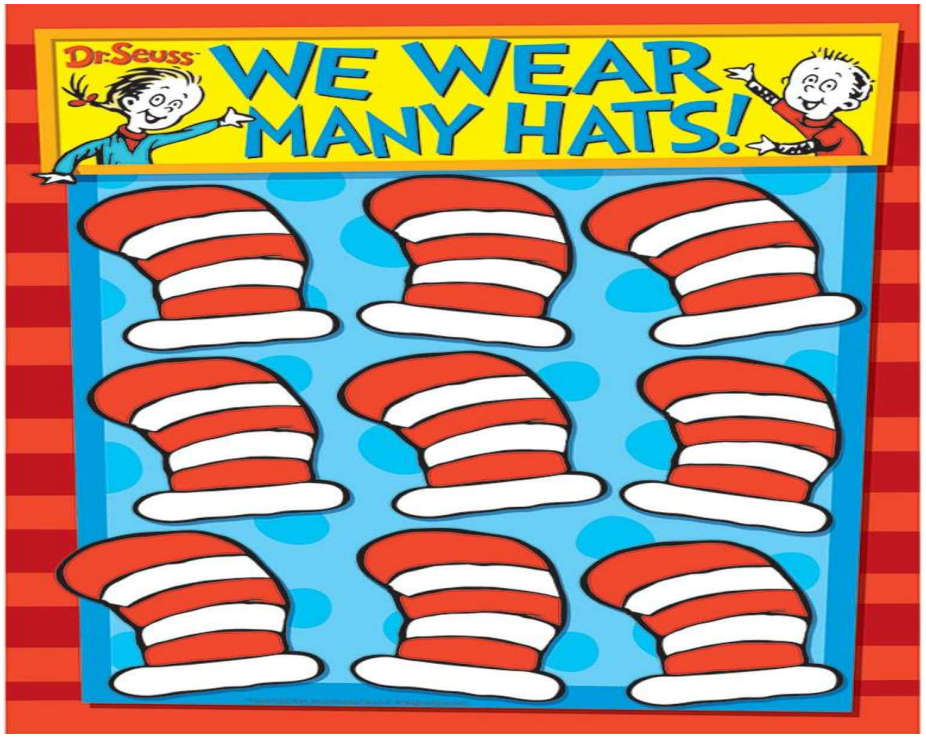
Field office completes transmittal #2

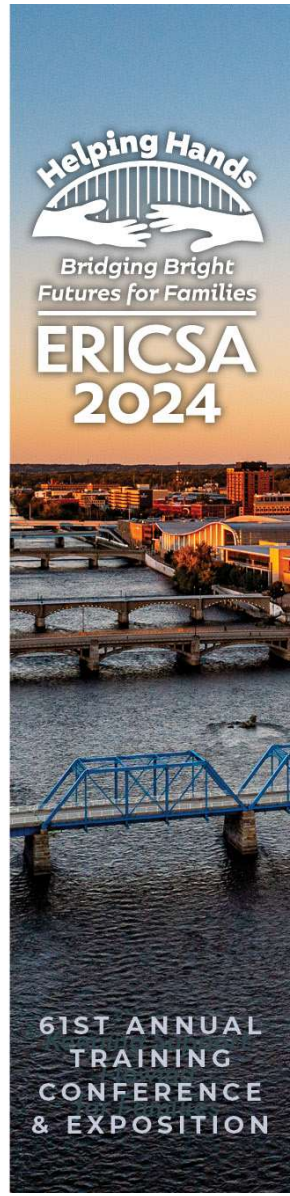
Field office files interstate petition



Administrative or Judicial Processes?

- What are the duties of the Responding Support Agency and Tribunal ?
  - Sections 305 and 307 of UIFSA states all of the duties and powers





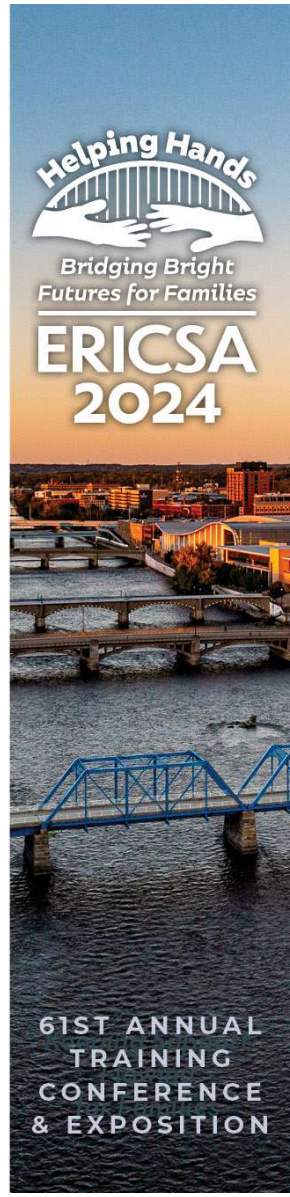
Administrative or Judicial: A Texas Two-Step of Actions

"The Texas trial court was required to accept the Oklahoma order as an adjudication of the Daltons' respective rights and obligations, but Texas law governs the methods by which the Texas court could enforce those rights and obligations." Dalton v. Dalton, 551 S.W.3d 126, 136 (Tex. 2018)

