

# UIFSA: Uniform Interstate Family Support Act

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# In the next hour.....

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- The goal of this session is to provide a practical introduction to UIFSA and its use.



# In the next hour.....

When and how to use the act to

- Establish parentage
- Establish support
- Enforce a Minnesota support order
- Enforce another state's support order
- Modify a child support order
- Determine which state has the controlling order.
- Address support cases in other countries.

Develop awareness of various versions of the act: 1996, 2001, 2008.



# Purpose of UIFSA

- The purpose of UIFSA is regulate a one order system for the establishment of and maintenance of support orders.
  - Establishes and limits jurisdiction
    - Creation of support and parentage orders
    - Modification of support orders
    - Enforcement of support orders in other states
    - Enforcement of a support orders from other states in Minnesota
  - Provides mechanism to obtain assistance from other states for discovery and how to handle hearings.
- Not an exclusive remedy. (§104 *Remedies Cumulative*).
  - Enforce a support order as a foreign judgment
  - Full Faith and Credit for Child Support Orders Act
  - Comity
- Private counsel has the same access to the act as do tribunals and support enforcement authorities. (§309).



UIFSA helps us address support orders that are in place a long time for families that don't stay in place a long time.

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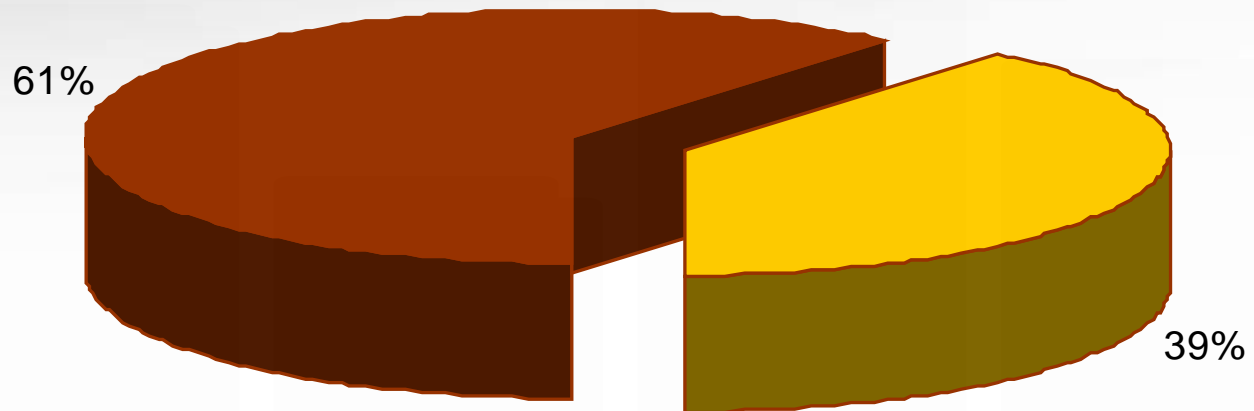
It is likely a support order will have interstate enforcement and/or modification issues arise at some point.

- Mobile society.
- A child support order can last for two decades – longer if incapacitated child.
- Child support orders are often modified several times.
- Multiple enforcement actions are often taken.



