

Family Support Act Standardizes Handling of Child Support Cases between States

Q: My ex-husband moved to North Carolina right after our divorce, and hasn't paid anything to support our kids. Now my Child Support Enforcement Agency wants me to fill out a U-IF-SA form. What's that?

A: The form your Child Support Enforcement Agency (CSEA) wants you to complete has to do with the Uniform Interstate Family Support Act (UIFSA), which standardizes the handling of child support cases across state lines. All 50 states have similar versions of this act.

The CSEA wants you to sign forms asking the North Carolina courts to enforce your child support order. The CSEA should have a copy of your divorce papers, and your ex-husband's payment records. You can help by supplying them with current information and any new information about where your ex-husband is living and working.

The CSEA will send these forms, a copy of their payment records, and a certified copy of your original divorce to North Carolina so that the support order will be "registered" in North Carolina. That state's child support agency will then try to locate your ex-husband, find out where he is working, and, if necessary, take him to court to collect your child support.

Q: He's working in construction, and I'm afraid he'll tell the judge he's lost his job and needs his support order to be reduced.

A: If you were divorced in Ohio and you still live there with your kids, North Carolina shouldn't modify the order.

There used to be a process called the Uniform Reciprocal Enforcement of Support, where one state would set an order for support, and another state would modify it. This led to much argument and litigation over which order should prevail.

Now all states must follow UIFSA rules to determine which state controls a support order. Usually the state that issued the original support order is responsible for making any changes. The other state, called the "responding" state, can make new orders to insure the support gets paid, but generally can't change the amount owed, or create a different support order.

Q: We divorced in Texas, but now I'm in Ohio and he's in Indiana. Do we have to go to Texas to change the order?

A: No. According to UIFSA rules, the different courts can determine who has jurisdiction to address the issues. Texas established your support order, but since you, the kids, and your ex-husband no longer live there, you can ask Indiana to investigate and modify the order. Once they do, it will be the only support order in place. When your CSEA prepares the UIFSA papers for Indiana, ask them

to request that the order be “registered for modification.” If you don’t want the order to be modified, do not ask for this, and always review the papers your CSEA prepares. Check with an attorney if you have any doubts.

Q: If I ask for modification in Indiana, can they also change visitation rights and alimony?

A: UIFSA proceedings can’t consider custody or visitation issues. Another standardized interstate act called the “Uniform Interstate Child Custody Jurisdiction and Enforcement Act” covers those issues. Like UIFSA, this act’s rules provide that the original state’s custody orders control, so long as the child and one parent remain in that state. If everyone leaves that state, then the act provides rules for determining which state may change these original orders.

Alimony (called spousal support in Ohio), may be collected by the UIFSA process, but UIFSA cannot be used to modify spousal support orders.

Q: Must I go to Indiana for the court hearings?

A: You can attend if you like, but Ohio’s version of UIFSA states that the plaintiff (the person asking the court to act) need not be present at a UIFSA hearing. Similar language applies in most states.

Q: I’m from Missouri, divorced there, and still live there with my 17-year-old son. My attorney says that, under Missouri law, my ex-wife must pay support for my son until he graduates from college as long as he’s a full-time student. She lives in Ohio, and claims Ohio law says she no longer has to support him once he’s out of high school. Which is true?

A: Under UIFSA, the law of the “issuing state,” (Missouri) governs the duration of support obligations, so Missouri law should control.

Q: My son’s father and I were never married, and he’s now left the state. Can I use UIFSA to get him to pay child support?

A: Yes, you can use the UIFSA process to establish a support order as well as to enforce an existing order. You may need to cooperate with the other state to establish paternity by DNA testing, if this has not already been done in Ohio.

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This “Law You Can Use” column was provided by the Ohio State Bar Association (OSBA). It was prepared by Marietta attorney Thomas P. Taggart.

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