- Judicial Remedies

Contempt	Community Supervision / Probation	NCP Choices (Employment Program)	Judgment

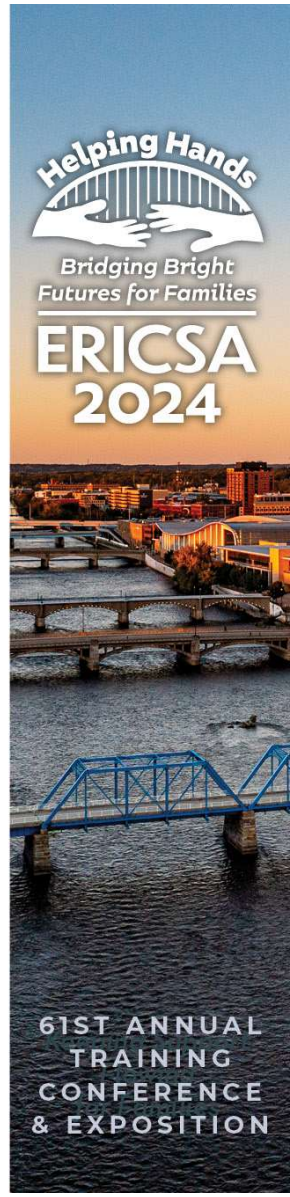
Revocation	License Suspension	Property Lien



A Texas Two-Step of Actions

- Administrative

Delinquency Letters/Lump Sum Letters	Collection Calls	Lottery Intercept	Administrative Income Withholding	Social Security Disability
National Medical Support Notice	State Debt Set-Off	UIB	Worker's Compensation	Federal Tax Refund Intercept
Passport Denial	Financial Institution Data Match	Credit Bureau Reporting	License Suspension / Denial of Renewal	Denial of Motor Vehicle Registration
Lien/Levy	Insurance Intercept			



Section 305 provides in part:

(A) When a responding support enforcement agency of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to division (B) of section 3115.301 of the Revised Code, it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.

(B) A responding tribunal of this state, to the extent not prohibited by other law, may do one or more of the following:

(1) Establish or enforce a support order, modify a child-support order, determine the controlling child-support order, or determine parentage of a child;

(2) Order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(3) Order income withholding;

(4) Determine the amount of any arrearages and specify a method of payment;

(5) Enforce orders by civil or criminal contempt or both;

(6) Set aside property for satisfaction of the support order;

(7) Place liens and order execution on the obligor's property;

(8) Order an obligor to keep the tribunal informed of the obligor's current residential address, electronic-mail address, telephone number, employer, address of employment, and telephone number at the place of employment;

(9) Issue a capias for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the capias in any local and state computer systems for criminal warrants;

(10) Order the obligor to seek appropriate employment by specified methods;

(11) Award reasonable attorney's fees and other fees and costs;

(12) Grant any other available remedy.

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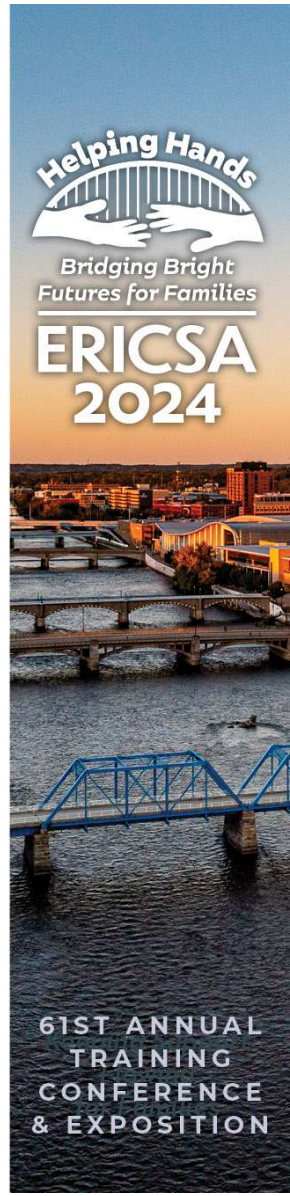
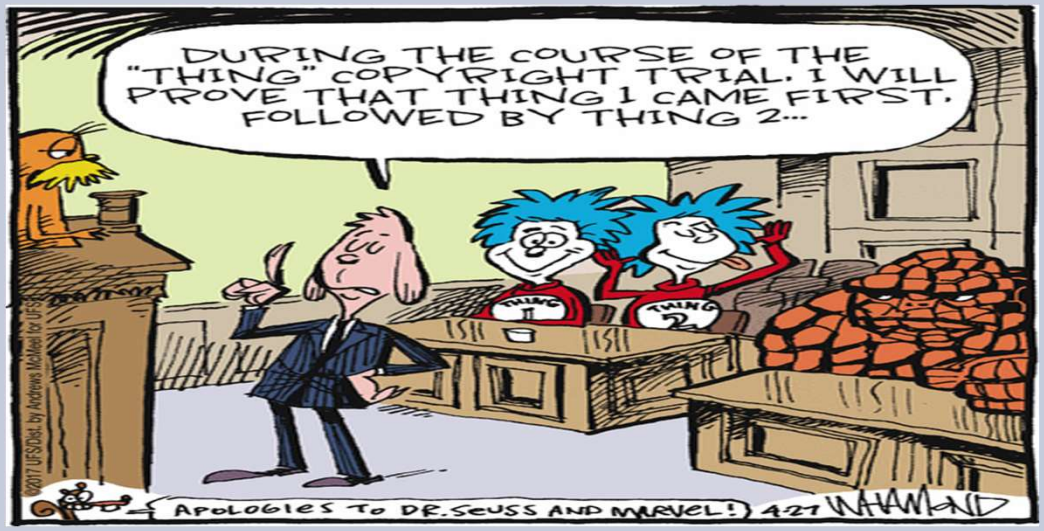
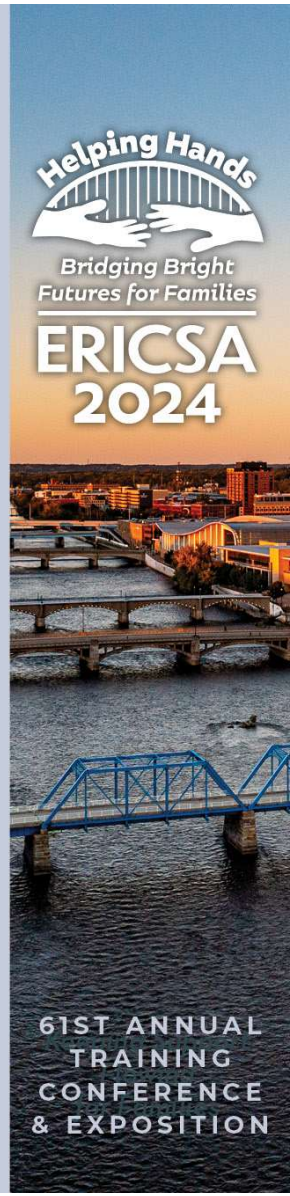


