



**ERICSA 62ND ANNUAL
TRAINING CONFERENCE & EXPOSITION**

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NORFOLK

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One-State Interstate: Going Solo

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Do we have to send the case to another state?

- Not all intergovernmental cases require handing off the case to another state to work.
- When is it preferable to keep control of the establishment or enforcement of a case? How does UIFSA, and the federal rules and forms, help one state keep control of its case?
- Topics to be discussed include advantages and disadvantages of going one-state, the use of long-arm, administrative vs judicial powers, service of process, interstate subpoenas, issues with direct income withholding, telephonic testimony, one-state “interstate” enforcement, and much more.



Decide!

- When it comes to the establishment of parentage and/or support a decision has to be made on whether to utilize the one-state or two-state process. There are pros and cons to both.



One-State vs. Two-State

One-state:

- Your state establishes the order.
- Your guidelines and duration.
- Your state controls the order.
- Admin fees and/or interest.
- No waiting for the other state.

Two-state:

- Dependent on other state processes.
- Other state's laws and order.
- Payee doesn't have easy access to the other state.
- Timeframes are extended.
- Enforcement up to other state.



Responsibilities

Under CFR §303.7(d)(1) – Provision of Services in Intergovernmental IV-D Cases.

(d) Responding state IV-D agency responsibilities. Upon receipt of a request for services from an initiating agency, the responding state IV-D agency must:

(1) Accept and process an intergovernmental request for services, regardless of whether the initiating agency elected not to use remedies that may be available under the law of that jurisdiction.



Options

- An initiating jurisdiction may elect the action it finds most appropriate and a responding jurisdiction may not deny a two-state action simply because it may also be achieved through a one-state process.



What You Would Need – One-State

- Your state could use a CSE Transmittal #3 to obtain information from other states.
- Could also use QUICK and FCR to see if either party has other child support orders.
- Telephonic testimony is permitted.



What You Would Need – Two-State

- CSE Transmittal # 1
- Uniform Support Petition
- Declaration in Support of Establishing Parentage (if paternity is in question)
- General Testimony
- Personal Information Form for UIFSA §311
- Child Support Agency Confidential Information form
- Any other supporting documentation (examples: birth certificate, Voluntary Acknowledgment of Paternity, etc.)



Long-Arm Jurisdiction

- UIFSA contains broad provisions for asserting long-arm jurisdiction to provide a tribunal in the state of residence of the party entitled to support with the maximum possible opportunity to secure personal jurisdiction over an out-of-state respondent. This is §201.
- This converts what otherwise would be a two-state proceeding into a one-state proceeding.



Long-Arm Jurisdiction (cont.)

- long-arm jurisdiction is not a term specific to child support intergovernmental law; it is a legal “term of art” with respect to “personal jurisdiction” over a party.
- If a party does not have minimum contacts with a jurisdiction and is not properly served with the initiating paperwork, the order is **void**.
- Do not “stretch” the facts to obtain an order and always document the basis for exerting jurisdiction over a non-resident.



Long-Arm Statute – UIFSA § 201

- (1) the individual is personally served ... within this state;
- (2) the individual submits to the jurisdiction of this state by consent in a record, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;
- (3) the individual resided with the child in this state;
- (4) the individual resided in this state and provided prenatal expenses or support ...;



Long-Arm Statute (cont.)

- (5) the child resides in this state as a result of the acts or directives of the individual;
- (6) the individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse; or
- (7) the individual asserted parentage in the putative father registry maintained in this state by the appropriate agency; or
- (8) there is any other basis consistent with the constitutions of this state and the United states for the exercise of personal jurisdiction.



Sections 210, 316 – 318, Evidence and Discovery

When jurisdiction over a non-resident is obtained, the tribunal may:

- obtain evidence,
- provide for discovery, and
- elicit testimony through use of the same "information route" provided for two-state proceedings.



Section 316, Special Rules of Evidence and Procedure

(e) Documentary evidence transmitted from outside this state to a tribunal of this state by telephone, telecopier, or other means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission.

(f) In a proceeding under this [act], 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 of this state shall cooperate with other tribunals in designating an appropriate location for the deposition or testimony.



Special Rules of Evidence & Procedure (cont.)

Official Comment

The intent throughout these subsections is to eliminate by statute as many potential hearsay problems as possible in intergovernmental litigation, with the goal of providing each party with the means to present evidence, even if not physically present.

- Do your courts routinely conduct telephonic or virtual hearings?
- Does the out of state party go into a local agency or do they participate at home?



Section 317, Communications Between Tribunals

- A tribunal of this state may communicate with a tribunal outside this state in a record or by telephone, electronic mail, or other means, to obtain information concerning the laws, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding.
- A tribunal of this state may furnish similar information by similar means to a tribunal outside this state.



Section 318, Assistance with Discovery

- A tribunal of this state may request a tribunal outside this state to assist in discovery; and
- Upon request, may compel a person over which it has jurisdiction to respond to a discovery order issued by a tribunal outside this state.



Additional One-State Considerations

Your child support office receives a new case and the NCP resides outside your state. What actions should you take?

- CSE workers should know how to assist the CP in understanding if a support case falls under one-state processing.
- Know the criteria that allows you to meet the processing standards.
- Explain the pros and cons to the CP in keeping the case local or creating an intergovernmental case.
- Consider creating a checklist to aid in making a determination to file as a one-state action.



Additional One-State Considerations (cont.)

