

Do Unto Others

Intergovernmental & You

Etiquette, Execution, and Excitement

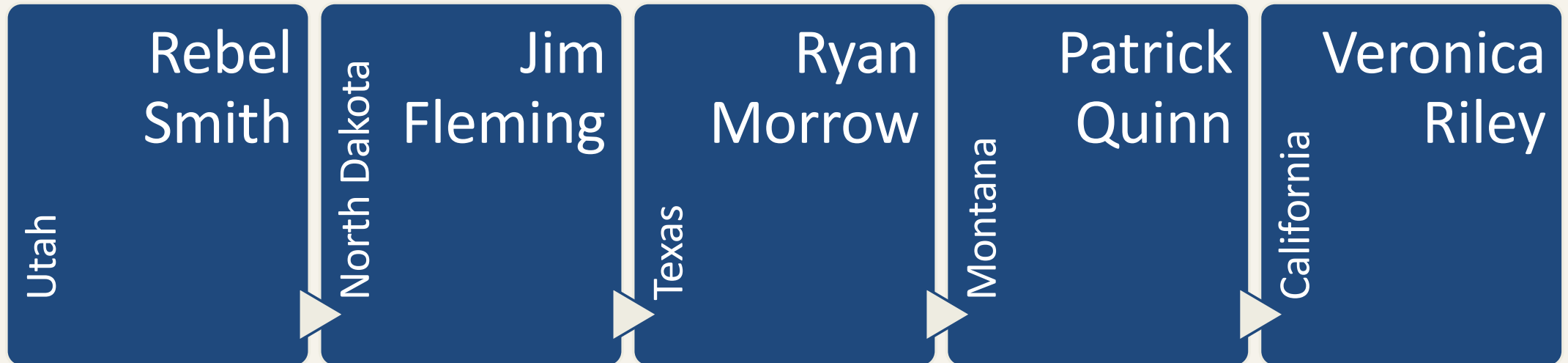


WICSEC



Who We Are

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Our Path

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The Etiquette of IJ Cases

The Jurisdiction Trail

Lost in the Woods of Procedures, Remedies, and Registration

Closing Down the ~~Camp~~ *Case*



IJ Etiquette

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Unless someone like you cares a whole awful lot, nothing is going to get better. It's not.

- Dr. Seuss, The Lorax





IJ Etiquette

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12,300,110

798,827

47,519

That's 258.8 cases per IV-D employee!

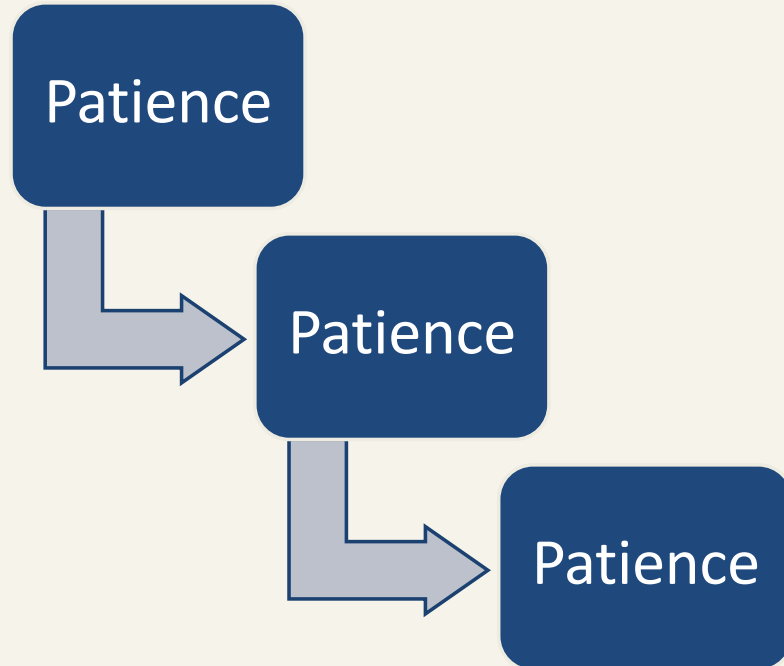
That's 16.8 intergovernmental cases per IV-D employee!