The Great UIFSA e-Paper Chase

- Internal Documents
  - Transmittals
    - Transmittal #1 – Initial Request
    - Transmittal #2 – Subsequent Actions
    - Transmittal #3 – Request for Assistance / Discovery
  - Child Support Agency Confidential Information Form
  - UIFSA Form §319 for Redirection
- Documents Filed with the Tribunal
  - Letter of Transmittal Requesting Registration
  - Uniform Support Petition
  - Personal Information Form For UIFSA §311
  - General Testimony
  - Declaration in Support of Establishing Parentage





Section 307 provides in part:

(A) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this chapter.

(B) A support enforcement agency of this state that is providing services to the petitioner shall do all of the following:

(1) Take all steps necessary to enable an appropriate tribunal of this state, another state, or a foreign country to obtain jurisdiction over the respondent;

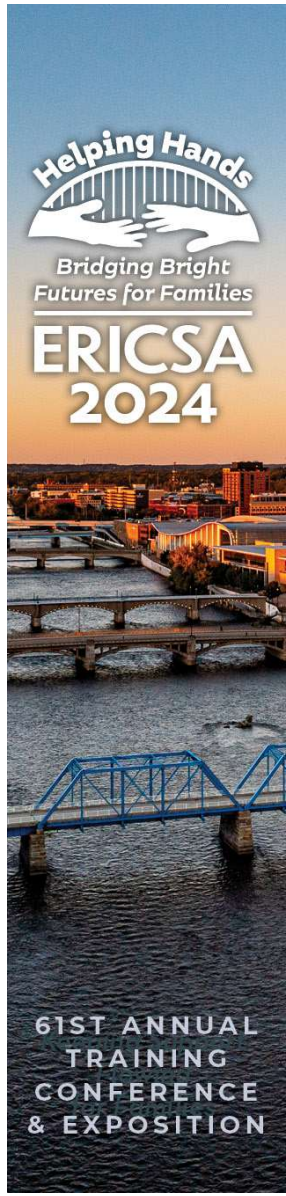
(2) Request an appropriate tribunal to set a date, time, and place for a hearing;

(3) Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(4) Within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of notice in a record from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;

(5) Within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of communication in a record from the respondent or the respondent's attorney, send a copy of the communication to the petitioner;

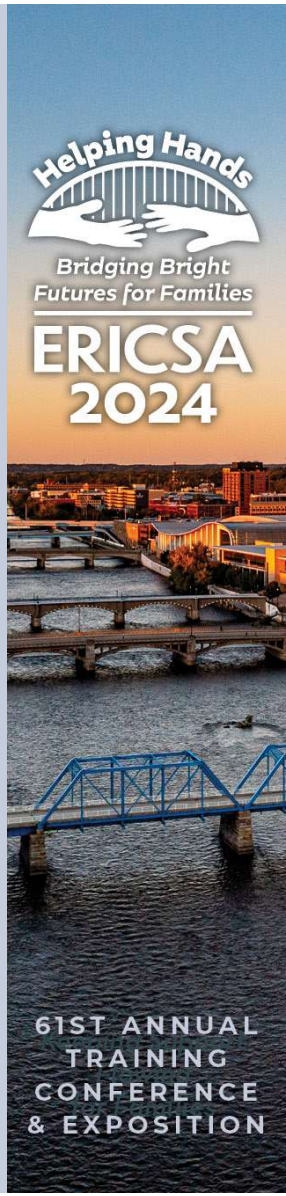
(6) Notify the petitioner if jurisdiction over the respondent cannot be obtained.



