

**THE UNIFORM INTERSTATE FAMILY SUPPORT ACT  
(UIFSA):**

**ENSURING THE EFFECTIVE ENFORCEMENT AND  
MODIFICATION OF SUPPORT ORDERS**

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**INTRODUCTION**

The Uniform Interstate Family Support Act (UIFSA) became effective on January 1, 1998 and is embodied in O.C.G.A. § 19-11-100 to § 19-11-191. UIFSA is applicable when parties live in different states and one party seeks the establishment, enforcement, or modification of child support or alimony. UIFSA also applies to paternity issues.

UIFSA has been adopted by every state and supersedes all versions of the Uniform Reciprocal Enforcement of Support Act (URESA)<sup>1</sup>. The purpose behind the establishment of UIFSA was to improve upon the principles that led to the establishment of URESA (which was subsequently found to be inadequate to implement those principles). The main principle and purpose of both URESA and UIFSA is to ensure the establishment, enforcement and modification of child support and spousal support orders when parties live in different states.

UIFSA attempts to resolve the problems arising under URESA by establishing a defined

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<sup>1</sup> Johnson, Jaimie; *Alimony and Child Support Generally*; 14 Ga.St.U.L. Rev. 121 (1997). URESA continues to apply to those actions filed prior to January 1, 1998.

set of rules which can be summarized as “One Order, One Time, One Place,” so that there is only one controlling order.<sup>2</sup> UIFSA facilitates the establishment, enforcement and modification of a support order and determination of parentage by including eight (8) additional provisions on which a movant can assert personal jurisdiction over a non-resident Defendant. O.C.G.A. § 19-11-110. UIFSA also severely limits an enforcing court’s ability to modify the underlying child support obligation by only allowing the state which enters the controlling order to retain exclusive continuing jurisdiction to modify said order as long as either one of the parties or a child continues to reside in that state.

In summary, UIFSA clearly establishes which *courts* have jurisdiction to *enforce* a support order (which revolves around personal jurisdiction); and the *one court* that has jurisdiction to *modify* a support order (which revolves around subject matter jurisdiction). In other words, you can enforce a support order in multiple states, but you can only modify the support order in one state.

### **THE EXPANSION OF ASSERTING PERSONAL JURISDICTION UNDER UIFSA**

In order to enforce a support order, it is necessary to assert personal jurisdiction over a non-resident Defendant. The due process requirement, embodied in the principle of personal jurisdiction, requires an adjudicating court to have some type of connection with a Defendant.<sup>3</sup> Establishing this connection becomes difficult when the parties reside in different states.

UIFSA facilitates asserting personal jurisdiction over a non-resident Defendant by

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<sup>2</sup>Atkinson, Janet and Morgan, Laura W., *The Ins and Outs of UIFSA*, American Bar Association (2001).

<sup>3</sup> *Summary: Uniform Interstate Family Support Act (1992)*; (visited February, 2002); [http://www.nccusl.org/nccusl/uniformact\\_summaries/uniformacts-s-uifsa1992.asp](http://www.nccusl.org/nccusl/uniformact_summaries/uniformacts-s-uifsa1992.asp)

supplementing Georgia's Long Arm Domestic Statute, thereby increasing the chances that a non-resident will have the necessary connection to Georgia. To exercise personal jurisdiction over a nonresident Defendant in a case involving support, two statutes may be applied: (1) The Georgia Domestic Relations Long Arm Statute as embodied in O.C.G.A. § 9-10-91 or (2) the UIFSA provisions as embodied in O.C.G.A. § 19-11-110.

Under the Georgia Domestic Relations Long Arm Statute, personal jurisdiction can be asserted over a non-resident if the matrimonial domicile of the parties was in Georgia or if that party previously resided in Georgia. See Riersgard v. Morton, 267 Ga. 451 (1997)(holding that personal jurisdiction can be obtained under the Domestic Relations Long Arm Statute if the nonresident Defendant in a child support case once resided in Georgia). See also Frasca v. Frasca, 254 Ga. 532(1) (1985)(holding that the Domestic Relations Long Arm Statute was not applicable where the nonresident Defendant neither maintained a matrimonial residence in Georgia nor resided in Georgia).

Because in many instances a state's long arm statute is not sufficient to assert personal jurisdiction over a non-resident Defendant, making it difficult to enforce the controlling support order in another state, UIFSA supplements Georgia's Domestic Relations by providing the following eight (8) additional provisions to assert personal jurisdiction over a nonresident Defendant:

- (1) The individual is personally served with process within Georgia;
- (2) The individual submits to the jurisdiction fo 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; or
- (8) There is any other basis consistent with the Constitutions of Georgia and the United States for the exercise of personal jurisdiction.