But how many people in your staff work intergovernmental case?

Not many.



IJ Etiquette

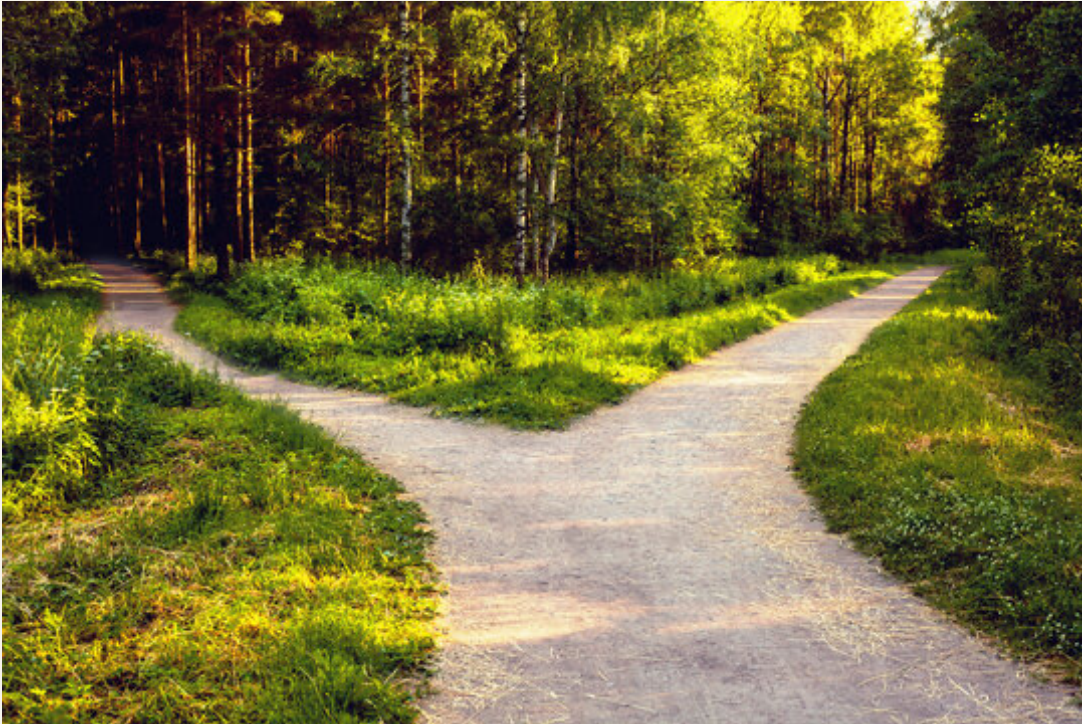


- Utilize various communication tools
 - Transmittals
 - Email
 - Telephone calls
 - Federal tools
- Call centers vs. direct contact
- Follow-up / Status requests – contact the local agency
 - If unable to obtain a response, contact the Central Registry
 - Responding jurisdiction sends all correspondence through the initiating jurisdiction
 - Parties should contact their child support agency within their respective state