Confidentiality and Family Violence

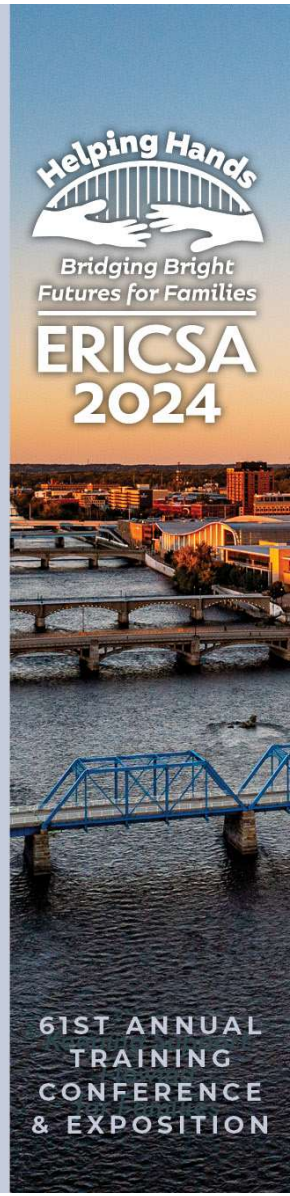
- What steps should be taken to protect confidentiality especially when there is family violence?

- Does the entire petition get filed with your tribunal?



Section 312 provides:

If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information must be sealed and may not be disclosed to the other party or the public. After a hearing in which a tribunal takes into consideration the health, safety, or liberty of the party or child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice.

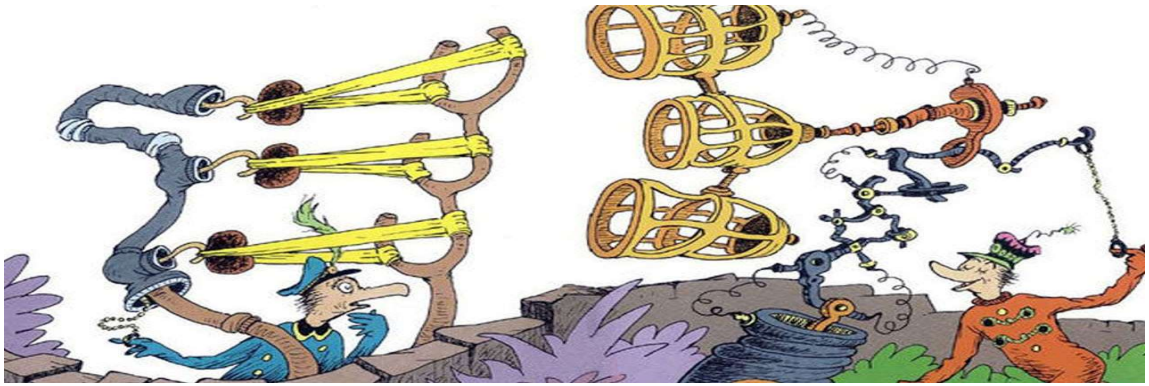


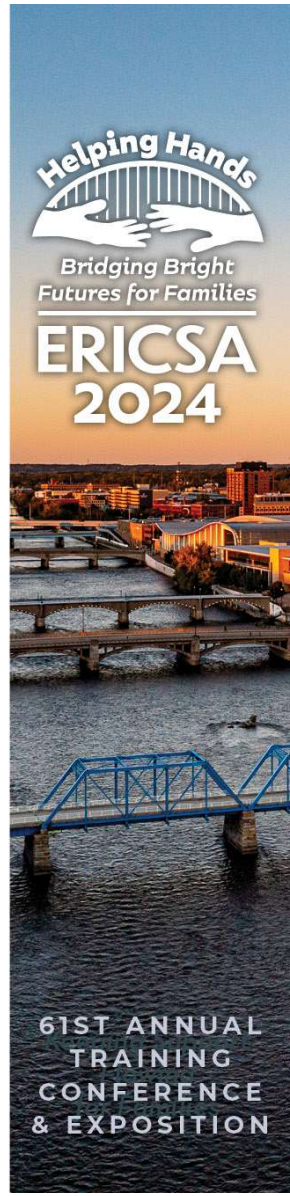
Registration Hearings

- Section 601 – Registration of Order for Enforcement
  - An out of state order or IWO may be registered in this state for enforcement.

