

FCA ARTICLE 5B: UIFSA.

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Uniform Interstate Family Support Act effective 12/31/07.

The term "child" herein includes an individual over the age of majority still owed outstanding child support from when he/she was an infant.

HOME STATE: where child lived with parental figure for past 6 months (not counting temporary absences).

LAW: includes all statutes, rules, and court decisions in effect.

OBLIGEE: includes person or assigned State or Public Assistance agency in whose favor an Order of Support or Order of Filiation was issued.

OBLIGOR: includes any *alleged* parent - and their estate - against whom support or paternity has been filed/demanded/entered.

There are Issuing States of orders, and Responding States which comply; there are also Registering States where an order may be docketed. Initiating Tribunals request of a Responding Tribunal to establish an order, in accordance with the *Responding* State's law. The "Tribunal of State" in NY is Family Court.

States include D.C.; Puerto Rico; Virgin Islands; Native American Tribes; U.S. Territories; as well as other countries with law similar to the Uniform Reciprocal Enforcement of Support Act [URESAs].

Jurisdiction here can be obtained over a Resp served in-State; or by appearing without objection to service; or who filing responsive papers; or other service if they ever lived in NY with the child, had sexual relations here which resulted in birth of child; paid support from/to here; registered paternity here; or if child resides here due to Resp's actions.

If an action is filed in one state, and then the same action is also filed in another state: as long as the second case was filed before the time to respond to the first expired - and only if the Resp contests jurisdiction on one or the other - the child's Home State will be the one to proceed.

A Home State which makes an order of child support has continuing exclusive jurisdiction until **NO** party lives here any longer. However all parties may consent to another State modifying the order; upon such the original issuing state loses jurisdiction, and can only deal with violations of the initial order occurring before modification entered. Temporary Orders of Support issued ex-parte or before a determination do not afford exclusive jurisdiction.

If orders are issued by multiple states, each having some form of exclusive jurisdiction: the Home State order takes preference; if no such state, then the most recent order is controlling. If multiple orders without any exclusive jurisdiction: NY, if has jurisdiction.

A state which makes a Spousal Support order always retains jurisdiction!

A party can request a court's determination as to which order is controlling by providing a certified copy of each and every order; a certified copy of the court's decision must then be filed with all locales where an order was docketed. Failure to file orders specified within this Article does not generally invalidate them, but the party can be otherwise sanctioned.

A state initiating a petition shall send 3 copies to the Tribunal of this State, or the Support Collection Unit for forwarding. If the state does not know the proper court/SCU, the papers are sent to the State Information Agency. NY's info agency is Department of Social Services; DSS provides a list of local courts/SCUs to other state's info agencies; and in turn maintains a registry of their addresses.

If papers are received by an improper locale, such shall be forwarded, and the petitioner notified of where and when. Otherwise petitioner is notified of the filing date and location, and the court proceeds to: issue, modify, enforce, find contempt, withhold income, assign counsel fees, determine arrears, issue warrant, etc... as requested. All orders entered are copied to Petr, Resp, and Initiating Tribunal.

Normally all findings and determinations are made by the Responding State; but if such state has not enacted UIFSA rules, the Initiating Tribunal may make findings upon which the order shall be based. When Responding State is a foreign entity, the Initiator may even set a presumptive amount of support to be so ordered.

Interstate support orders herein may NOT be conditioned on visitation!

SCU's duty is to help a Petr obtain jurisdiction over a Resp - or notify if can't - request of court to set hearing; and forward copies of all notices and/or communications within 10 days of receipt (excluding weekends, holidays). SCU does not replace an attorney. If SCU fails to act, the Attorney General can order it do so; or else may itself act instead.

Petitions must be verified, and include certified copy of any controlling order. Petitions must generally specify all parties names, addresses, and SSN #s - also sex & D.O.B. for children - except on finding that such disclosure poses a risk of harm (determination may be ex-parte). Petitions verified under oath constitute evidence.

Petitioner does not have to pay costs or fees; SCU is not so required unless by some other law. Resp may be required to if does not prevail; Court shall set fees where

hearing was only demanded to delay proceedings (presumed so if an order to be registered is subsequently conformed) Payment of support order takes priority over other fees herein. Counsel fees may be directed payable to attorney in own name.

Physical presence of Petr in this state is NOT required. IF Petr comes here anyway, their presence does not generally confer jurisdiction, nor can they be served here. However Petr can still be sued for actions arising here then.

Copies of bills for health or DNA testing expenses shall be given to Resp at least 10 days prior to hearing. Any faxed papers cannot be excluded simply because they are not originals. Electronic testimony is available. Spousal privilege and immunity from testimony does not apply. Court can draw an "adverse inference" from an individual's failure to testify on self-incrimination (5th Amendment) grounds. States can request other states to assist with discovery.

Court may issue a temporary support order herein as long as it is satisfied that Resp is a parent; final orders under this Article only if Petr/SCU is in another state.

Out-state income deduction orders can be enforced here without petition. An employer receiving such must immediately copy to payer; payer can contest validity by serving notice on employer and payee (SCU, or Petr if direct-pay).

SCU can enforce an out-State order only if Resp does not contest it; else it must first be registered here.

Letter requesting Registration must be filed, together with 2 copies of order, at least one certified. Information regarding payer's name; and SSN, address, employer, non-exempt property, if known, must either be sworn to by a party or certified by custodian o records.

Copy of order to be registered - together with notice - is served on other party. Resp has 20 days to contest validity of order or amount of arrears. Grounds: issuing court had no jurisdiction; fraud exists; order has since been vacated, suspended, modified, stayed; arrears have been paid; beyond statute of limitations; or other allowable NYS defense. Statute of Limitations is *longer* of NY State [20 years], or issuing state.

Registration of order not successfully contested shall be confirmed. Registered orders cannot be modified here, except as below.

Parties can request modification of another state's order - with or without first registering - if: none live in the issuing state any longer, and Petr is non-NYS resident, and Resp subject to jurisdiction here; OR any party or child is subject to NYS jurisdiction, and all others consent (consent of NYS resident not needed if foreign order not UIFSA compliant); OR if *all parties* reside here now, and child is **not** in issuing state.

If order is modified here: Petr shall filed certified copy with issuing state within

30 days.

Governors can demand of each other the surrender of persons criminally charged with non-payment of child support. NYS Governor may first require a local prosecutor to determine that a petitioner had filed for enforcement at least 60 days previously, or that such would not be effective; governor can decline rendition if such proceedings were not filed but would have been effective; or if were filed and Resp prevails.