The Jurisdiction Trail

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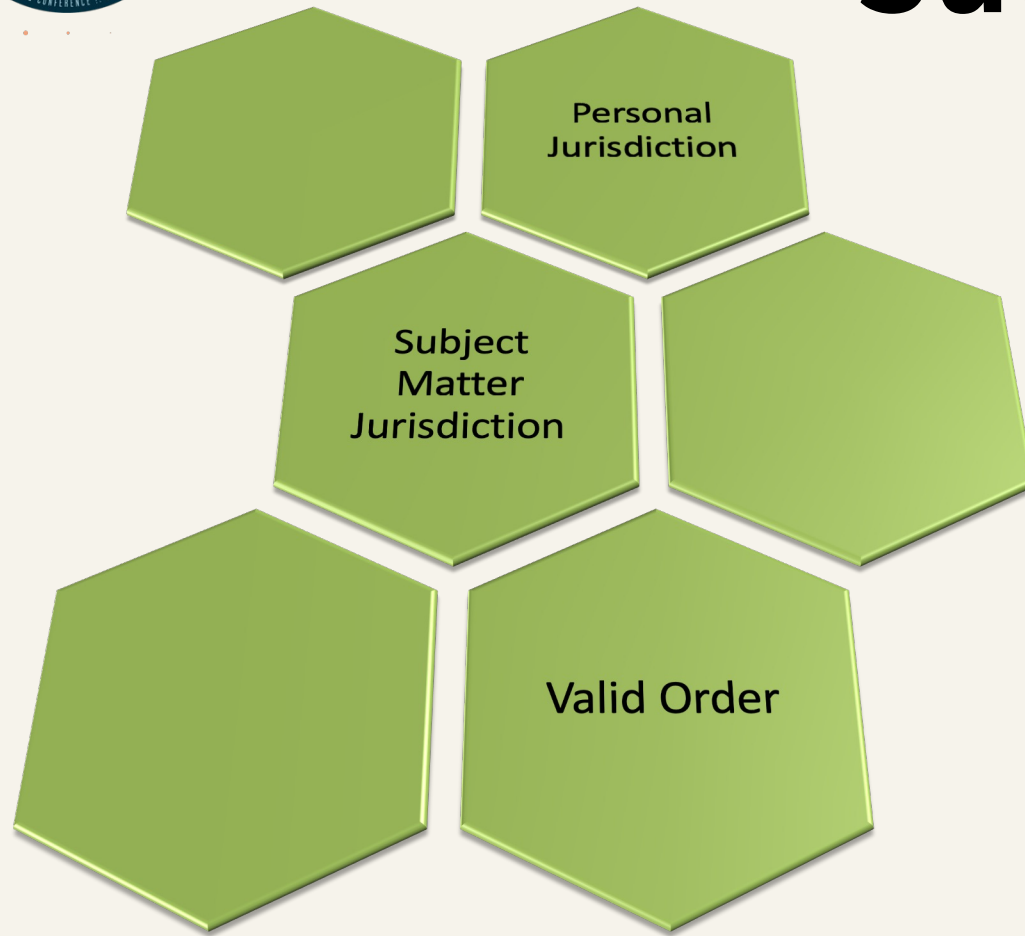


Subject Matter	Does the court have the power to hear the issues?
	Courts of General or Specific Jurisdiction
Personal	Does the court have power over the person?
	Long Arm
Continuing, Exclusive	Once an order exists, the issuing tribunal has the exclusive power to modify that order
In Rem	Jurisdiction over Property
	Generally, used for specific enforcement remedies



Jurisdiction: Pathway to Success

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A tribunal authority to:

- Issue orders binding on a person
- Hear and rule on certain subjects
 - UIFSA
 - Duty to support a child
 - The support obligation

CEJ vs. Controlling Order



In the Long Arm of the Woods

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Served within the State

Submits to Jurisdiction

Lived in the State with the Children

Lived in the State and Provided Pre-natal Expenses or Support

Child in the State due to Acts or Directives

Sex in the state

Acknowledgement or Claim of Paternity in the State

Constitutional Basis



The Order Trail

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Who Is Asking

- CP / Obligee
- NCP / Obligor
- Third Party
- Other State



What is Being Requested

- Establishment
- Enforcement
- Modification
- Change of Beneficiary
- Forwarding / Redirection



Who Lives Where

- CP
- NCP
- DP
- Third Party



Choosing the Right Trail

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**Issuing
State
Governs:**

-
- (1) the nature, extent, amount, and duration of current payments under a registered support order;
-
- (2) the computation and payment of arrearages and accrual of interest on the arrearages under the support order; and
-
- (3) the existence and satisfaction of other obligations under the support order.
-