- Section 602 – Process for registration

- Kendall v. Kendall, 340 S.W.3d 483 (Tex. App.—Houston [1st Dist.] 2011, no pet.)
  - "Sections 159.602 and 159.609 of the Texas Family Code require a foreign support order be registered in Texas as a prerequisite to enforcement or modification."
  - "the filing of foreign support order satisfies the registration requirement so long as no one was prejudiced by the failure to follow the statutory procedures."
  - "in substantial compliance with UIFSA requirements,"



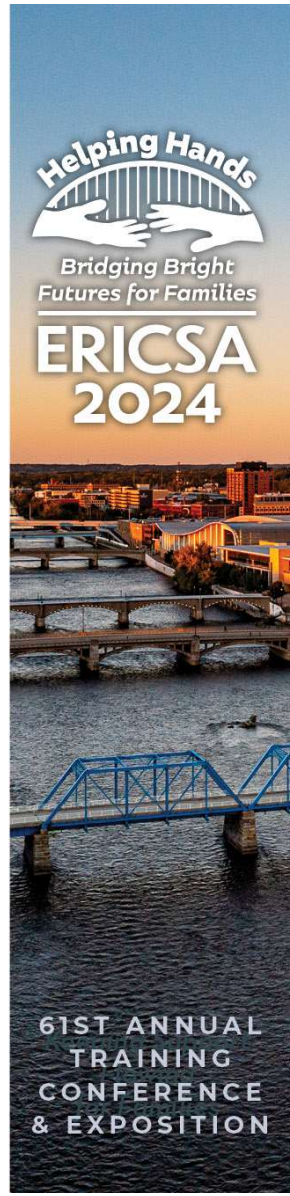


Registration Defenses

Section 607. Contest of Registration or Enforcement

(a) A party contesting the validity or enforcement of a registered support order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

the issuing tribunal lacked personal jurisdiction	the order was obtained by fraud	the order has been vacated, suspended, or modified	the issuing tribunal has stayed the order pending appeal
there is a defense under the law of this state to the remedy sought	full or partial payment	the statute of limitation under Section 159.604 precludes enforcement	the alleged controlling order is not the controlling order

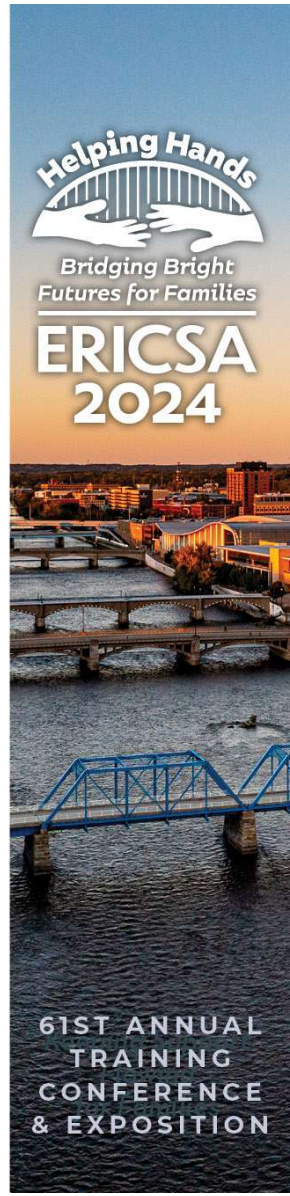


Telephonic Hearings

Section 316 (F) provides that:

In a proceeding under this chapter, a tribunal of this state shall permit a party or witness residing outside this state to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means at a designated tribunal or other location. A tribunal or support enforcement agency of this state shall cooperate with other tribunals in designating an appropriate location for the deposition or testimony.

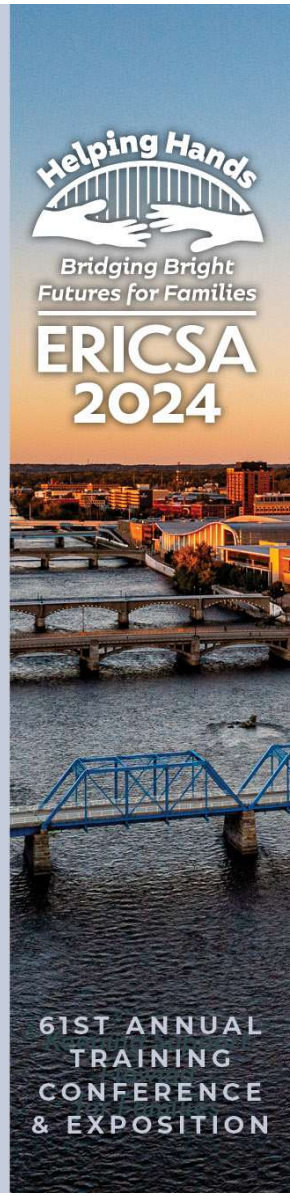
But, what does that actually look like?



Evidence

- Section 316 – Special Rules of Evidence and Procedure
  - Can't require physical presence of nonresident party
  - UIFSA forms not excluded as hearsay
  - Electronically sent evidence not excluded due to means of transmission
  - Nonresident parties and witnesses may be deposed and/or testify electronically
  - Court can draw an adverse inference based on refusal to testify
  - Spousal communication privilege does not apply

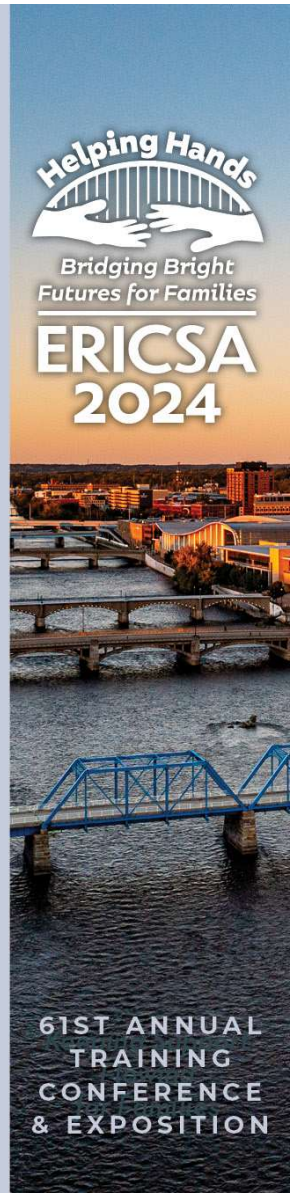
- The Confrontation Clause, U.S. Const. amend. VI
  - Is cross-examination unconstitutionally limited by UIFSA?
    - Arnell v. Arnell, 416 S.W.3d 188 (Tex. App.—Dallas 2013, no pet.)