O.C.G.A. § 19-11-110.

In short, once a court is able to assert personal jurisdiction over a non-resident Defendant, that Court can *enforce* its support Order over said party regardless of the state in which that individual resides. Notwithstanding, participation by a Petitioner in a UIFSA proceeding will not confer personal jurisdiction over the Petitioner in another proceeding.

O.C.G.A. § 19-11-135(a). Because of this reason, there will be many instances where a court may have jurisdiction over the enforcement or modification of a support order, but will not have jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) over a custody proceeding involving the same parties. In addition, a Petitioner is not amenable to service of process while he is physically present in the state to participate in a UIFSA proceeding. O.C.G.A. § 19-11-133(b).

**THE MODIFICATION OF A SUPPORT ORDER REQUIRES  
SUBJECT MATTER JURISDICTION**

Asserting *personal jurisdiction* over a non-resident Defendant simply allows a Georgia Court to *enforce* a child support order, it does not allow a Georgia Court to *modify* a child

support Order. In order to *modify* a child support order, a Court must have *subject matter jurisdiction*. Under UIFSA, subject matter jurisdiction is directly related to the principle of *exclusive continuing jurisdiction*.

Under UIFSA, once a child 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) continue to reside in that state. O.C.G.A. § 19-11-114. A state that did not issue the last support order cannot modify that order unless all of the parties or child(ren) have permanently left the issuing state or if both parties file written consents with the issuing court, releasing the Court from its exclusive continuing jurisdiction. Vesting a court with exclusive continuing jurisdiction is perhaps the most important aspect of UIFSA, as it “limits the number of duplicate and conflicting support orders, and reduces forum shopping by parents seeking to increase or decrease the amount of child support payments.”<sup>4</sup>

Once exclusive continuing jurisdiction is lost (i.e., when both parties and all the children have left the state where the original order was entered), there is a defined set of rules as to when a second state can modify a second order. Any state that meets the requirement of asserting personal and subject matter jurisdiction can modify the Order.

In order for a state to assert subject matter jurisdiction in a modification action, the following must be established:

- (1) none of the parties or children reside in the original state;

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<sup>4</sup> Atkinson and Morgan, supra at 21.

- (2) the 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) the Defendant is subject to the personal jurisdiction of that state.

O.C.G.A. § 19-11-170.

The purpose behind the requirement of not allowing the petitioning party to be a resident of the state where the modification action is brought is important. This requirement prevents an individual from relocating to another state for a strategic advantage (such as an individual relocating to a state where a child support obligation continues as long as the child is enrolled in college).

There is an important difference between the procedure to modify a child support order versus an alimony order under UIFSA. The concept of exclusive continuing jurisdiction for alimony orders is different than the aforementioned modification of child support analysis which is applicable only to child support orders. Under UIFSA, an alimony obligation can only be modified in the state which issued the original support order even though all of the parties have relocated from that state. See O.C.G.A. § 19-11-115(f). In other words, the state which entered the alimony order will always have exclusive continuing jurisdiction to modify that support Order regardless of neither party residing in that state.<sup>5</sup>

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<sup>5</sup> The 1996 version of UIFSA, which is the version adopted by Georgia, has been amended by the 2001 version of UIFSA. Pursuant to the 2001 version of UIFSA, the general rules concerning modification of a child support order also apply to the modification of an alimony order (i.e., a state has to be able to assert both personal and subject matter jurisdiction to modify the alimony order). Nonetheless, only a handful of states, which does not include Georgia, have adopted the 2001 version of UIFSA. The 2001 version of UIFSA (including the Official Comments) can be found at <http://www.law.upenn.edu/bll/ulc/uifsa/final2001.htm> (visited October, 2002).

Under the UCCJEA, a court having exclusive continuing jurisdiction can release its jurisdiction by finding it is an inconvenient forum. Under UIFSA, the state having exclusive continuing jurisdiction is prohibited from releasing its jurisdiction based on inconvenient forum grounds.<sup>6</sup> In addition, even if a state has jurisdiction over a custody matter pursuant to the UCCJEA, that State will not have jurisdiction to modify a child support Order unless it is able to assert subject matter jurisdiction under UIFSA.