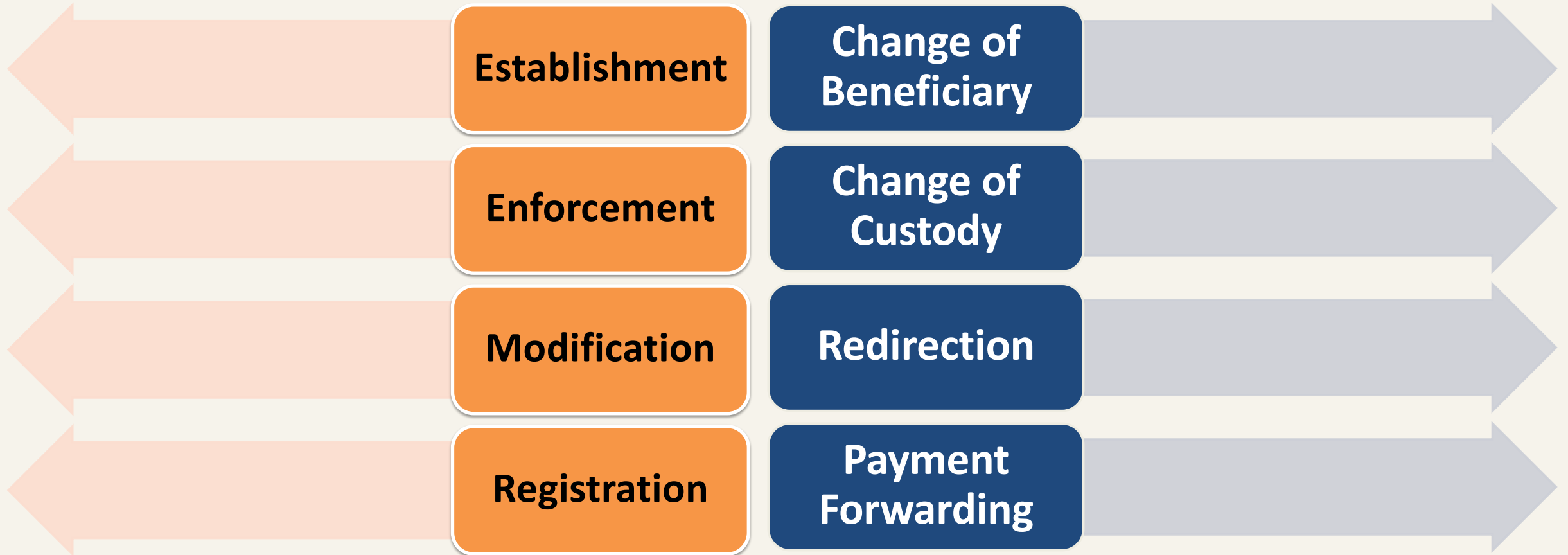
**Responding
State
Governs:**

Procedures and remedies to enforce current support and collect arrears and interest



Entering the Forest Remedies and Registration

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Establishment

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In General

- Do not set custody / conservatorship or visitation

Choice of Law

- Paternity
- Obligations
- Duration

Calculating Support

- Income Shares
- Fixed or Variable Percentage
- Melson Formula



Scenario – Playing in the Cold

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Gwyneth and Chris are married in 2010 and have a child together, Apple, born in 2012. Chris is a native of Alaska and has lived and worked there his entire life. By 2014, things are not great in the north country and Gwyneth and Chris decide to consciously uncouple. Gwyneth moves to Montana and goes on TANF. Montana CSED requests that the Alaska child support agency establish a child support order for Apple and a child support order requiring Chris to pay \$950 per month child support for the child Apple is entered in January of 2015.