Objections

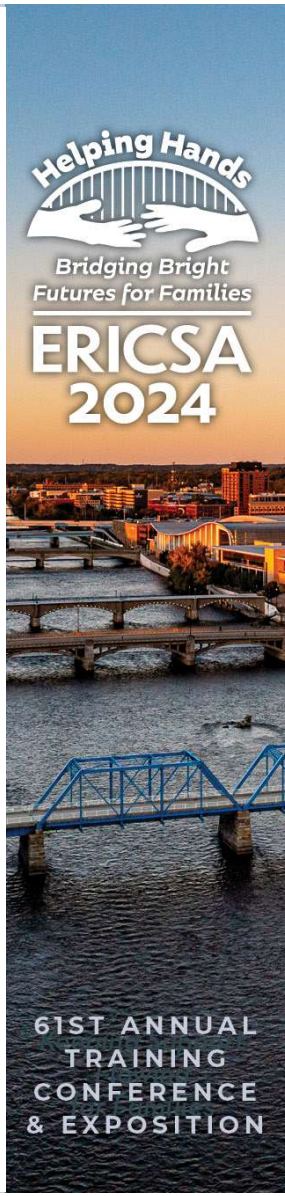
- Section 316(b) – Special Rules of Evidence and Procedure
  - An affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in an affidavit or document, that would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing outside this state.

  - Interest of L.A.F., No. 14-21-00046-CV, 2022 WL 3093525 (Tex. App.—Houston [14th Dist.] Aug. 4, 2022, no pet. h.)
  - Arnell v. Arnell, 416 S.W.3d 188 (Tex. App.—Dallas 2013, no pet.)
  - Attorney Gen. v. Litten, 999 S.W.2d 74 (Tex. App.—Houston [14th Dist.] 1999, no pet.)



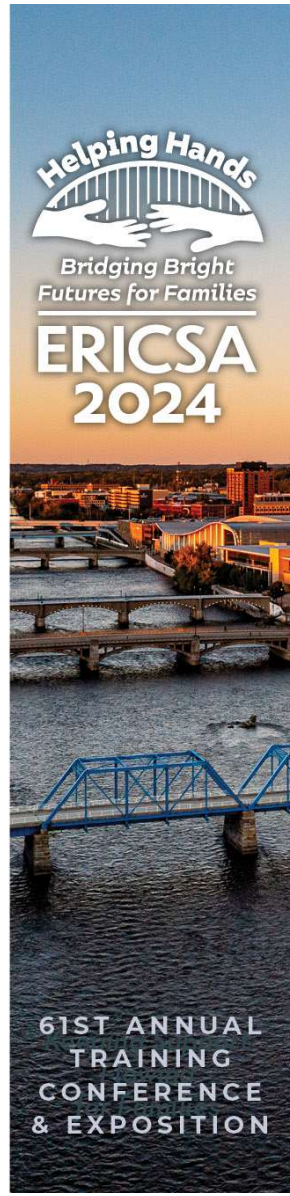
What if your local IV-D applicant disagrees with the order?

How are objections or appeals handled?

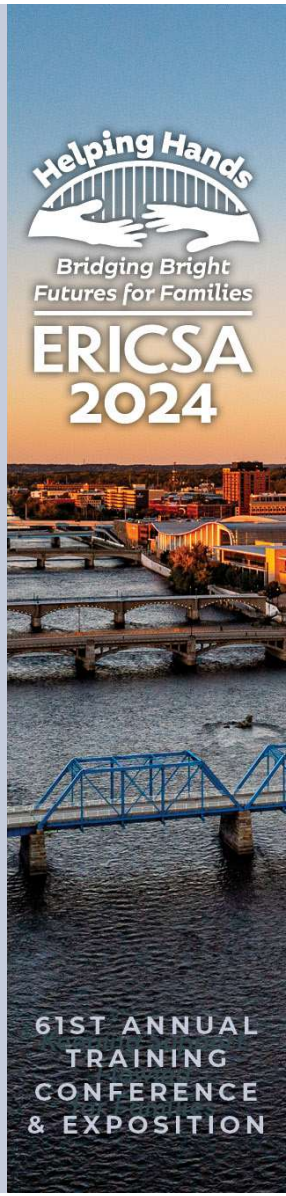


Texas Appellate Process

Post Trial Remedies	Appellate Remedies
• De Novo Hearing • Motion for New Trial • Motion to Correct / Reform Judgment • Bill of Review	• Traditional Appeal • Restricted Appeal • Collateral Attack