**REQUIREMENTS TO MODIFY AN OUT OF STATE SUPPORT ORDER:  
ISSUING STATE NO LONGER HAS EXCLUSIVE CONTINUING JURISDICTION  
OR THE PARTIES' CONSENT**

In order to proceed with the modification of a support order, UIFSA first requires the party to register the order (as if that party were seeking the enforcement of that Order). The applicable order can be modified if, after notice and hearing, it finds that: (1) the child, the obligee, and the obligor, no longer reside in the issuing state (i.e., the issuing state no longer has exclusive continuing jurisdiction); (2) the modification is sought by a party who is not a resident of Georgia; and (3) the Respondent is subject to the personal jurisdiction of Georgia. O.C.G.A. § 19-11-170 (a)(1). In addition, the order can be modified in Georgia if the child or a party is subject to the personal jurisdiction of Georgia and all of the parties have filed written consents in the issuing tribunal for the Georgia court to modify the support order and assume continuing jurisdiction over the order. O.C.G.A. § 19-11-170 (a)(2).

**MECHANISMS AVAILABLE TO GEORGIA COURTS UNDER UIFSA**

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<sup>6</sup> For an analysis of the UCCJEA, see: Solomiany, Marvin and Kessler, Randall; *The Uniform Child Custody Jurisdiction and Enforcement Act: How it Changes the Resolution of Interstate Child Custody Disputes in Georgia*; 19<sup>th</sup> Annual Family Law Institute (2001).

O.C.G.A. § 19-11-124 provides the mechanisms available to a Court under UIFSA.

Among the most significant are the following:

- (1) Issue or enforce a support order (personal jurisdiction required), modify a child support order (personal and subject matter jurisdiction required) or render a judgment to determine parentage;
- (2) Order the compliance of a support order, specifying the amount and manner of compliance;
- (3) Order income withholding;
- (4) Determine the amount of 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 court informed of his/her address, telephone number, employer and address and telephone number of employment;
- (9) Issue an arrest warrant for an obligor who has failed to appear at a hearing after receiving proper notice;
- (10) Order the obligor to seek appropriate employment;
- (11) Award reasonable attorney's fees and other fees and costs;
- (12) Grant any other available remedy;
- (13) Cannot condition the payment of support on a party's compliance with visitation provisions.

**RECONCILIATION OF MULTIPLE ORDERS:**

## **FINDING THE CONTROLLING ORDER**

When only one state has issued a child support order, that order will control and will be recognized and enforced by other states. A controlling order is the order between the parties that must be recognized by every state for purposes of enforcement and modification. However, the reality is that multiple child support orders may exist at any given time because of URESA (as previously discussed herein). To address this dilemma, UIFSA provides a mechanism to determine which is the “controlling order” when numerous orders exist. O.C.G.A. § 19-11-116.

In situations when two or more support orders have been entered or when multiple states seek to exercise jurisdiction over an order, the following rules apply to determine which is the controlling order<sup>7</sup>:

- (1) If only one court has exclusive continuing jurisdiction under UIFSA (i.e., either a party or a child continues to reside in the state that issued the applicable order), the order of that court is the controlling order;
- (2) If more than one court would 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); and
- (3) If no court has exclusive continuing jurisdiction under UIFSA, the court having jurisdiction over the parties (i.e., that court which is able to exercise

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<sup>7</sup> See Appendix “A” for a flow chart of the issues to consider when determining the controlling order under UIFSA.

personal jurisdiction) shall issue a child support order which shall be the controlling order.

O.C.G.A. § 19-11-116.

For a court to begin the process of determining which Order is the controlling order, the party residing in Georgia may request the Georgia court to make this determination by presenting a certified copy of every support order in effect. In addition, the requesting party is required to give notice of a controlling order request to each party whose rights may be affected by the determination. O.C.G.A. § 19-11-1116 (c). Once the Georgia court makes the determination, the party obtaining the Order must file, within 30 days, a certified copy of the Order in each state which entered a previous order of child support. O.C.G.A. § 19-11-116(f).