In March of 2015 Gwyneth files for divorce in Montana. She is represented by legal counsel. Chris also has legal counsel and the parties quickly reach an agreement where Gwyneth is the primary custodian and Chris should pay child support in the amount of \$750 per month. There is no mention of the Alaska Child Support Order in any of the filing in Montana.

What order should the Montana CSED enforce? Why?





Enforcement

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In General

- The Title IV-D agency provides all services required or authorized to be provided by Part D of Title IV of the federal Social Security Act (42 U.S.C. Section 651 et seq.), including:
 - Enforcement of child support, medical support, and dental support orders. (Texas Family Code §231.101(a)(5))
- Any court with jurisdiction can enforce a support order

Registration

- Process to bring the out of state order to your state
- Does not create a new order nor does it modify the controlling order

Enforcement

- A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state. UIFSA § 603(b)



Registration – Not Rabbit Trail a

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UIFSA Section 602 provides...

- A letter of transmittal
- Two copies, including one certified
- A sworn statement on arrears
- Name of the obligor and identifying information
- Name and address of obligee

Enforcement - Sent to the State where the obligor is residing

Modification – Sent to the State that issued the support order so long as that State has Continuing, Exclusive Jurisdiction. If not, then sent to the State of the non-requesting party.



Defenses to Registration

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UIFSA § 607(a)

Issuing tribunal
lacked personal
jurisdiction

Order was obtained
by fraud

Order has been
vacated, suspended,
or modified

Issuing tribunal has
stayed the order
pending appeal

Defense under the
law of this state to
the remedy sought

Full or partial
payment

Statute of limitation
precludes
enforcement

Alleged controlling
order is not the
controlling order



Watching for Bears

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Limitations

§ 201 - Bases For Jurisdiction over Nonresident

§ 202 – Duration of Personal Jurisdiction

§ 314– Limited Immunity of [Petitioner]

§ 610 – Effect of Registration for Modification

§ 611(c) – Cannot modify parts of an order that could not be modified in the order issuing state.

§ 611(d) - Duration cannot be modified, except in cases of indefinite support.

Start Date of a Modification



Family Violence Concerns

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UIFSA § 316

- If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information must be sealed and may not be disclosed to the other party or the public. After a hearing in which a tribunal takes into consideration the health, safety, or liberty of the party or child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice.



Evidentiary Breadcrumbs

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UIFSA § 316 – Special Rules of Evidence and Procedure

- Can't require physical presence of nonresident party
- UIFSA forms not excluded as hearsay
- Electronically sent evidence not excluded due to means of transmission
- Nonresident parties and witnesses may be deposed and/or testify electronically
- Court can draw an adverse inference based on refusal to testify
- Spousal communication privilege does not apply

UIFSA § 316(b) – Special Rules of Evidence and Procedure

- An affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in an affidavit or document, that would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing outside this state.



Remedies

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Judicial Enforcement

Contempt

Community
Supervision /
Probation

Employment
Programs

Judgments

Revocation

License Suspension

Property Lien

Administrative Enforcement

Delinquency
Letters/Lump Sum
Letters

Collection Calls

Lottery Intercept

Administrative
Income
Withholding

Social Security
Disability

National Medical
Support Notice

State Debt Set-Off

UIB

Worker's
Compensation

Federal Tax Refund
Intercept

Passport Denial

Financial
Institution Data
Match

Credit Bureau
Reporting

License Suspension
/ Denial of Renewal

Denial of Motor
Vehicle
Registration

Lien/Levy

Insurance Intercept

Administrative
Contempt



Scenario – Big Screen Modification

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Louise Ciccone married Stuart Richie and they had a child “Rocco”. Louise and Stuart travel extensively for business and have lived in many different countries and states with Rocco. In 2010 the parties divorce in Montana. As part of the divorce, Louise is required to pay child support to Stuart. In 2016, Louise lives in Southern California and Rocco lives in England. Louise wants child support modified.

Where should the modification, if appropriate, take place?