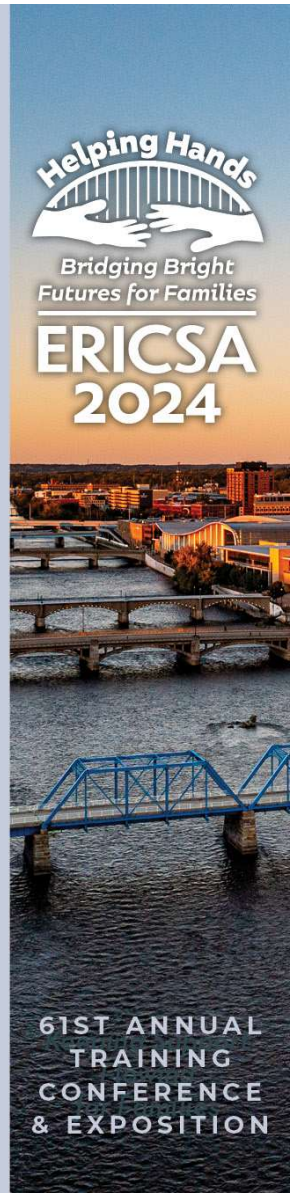


Best Practices



Best Practices

- Direct Examination
  - The journalism questions
- Cross Examination
  - Declarative Statements in the interrogatory tone



Effective Leading on Cross Examination

Fact Pattern:

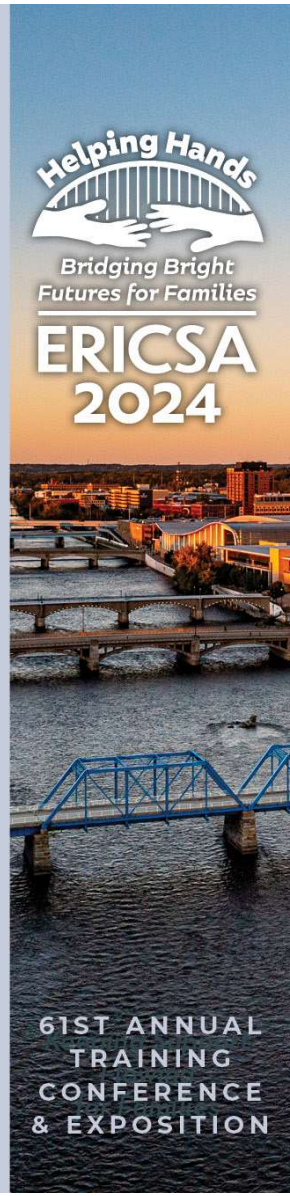
A boy and his sister Sally were left home alone.

While they were home a large stranger broke in and vandalized the house.

An alleged perpetrator was arrest and is on trial for breaking an entering and vandalism.

The defendant pled not guilty and the defense theory is that the boy made the story up.

The defendant's attorney is about to cross examine the boy.



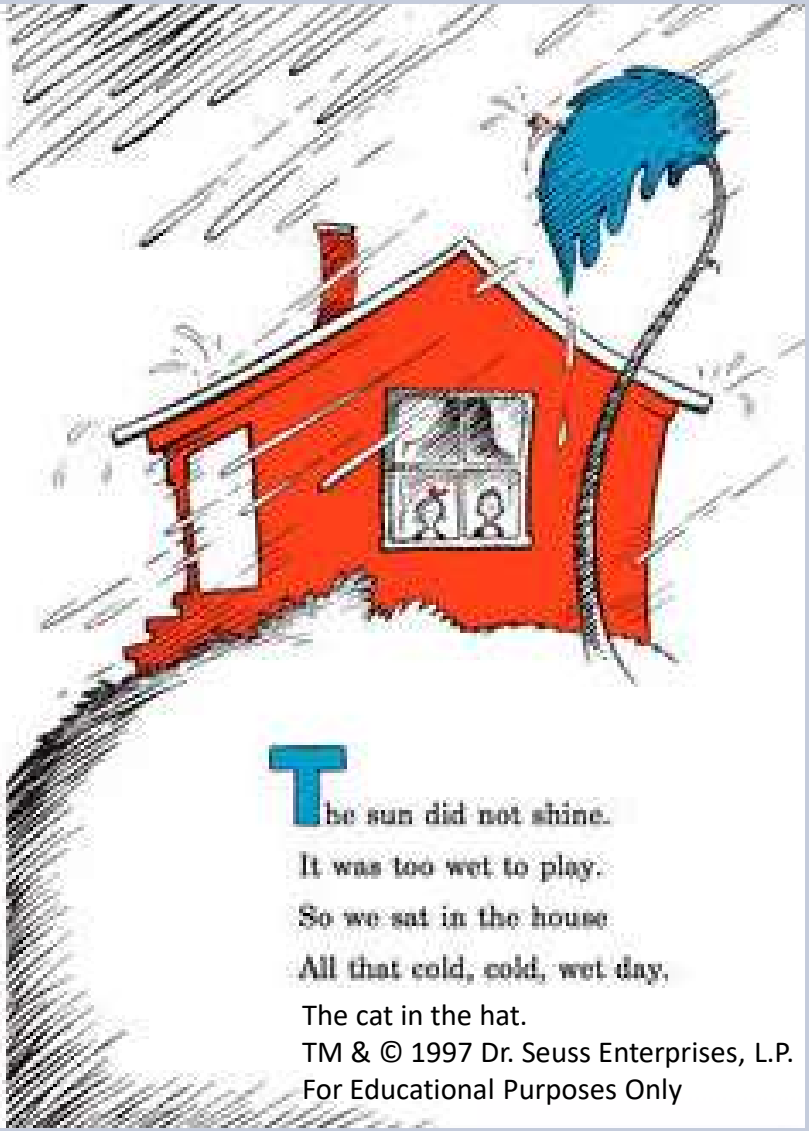
the sun did not shine
it was too wet to play
so we sat in the house
all that cold, cold, wet day

