

THE UNIFORM INTERSTATE FAMILY SUPPORT ACT (UIFSA)

**Ensuring the Effective Enforcement
and Modification of Support Orders
presented by:**

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THE UNIFORM INTERSTATE FAMILY SUPPORT ACT (UIFSA)

Applies when parties live in different states; and

A party seeks the establishment, enforcement, or
modification of *child support* or *alimony*

Also applies to paternity issues

UIFSA SUPERCEDES URESA*

Problems of URESA:

Enforcing court could always modify Order; often resulted in numerous conflicting orders

States could refuse to enforce because the statute of limitation to recover arrears had expired in that state

*URESAs continues to apply to those actions filed *prior* to January 1, 1998

2 Most Important Aspects of UIFSA

Enforcement Proceedings
Modification Proceedings

The background is a solid blue gradient. A thin, light blue curved line starts from the top left and curves towards the center. A larger, light blue triangular shape is positioned in the lower right, pointing towards the center. The text "UIFSA clearly establishes" is centered in the lower half of the image.

UIFSA clearly establishes

SUMMARY

To Establish/Enforce Support Order:

Personal Jurisdiction

(Numerous Courts)

To Modify Support Order:

Personal Jurisdiction; And

Subject Matter Jurisdiction

(Only 1 Court)

To Enforce a Support Order Personal Jurisdiction Must Be Established

Before UIFSA, GA Domestic Relations Long Arm Statute only allowed asserting personal jurisdiction over Non-Resident Defendant if the matrimonial domicile was in GA or if that party previously resided in GA

UIFSA makes it easier to assert personal jurisdiction by providing 8 methods to assert personal jurisdiction over a non-resident Defendant

- (1) The individual is personally served with process in Georgia;
- (2) The individual submits to the jurisdiction of Georgia by consent, 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 Georgia
- (4) The individual resided in Georgia and provided prenatal expenses or support for the child

(5) The child resides in Georgia as a result of the acts or directives of the individual

(6) The individual engaged in sexual intercourse in Georgia and the child *may* have been conceived by that act or intercourse

(7) The individual asserted parentage in the putative father registry maintained in this State by the Department of Human Resources

(8) There is any other basis consistent with the Constitutions of Georgia and the United States for the exercise of personal jurisdiction

Modification of a Support

The image features a solid blue background. A white curved line starts from the top left and curves downwards towards the center. A white triangular shape is positioned in the lower right, pointing towards the center. The text "To Modify, You Must First" is centered in a bold, white, sans-serif font.

To Modify, You Must First



Exclusive Continuing

Exclusive Continuing Jurisdiction

Once a support order is entered by a state, that state will have exclusive and continuing jurisdiction over that support order as long as one of the parties or child(ren) continues to reside in that state.

Therefore, Georgia cannot modify a support order from another state *unless* all of the parties or child(ren) have permanently left that state

Court having exclusive continuing jurisdiction is prohibited from releasing its jurisdiction based on inconvenient forum grounds

(Important difference b/w UIFSA and UCCJEA)

What Happens When Exclusive Continuing Jurisdiction is Lost?

The support order can be modified in any state that is able to assert Subject Matter Jurisdiction

To Establish Subject Matter Jurisdiction, All of The Following Must be Established:

- (1) No State has ECJ (i.e., none of the parties or children reside in the original state);
- (2) Petitioning party is *not a resident of the state where the modification is brought* (the only exception is when *both* parties are residents of that state); and
- (3) Defendant is subject to the personal jurisdiction of that state

SUMMARY

To Enforce Support Order =
Personal Jurisdiction
(Numerous Courts)

THE CONTROLLING ORDER

- The controlling order is the order b/w the parties that must be recognized by every state for enforcement and modification
- See Appendix A for “flow chart” to determine which is the controlling order under UIFSA

HOW TO DETERMINE WHICH ORDER CONTROLS

- If only one court has exclusive continuing jurisdiction, the order of that court is the controlling order
- If more than one court could have continuing exclusive jurisdiction under UIFSA, the order issued by a tribunal in the *current home state* of the child is the controlling order
But if an order has not been issued in the current home state of the child, the most recently issued order is the controlling order
- If no court has exclusive continuing jurisdiction under UIFSA, the court having jurisdiction over the parties shall issue a child support order which shall be the controlling order

UIFSA CHOICE OF LAW

Significant Departure from URESA

Prevents Strategic Relocation of
Parties To Obtain a More Favorable
Result

UIFSA Prevents The Modification of Any Final, Non-Modifiable Provision of The Original Order

Date when Child Support Terminates
is never modifiable

Prevents party from moving to State where
child support terminates at an earlier/later
date

Once Georgia is Able to Modify Support Order:

Georgia Cannot Modify *Duration* of
Child Support;

however

Georgia Child Support Guidelines Apply

UIFSA Promotes the Enforcement of a Child Support Obligation:

Applies the longer statute of limitation between the enforcing court *or* the modifying court

In Georgia, there is no SOL to

Registration of Support Order

BY THE OBLIGEE

- Letter to clerk requesting registration and enforcement
- Attaching 2 copies (1 certified) of order(s) to be registered
- Sworn statement listing amount of arrearage
- Name of Obligor and Obligee