Modification

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Change of Continuing Exclusive Jurisdiction

- UIFSA § 205
- Court assumes jurisdiction from the CCEJ
- Upon modified order, modifying court is now the CCEJ

Choice of Law

- Modifying State's Law

Limitations

- Duration cannot be modified
 - Except for indefinite support
- UIFSA § 611



Jurisdiction to Modify

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Ryan's
Rule:
 $2 > 1$

“It’s math so easy,
even a lawyer can do it!”

- Ryan



Ryan's Rule

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Information Needed

- 1. Order Issuing State
- 2. CP / DP State
- 3. NCP State

Order State



CP / DP State



NCP State



$2 > 1$
Texas Wins

$2 > 1$
Nevada Wins

$1 = 1 = 1$
Play Away



Scenario – Lost in the Mod Woods

Bob and Carol are married and have a child, Ted, together in Oregon. They split up and Oregon as part of divorce and parenting plan enters a child support order requiring Bob to pay child support until Ted is 21. Carol and Ted moved to Wyoming and Bob moved to Burnet, Texas. When Ted is 16, Carol wants child support reviewed and modified.

What state can modify the Oregon child support order?
When should child support end in the modified order?



Scenario – Sweet Home Cali-Bama

Mom & Dad are divorced in California. As part of the divorce, Dad has to pay alimony (spousal support). Mom and the children move to Alabama and Dad remains in California. Dad wants more visitation with his children. He retains an attorney in Alabama and files a petition with the Alabama court for more time with the children. Mom answers and asks the Alabama court for more spousal support and more child support.

Who has CEJ? Can the Alabama court modify the California Order?
Can the Alabama court modify spousal support?



Hiking Across the Border

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Domestic Modifications

- Everyone Lives in the Same State
 - UIFSA § 613
- Everyone Leaves (Play Away)
 - UIFSA § 611
- Everyone Agrees
 - UIFSA § 205(a)(2)
- Multiple Orders and Everyone Leaves
 - UIFSA § 207(c)

Foreign Modifications

- One Party Outside the Country
 - UIFSA § 611 (f)
- Foreign Country: Lacks or Refuses Jurisdiction
 - UIFSA § 615
- Hague Convention Order
 - UIFSA § 711



Forms

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Internal Documents

- Transmittals
 - Transmittal #1 – Initial Request
 - Transmittal #2 – Subsequent Actions
 - Transmittal #3 – Request for Assistance / Discovery
- Child Support Agency Confidential Information Form
- UIFSA Form §319 for Redirection

Documents Filed with the Tribunal

- Letter of Transmittal Requesting Registration
- Uniform Support Petition
- Personal Information Form For UIFSA §311
- General Testimony
- Declaration in Support of Establishing Parentage





Case Closure

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Other State Requests Closure

- Initiating State has closed their case 45 CFR § 303.11 (b)(18)
- Intergovernmental services are no longer needed 45 CFR § 303.11(b)(19)

Initiating State – No Action

- [\[45 CFR § 303.11\(b\)\(17\)\]](#)
- Used to close a case due to failure by the initiating state to take an essential action.

CP Deceased

- 45 CFR § 303.11(b)(1)]

Case Transfer to Tribal Agency



Case Closure

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Time for A New Path?

- Does the listing of three specific intergovernmental closure reasons necessarily preclude the application of the others?
- Is it appropriate for initiating jurisdiction to compel responding state to continue working a case

Facts About the Paying Parent About Which Responding is Best Positioned to Know

- Children reached age of majority and NCP is in long-term care with no income or assets above subsistence level
- NCP deceased and no further action can be taken
- NCP living with the minor child and services would not be appropriate
- NCP Cannot Be Located
- NCP Institutionalized, Incarcerated, or disabled with no income or assets above subsistence level
- NCP income is solely from SSI or combination of SSI an SSDI
- NCP is citizen of and lives in foreign country

Thank You!

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