**UIFSA CHOICE OF LAW PROVISIONS:**  
**YOU CAN RUN, BUT YOU CANNOT HIDE**

Pursuant to UIFSA, once Georgia has jurisdiction to modify a child support order, it shall apply its child support guidelines to determine the amount of child support. O.C.G.A. § 19-11-122 (2). Notwithstanding, and as explained below, although Georgia is able to apply its child support guidelines to determine the amount of support, it is prohibited from modifying the non-modifiable terms of the original order (i.e., duration of the child support obligation).<sup>8</sup>

UIFSA provides specific choice of law provisions to prevent the strategic relocation of a party wanting to avoid enforcement of a child support order or a party desiring a favorable modification of a child support order. The choice of law provisions embodied in UIFSA represent a significant departure from URESA which assumed that the law of the enforcing or

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<sup>8</sup> For an analysis of case law addressing this issue, see Atkinson and Morgan, supra at 21-22.

modifying state (whichever state had before it the Order) controlled the duration of support. O.C.G.A. § 19-11-49. This departure is clearly illustrated by the manner in which UIFSA addresses the non-modifiable aspects of a child support order and the applicable statute of limitation to collect child support arrears.

Pursuant to O.C.G.A. 19-11-163 “[t]he law of the issuing state governs the nature, extent, amount and duration of current payments and other obligations of support and the payment of arrearage under the order.” In addition, O.C.G.A. 19-11-170 (c) provides that a Georgia court “may not modify any aspect of a child support order that may not be modified under the law of the issuing state.” The meaning of these provisions is that UIFSA prevents the modification of any final, non-modifiable provision of the original order. The most common non-modifiable provision relates to the termination of a child support obligation. This is best explained by the official comments to this section. For example, the commentary explains that, if the child support order was ordered through age 21 in accordance with the law of the issuing state and the law of the forum state ends the support obligation at 18, the forum state must enforce the obligation to age 21.

UIFSA promotes the enforcement of a child support obligation by applying the longer statute of limitation between the court enforcing the order or the court having exclusive continuing jurisdiction.<sup>9</sup> Pursuant to O.C.G.A. 19-11-163(b), “[i]n a proceeding for arrearage, the statute of limitation under the laws of Georgia or of the issuing state, whichever is longer,

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<sup>9</sup> Atkinson and Morgan, supra at 12.

applies.”<sup>10</sup> In Georgia, there is no statute of limitations to recover child support arrearages. See O.C.G.A. § 9-12-60 (d); and see also Brown v. Brown, 269 Ga. 724 (1998).

### **PROCEDURES TO ENFORCE AN OUT OF STATE SUPPORT ORDER: REGISTRATION**

O.C.G.A. § 19-11-161 provides the requirements for registering an order issued by another state. In summary, an out-of-state support order may be registered in Georgia by including the following information in the applicable motion (i.e., such as a motion for contempt): (1) a letter to the clerk’s office requesting registration and enforcement; (2) attaching 2 copies of all orders to be registered (1 must be certified), including any modification of an order; (3) a sworn statement by the party seeking registration listing the amount of arrearage; (4) the name of the obligor (and if known, that person’s address, social security number, obligor’s employer, or description and location of property not exempt from execution); and (5) the name and address of the obligee. For practical purposes, all of this information may be included in the applicable motion (such as a motion for contempt).

Once the applicable motion is filed, the out-of-state support order is deemed registered (this also applies when an out-of-state income-withholding order is filed). Pursuant to O.C.G.A. § 19-11-164, the court must notify the non-registering party (obligor) and the employer (if applicable). The notice must inform the non-registering party the following: (1) that the out of state order is enforceable in Georgia; (2) that a hearing to contest the Order must be requested *within 20 days after notice*; (3) the amount of the alleged arrears; and (4) that failure to contest

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<sup>10</sup>For a summary of the statute of limitation for each state, please refer to *UIFSA and Statute of Limitations*, Morgan, Laura W., <http://www.childsupportguidelines.com/articles/art2000103.html> (visited October, 2002).

the validity or enforcement of the registered order will result in confirmation of the order and “precludes further contest of that order with respect to any matter that could have been asserted.”

Id.

### **CHALLENGING THE ENFORCEMENT OF A CHILD SUPPORT ORDER**

If a party seeks to contest the validity or enforcement of an out of state support order that has been registered in Georgia, the party contesting the Order must request a hearing within 20 days after notice of the registration. O.C.G.A. § 19-11-165(a). “If the non-registering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.” O.C.G.A. § 19-11-165(b).

A contesting party has the burden of proof to contest an out of state support order and can only assert seven (7) defenses to contest the validity or enforcement of a registered order or if he/she seeks the vacation of the registration. O.C.G.A. § 19-11-166(a). The defenses are as follows:

- (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 under Code Section 19-11-163 precludes enforcement of some or all of the arrearage.