BY THE COURT/OBLIGEE

- (1) Out of state order is enforceable
- (2) A hearing to contest Order must be requested within 20 days after notice
- (3) The amount of arrears
- (4) Failure to contest will result in confirmation of the Order; and precludes further contest of that Order

Challenging the Enforcement/Validity of a Support Order

- Must request a hearing within 20 days after notice of registration to contest the Order
- If the party fails to contest the validity of the Order, the Order is confirmed by operation of law

Only 7 Defenses to Contest Validity of Registered Order

- (1) The issuing tribunal lacked personal jurisdiction over the contesting party;
- (2) The order was obtained by fraud;
- (3) The order has been vacated, suspended or modified by a later order;
- (4) The issuing tribunal has stayed the order pending appeal
- (5) There is a defense under the law of Georgia to the remedy sought;
- (6) Full or partial payment has been made; or
- (7) The statute of limitation precludes enforcement of some or all of the arrearage.

Promoting Communication Between Courts

Purpose:

- (1) Facilitate Discovery
- (2) Securing Testimony
- (3) Obtain information regarding laws of other state
- (4) Inquire as to status of other proceedings

Examples

- Physical presence of petitioner not required
- Affidavits are permissible and admissible
- Testifying through telephone or other audiovisual means

Mechanisms Available to Georgia Courts Under UIFSA

- Issue, enforce or modify a support order
- Order the compliance of order and manner of compliance
- Order income withholding
- Determine amounts due and provide for method of payment
- Enforce orders by civil/criminal contempt
- Set aside property for satisfaction of support order
- Place liens and order execution of obligor's property
- Order obligor to keep court informed of address/employment
- Order obligor to seek appropriate employment
- Award attorney's fees



HYPOTHETICALS:

**TESTING YOUR
KNOWLEDGE ON UIFSA**

Mother and Father get divorced in Ohio; Father stays in Ohio and Mother moves to Georgia. One day, when Father is visiting with his children in Georgia, Mother serves him with a Complaint for Modification of Child Support. Can the Georgia Court proceed with modifying Father's child support obligation?

No.

GA cannot modify Order

GA has personal jurisdiction

GA does not have subject matter jurisdiction b/c Ohio has ECJ

GA can enforce Order, but cannot modify

What if Father subsequently moved to Oklahoma (from Ohio) and Mother served him with the modification of child support action in Georgia?

Georgia CANNOT proceed with the modification action.

No Court has exclusive continuing jurisdiction

UIFSA does not allow the petitioning party (i.e., mother) to file a modification action in the state where she resides. Therefore, Mother can only modify Father's child support obligation in the state where Father resides.

Father and Mother are divorced in Alabama and are awarded joint legal and physical custody of their children. Father is ordered to pay child support . A couple of years after the divorce, Wife files for a change of custody action in Alabama seeking to relocate with the children to Georgia and her request is granted.

While in Georgia, Wife wants more child support. Father

No. GA cannot modify b/c Alabama has ECJ b/c Father continues to

What if Husband subsequently moved to Georgia. Where does Wife file her modification of child support action?

Georgia because Alabama no longer has exclusive continuing jurisdiction.

Georgia has both personal and subject matter jurisdiction over both parties since they both reside in Georgia.

Husband and Wife were divorced in Georgia. After the divorce, Wife moves to New Jersey where child support may terminate at 21. Husband still lives in Georgia. Can Wife modify child support in New Jersey so that she is able to obtain child support until her child reaches the age of 21?

No, because dad still lives in Georgia and thus Georgia has exclusive continuing jurisdiction.

****** Under UIFSA, the duration of the child support obligation is non-modifiable and the duration of the child support included in the original order will always apply.**

Parties Divorced in Alabama; Mother and children relocate to Georgia where they have been living for 1 year; Dad relocates to Florida.

(1) Where does Mother file a modification of *custody or visitation* action

Answer: Georgia (under the UCCJEA, modification takes place in home state of the children when there is no state with ECJ)

(2) Where does Mother file a modification of *child support* action

Answer: Florida (under UIFSA, modification cannot take place in residence of Petitioning party when there is no state with ECJ)

(3) If Father files a change of custody action in Georgia, can Mother counterclaim for modification of child support in Georgia?

Answer: No (Since there is no state with ECJ; movant has to file in opposing party's state; also under both UCCJEA & UIFSA there is *immunity so appearing for custody case does not give rise to jurisdiction over support case and vice/versa*).

Father and children reside in Georgia; Mother resides in Alabama; both states have

- Which is the controlling Order?
- If children and Father have resided in Georgia for more than 6 months, Georgia Order is controlling order
- If they have not resided in Georgia for more than 6 months (i.e., no home state), the most recent order is the controlling order

Appendix

- Controlling Order Flow Chart
- Petition for Registration and Modification of Child Support
- Notice of Registration of Out of State Order
- Petition to Vacate Registration of Out of State Support Order
- Notice of Determination of Controlling Order
- Application for Electronic Testimony, Waiver of Personal Appearance

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