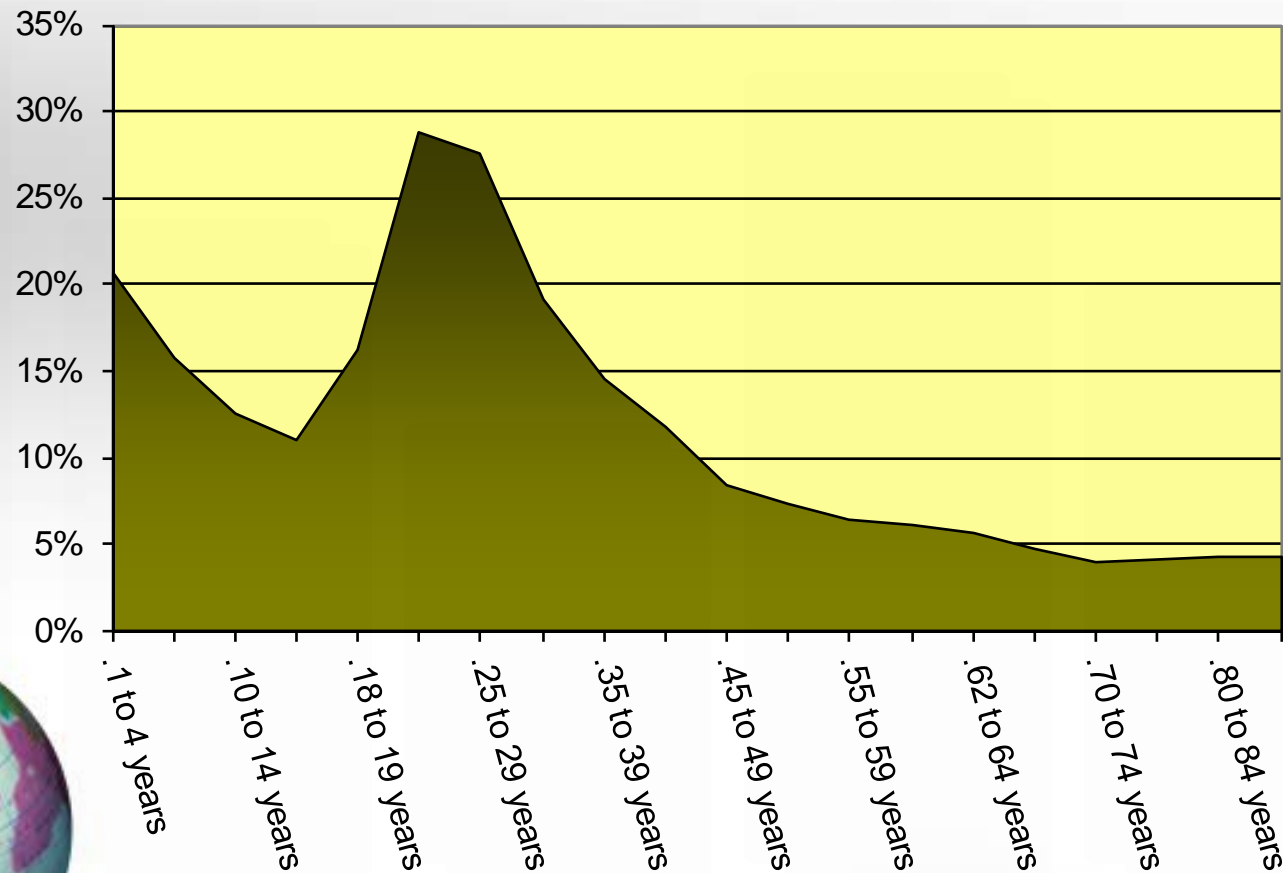
# Survey Says....

- 61% of all college students whose parents have divorced experienced a move of more than one hour's drive by at least one parent during childhood. (2003 survey.)