Apart from the aforementioned seven (7) defenses, there can be no further defenses to contest the validity of an order. However, if a party presents evidence establishing a full or

partial defense to the validity of the order, the court may stay enforcement of the registered order, continue the proceeding to permit production of additional evidence, and issue a temporary order. O.C.G.A. §19-11-166(b).

If the contesting party does not prevail, the Court will issue an order confirming the order and the order can be enforced by all remedies available under the laws of Georgia. In addition, a party who has already been declared a parent of a child cannot plead nonparentage as a defense to a UIFSA proceeding. See O.C.G.A. § 19-11-134.

### **PROMOTING COMMUNICATION BETWEEN COURTS OF DIFFERENT STATES**

Due to the difficulties which may result when parties reside in different states, UIFSA facilitates and promotes cooperation and communication between courts across the country. The goal of promoting such communications is not only to facilitate discovery and securing testimony in interstate support cases, but also to obtain information regarding the laws of another state and inquire as to the status of another proceeding in another state. See O.C.G.A. § 19-11-136.

Pursuant to O.C.G.A. § 19-11-111, a Georgia court exercising personal jurisdiction over a non-resident Defendant will be able to receive evidence from another state and obtain discovery through a court of another state. O.C.G.A. §19-11-135 provides the following important guidelines concerning the gathering and admissibility of evidence in a UIFSA proceeding (these were not previously available under URESA):

- (1) The physical presence of a petitioner is not required for the establishment, enforcement or modification of a support order or the determination of parentage;

- (2) Affidavits or verified petitions provided by a party or witness residing in another state (which would not be excluded under the hearsay rule if given in person) are permissible and will be admissible;
- (3) A court must accept copies of child support payment records which are certified by the custodian of said record, as well as copies of bills for parentage testing and for prenatal and postnatal healthcare for the mother and child to show that the charges were billed and that these were reasonable, necessary and customary;
- (4) Documentary evidence that is transmitted by, telephone, fax or other means from another state cannot be excluded based on the means of transmission;
- (5) A Georgia court may permit a party or a witness residing in another state to be deposed or to testify by telephone, audiovisual means or other electronic means

In addition, a Georgia court can request a court of another state to assist in obtaining discovery that may not be available in Georgia. Likewise, and upon request by another court, a Georgia court can compel a person over whom it has jurisdiction to respond to a discovery order issued by another state. O.C.G.A. § 19-11-137.

**HYPOTHETICALS: TESTING YOUR KNOWLEDGE ON UIFSA**

(1) Scenario: 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?

Answer: Georgia cannot proceed with the modification action. Although Georgia has personal jurisdiction over Father (since Mother served Father with the complaint for modification of child support in Georgia), it does not have subject matter jurisdiction over the modification case since Ohio has continuing exclusive jurisdiction since Father still resides in Ohio. Therefore, as long as Father (or any party or child) remains in Ohio, Ohio is the only state that can modify Father's child support obligation. Georgia can enforce the child support obligation (since it has personal jurisdiction), but cannot modify it (since it does not have subject matter jurisdiction).

Related Scenario: What if Father subsequently moved to Oklahoma and Mother served him with the modification of child support action in Georgia?

Answer: Georgia cannot proceed with the modification action. If a court does not have exclusive continuing jurisdiction (because neither of the parties or the children continue to reside in the State which issued the original Order), 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.

(2) Scenario: Father and Mother are divorced in Texas. Pursuant to the Final Judgment and Decree of Divorce, Father is ordered to pay child support. After the divorce, Father moves to Virginia and fails to pay any child support and is in substantial arrears. While in Virginia, Virginia enters an order forgiving a lot of father's child support arrears, while Mother continues to reside in Texas. Did Virginia have authority to modify Father's child support?

Answer: No. Because Texas has exclusive continuing jurisdiction since Mother continues to reside in Texas, Texas was the only state that could have modified the child support obligation. Therefore, if Mother filed a contempt action in either state, Mother would be able to collect all the monies that are due pursuant to the original order since the Virginia order is void because it was improperly

entered. Father is thus liable for all of the amounts pursuant to the Texas Order.

- (3) Scenario: Father and Mother are divorced in Alabama and are awarded joint legal and physical custody of their children. Father is ordered to pay alimony and child support pursuant to the Alabama Order. 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. After living in Georgia for a couple of years, Wife wants more child support and alimony. Father continues to reside in Alabama. Where does she file her modification of child support action? Where does she file her modification of alimony action?