- Does the NCP have multiple support cases?
 - If yes, review those cases to determine if they are one-state or two-state cases.
 - If one-state, proceed with one-state.
 - If two-state, proceed with two-state.
 - If no cases, review long-arm requirements to determine if you can file the action as one-state.
- Determine if there is a need to establish parentage.
- Review the NCP's employment status.
- Determine if direct income withholding is possible.
- Evaluate the ability to serve the NCP in the other state.
- Consider limited services options.



Limited Services – 45 CFR 303.7

Provision of Services in Intergovernmental IV-D Cases

- Identifies and implements procedures for cooperating with 12 limited services requests (45 CFR 303.7(a)(8))
 - Copy of support orders and payment records
 - Assistance with service of process
 - Assistance with genetic testing
 - Assistance with teleconference hearings
 - Assistance with administrative review
 - Assistance with discovery
 - High-volume automated administrative enforcement in interstate cases under section 466(a)(14) of the Act
 - Assistance with a lien
 - Financial data
 - Other
 - Provide remittance ID
 - Payment forwarding



Additional Limited Services Information

- States involved in a limited services request are identified as either the “Requesting State” or the “Assisting State.”
- Applies to state IV-D agencies, not to courts.
- Contact the other state Central Registry and/or local agency to confirm whether or not the limited service request can be performed.



Enforcement Jurisdiction

Which state has jurisdiction to enforce?

- After an order is entered, the forum state has jurisdiction to enforce against the debtor, even if the debtor lives outside of the forum state.
- Extradition/rendition (Criminal contempt/criminal nonsupport).
- Civil contempt in one state does not bind a different enforcing jurisdiction from applying their own enforcement remedies, according to their own policies.



Enforcement Jurisdiction (cont.)

- When assets and income are in control of another entity (e.g., bank, employer) and you seek third-party withholding/garnishment or lien/levy/attachment action, you:
 - Serve the entity with the asset or income in the other state if the entity does business in your state (check with the Secretary of State or other appropriate office); or
 - Start a two-state action in the state of the asset or where income is derived.



Enforcement Decision Making

Who is in charge of the enforcement decisions?

- If the forum state that issued the last controlling order is currently enforcing, that state may take all actions, including local enforcement, one-state interstate enforcement, and registration for enforcement.
- If the order is registered in another (responding) state, that responding state takes over primary enforcement actions, even when the forum state could continue to enforce (e.g., the initiating state would terminate an IWO if a responding state takes over enforcement duties); the responding state issues the appropriate IWO.



Enforcement Decision Making (cont.)

- A state that issued a controlling order that has terms that cannot be enforced by another state may collect on the arrearages itself.
- Is an initiating state with another state's controlling order currently enforcing? If yes, initiate to responding state where NCP has income and/or assets through a registration action.
- Has a state assumed enforcement control through registration of a controlling order in its state?
 - If yes, that state takes over all enforcement that is within the jurisdiction of the enforcing state/tribunal.
 - If no, perhaps the requesting state with a controlling order only wants limited assistance from the responding state.



Enforcement Tools Across State Lines

- Direct income withholding & EIWO
 - In UIFSA, so not applicable to tribes
 - International ???
 - Objections must be handled in the home state of the NCP, so the order must be registered for enforcement if the obligor objects.
- Interstate Lien – OMB 0970-0152:
<https://www.acf.hhs.gov/css/form/administrative-subpoena-and-notice-lien-forms-instructions>
- Direct Unemployment Insurance Income withholding
 - 14 jurisdictions: GA, IN, LA, MA, MI, MN, NY, ND, OH, PA, PR, TN, VI, and WI.



Enforcement Tools Across State Lines (cont.)

- Driver License Compact:

- An interstate compact used by States of the United States to exchange information concerning license suspensions and traffic violations of non-residents and forward them to the state where they are licensed known as the home state. Its theme is One Driver, One License, One Record. The home state would treat the offense as if it had been committed at home, applying home state laws to the out-of-state offense. The action taken would include, but not be limited to, points assessed on a minor offense such as speeding and suspension of license or a major violation such as DWI/DUI. It is not supposed to include non-moving violations like parking tickets, tinted windows, loud exhaust, etc. While it is not specific to child support, if one state suspends a drivers license due to non-payment of child support, most other states will suspend the drivers license as well.

<https://apps.csg.org/ncic/Compact.aspx?id=56>



One-State Lien Tips

- When filing an interstate lien, you do not need to file a two-state action to the state where the property is located.
- Involvement of the child support agency in the state in which the obligor's asset is located is not required.
- File interstate lien directly to the agency authorized to process liens in the other state.
- Review the IRG for general information about each state's lien procedures.



One-State Lien Tips (cont.)

- State's procedures may vary.
- Contact the state where the property is located to ensure that all necessary procedures and requirements are met.
- Use the Administrative Subpoena to verify the existence and/or location of the asset prior to filing the Notice of Lien.



Tips For Effective One-State Processing

- Maintain open and regular communications.
- Facilitate telephonic/electronic testimony.
- Utilize federal OCSS enforcement tools: CSENet, QUICK, EDE, FCR, Communications Center, etc.



Tips For Effective Enforcement Processing

- Use two-state UIFSA when enforcement becomes an issue, or if direct communication with the NCP or direct income withholding are not successful.
 - Registration for enforcement only.
- Advise responding state to stop IWO and close case before issuing your own IWO – §303.7(c)(12).
 - Responding state must stop its IWO and close its case within 10 days of notification – §303.7(d)(9).
 - Responding state and initiating state can reach an alternate agreement – §303.7(d)(9).



Thank you for your participation!

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