I sat there with Sally
we sat there, we two
and I said 'how I wish we
something to do'

too wet to go out
and too cold to play ball
we sat in the house
we did nothing at all

so all we could do was
to sit, sit, sit
and we did not like it
one little bit.

Dr. Seuss. (1985). *The cat in the hat*. New York, NY: Random House. (Original work published 1957)



The cat in the hat.
TM & © 1997 Dr. Seuss Enterprises, L.P.
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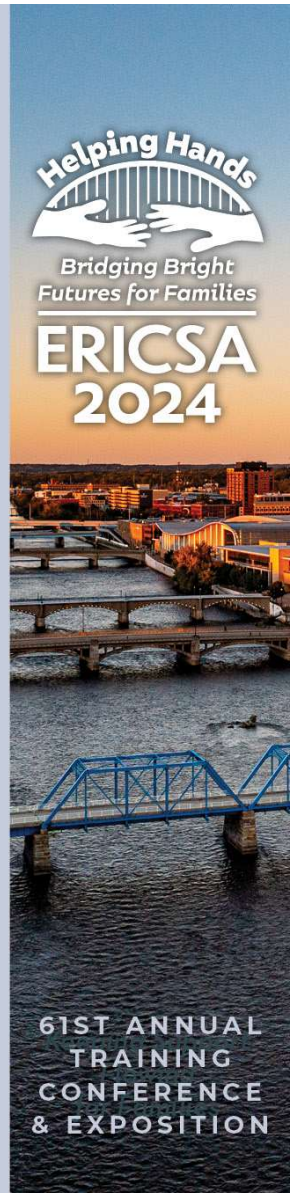
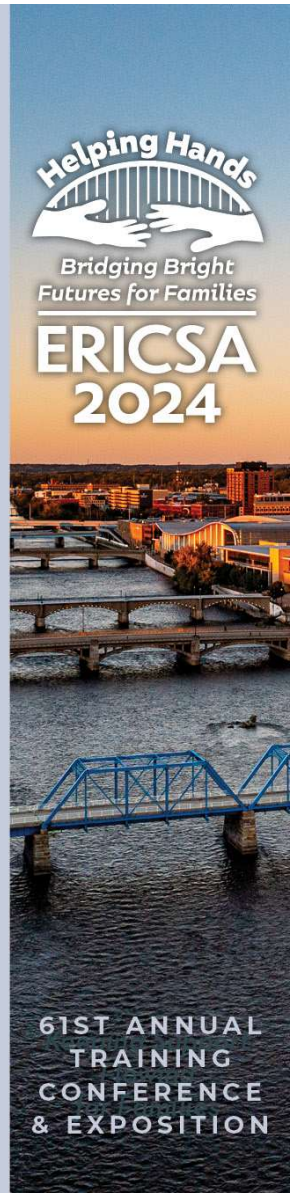


Example 2

- At first you were afraid
- You were petrified
- You though you could not live without him by your side
- You spent nights thinking
- Thinking how he did you wrong
- You grew strong
- You learned how to get along
- Now your back
- From outer space
- You found him
- He had a sad look upon his face
- You though you should have changed that lock
- You should have made him leave his key
- You did not know he would be back to bother you
- You said “go on go”
- “Walk out the door”
- “You’re not welcome anymore”
- You said “Oh, no, not I”
- You said “I will survive”



Thank you!

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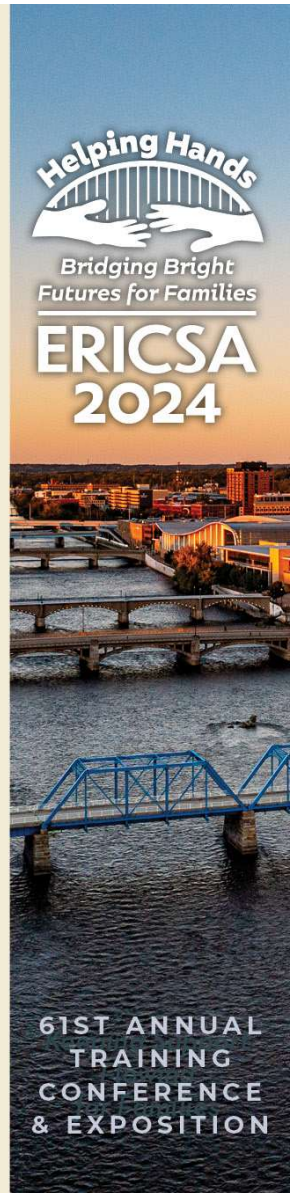
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