Answer: Mother has to file both actions in Alabama because Father continues to reside in Alabama and therefore Alabama has continuing exclusive jurisdiction.

Related Scenario: What if Husband wants to lower his child support obligation; where does he file his child support action?

Answer: He files in Alabama because that state has exclusive continuing jurisdiction. If he wants to modify his alimony obligation, he must also do it in Alabama because you can

only modify alimony in the state that issued the original order.

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

Answer: Georgia because Alabama no longer has exclusive continuing jurisdiction and Georgia has both personal and subject matter jurisdiction over both parties since they both reside in Georgia.

Related Scenario: What if Husband wanted to modify his alimony obligation?

Answer: Alabama is the only state that can modify alimony obligation since, pursuant to the version of UIFSA as adopted in Georgia, alimony can only be modified in the State which issued the original alimony order, regardless of neither party continuing to reside in that State.

Related Scenario: What if Husband did not like Georgia and moved to back to Alabama? Where does Wife go to modify child support? Alabama. Where does Husband file his modification action? Alabama. Why? As long as either party resides in Alabama, Alabama has exclusive continuing jurisdiction. Unlike the UCCJEA, where exclusive continuing jurisdiction is lost once the last party moves out of the issuing state, under UIFSA, a state can reassert its

continuing exclusive jurisdiction as long as one party resides in that state (even though both parties may not have lived in that state at any given time).

Related Issue: However, if Georgia modified the original order at the time where both parties resided in Georgia, Georgia would then have continuing exclusive jurisdiction as long as either party or child resides in Georgia.

Related Issue: In the event that Georgia modified custody pursuant to the UCCJEA and gave full custody to Husband (while Husband still resided in Alabama), Georgia could not modify Husband's child support obligation. Why? Because Alabama had continuing exclusive continuing jurisdiction (since Father still resided in Alabama) and thus it is the only state that could thus modify the child support obligation (unless both parties consented).

\*\* Interesting pattern because it shows that although you can obtain a change of custody in one state, that state may not be able to modify child support obligation if another state has exclusive continuing jurisdiction.

- (4) Scenario: Husband and Wife were divorced in Georgia. After the divorce, Wife moves to New Jersey where child support terminates 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?

Answer: No, because dad still lives in Georgia and, thus, Georgia has exclusive continuing jurisdiction. UIFSA, through the concept of exclusive continuing jurisdiction, and preventing one party from filing a modification action in the state where he/she is a resident (when no state has exclusive continuing jurisdiction) prevents the strategic relocation of one party moving to a state where child support ends at a later date. In addition, pursuant to UIFSA, the duration of the child support obligation is non-modifiable and the duration of the child support order included in the original order will always apply.

Related Issue: In the modification action in Georgia, would the Georgia Child Support Guidelines apply to determine the new amount of child support? Yes. Once a Georgia Court has jurisdiction to modify a child support obligation, it will apply its child support guidelines to determine the new amount.

### **ADDITIONAL SOURCES**

Aman, John J., *Everything You Wanted to Know About UIFSA But Were Afraid To Ask*, BAEC The Bulletin, [http://www.eriebar.org/bulletin/may\\_99/uifsa.html](http://www.eriebar.org/bulletin/may_99/uifsa.html) (1999).

Atkinson, Janet and Morgan, Laura W., *Oral Presentation on: The Ins and Outs of UIFSA*, American Bar Association (2001).

Fenton, Major Janet, Alliance for Non-Custodial Parents Rights, *Uniform Interstate Family Support Act Long Arm Statute Interpreted*, <http://www.ancpr.org/uifsa.html> (visited on February, 2002).

Kemper, Kurtis A., *Construction and Application of Uniform Interstate Family Support Act*, 90 A.L.R. 5<sup>th</sup> 1 (2001).

Muskin, Charles J., *Uniform Interstate Family Support Act*, 35 FEB Md. B.J. 54 (2002).

## APPENDIX

- Appendix A: Flow Chart to Determine Controlling Order
- Appendix B: Sample Petition for Registration and Petition for Modification of Child Support
- Appendix C: Sample Notice of Registration of Out of State Support Order (obtained from Family Court of State of New York)
- Appendix D: Sample Order on Petition to Vacate Registration of Out of State Support Order (obtained from Family Court of State of New York)
- Appendix E: Sample Notice of Determination of Controlling Order (obtained from Family Court of State of New York)
- Appendix F: Sample Electronic Testimony Application, Waiver of Personal Appearance and Order (obtained from Family Court of State of New York)