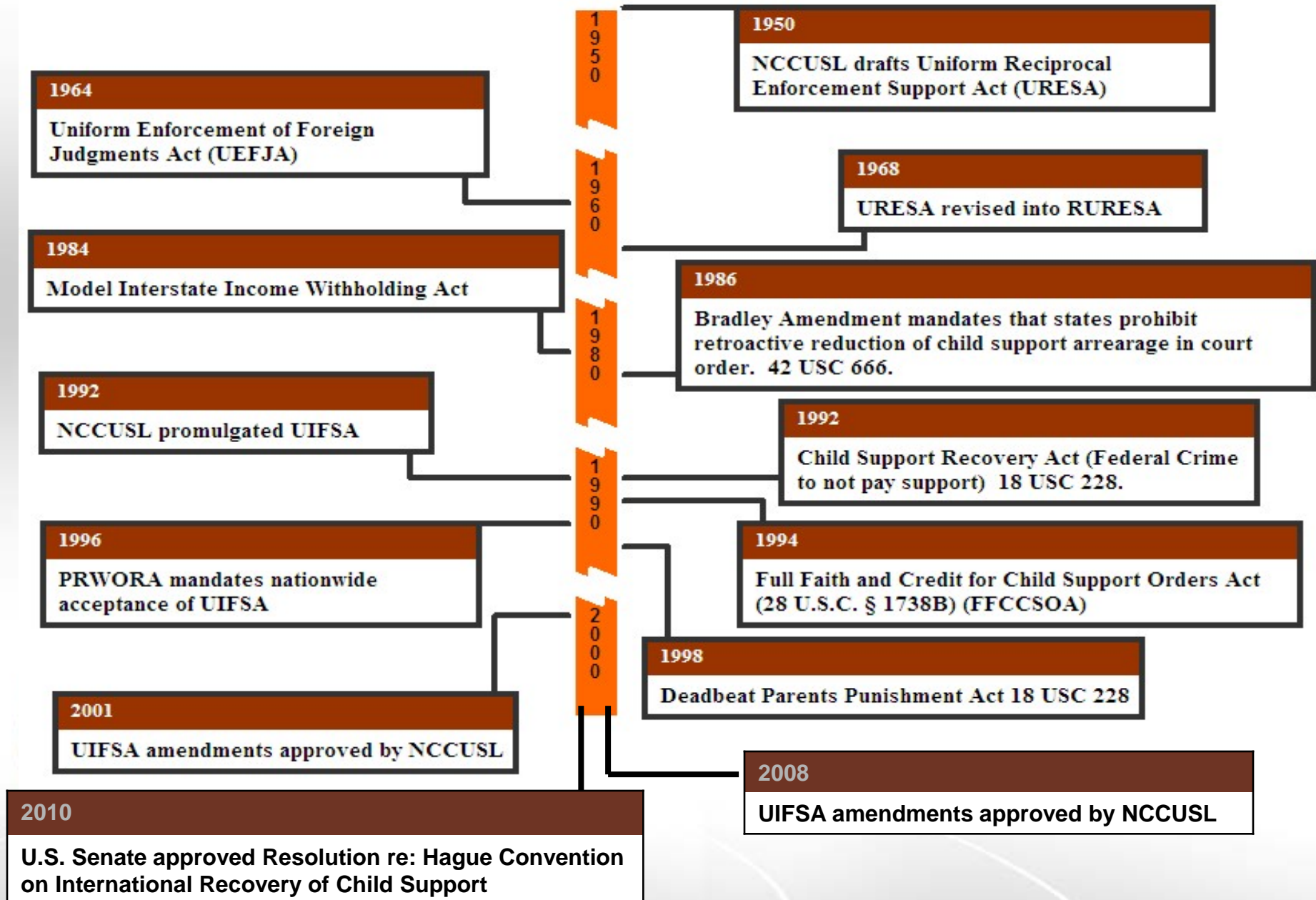
# US Census Data: % of population moving by age.



Source: U.S. Census Bureau, Current Population Survey, 2004 Annual Social and Economic Supplement Internet Release Date: June 23, 2005



# Limited History of Child Support Law





# UIFSA 1996 to UIFSA 2008

- **1996:** Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). Every state had to pass the 1996 version of UIFSA verbatim (no changes to language) to be eligible for federal child support funding. (P.L 104-193, §321, 110 Stat. 2221).
- **2001:** At request the child-support community, the National Conference of Commissioners on Uniform State Laws (NCCUSL) made certain modifications. Approved revised act at NCCUSL 2001 annual meeting.
- **2008:** NCCUSL approved amendments to the 2001 uniform act in order to integrate the appropriate provisions of the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. See OCSE DCL-08-41.



# Jurisdictions with UIFSA 2001

Arizona	District of Columbia	New Mexico	Utah
California	Idaho	Oklahoma	Virginia
Colorado	Illinois	Rhode Island	West Virginia
Connecticut	Mississippi	South Carolina	Wyoming
Delaware	Nebraska	Texas	

# Jurisdictions with UIFSA 2008

Maine	Tennessee
Nevada	Wisconsin
North Dakota	Washington



Due to the September 2010 approval of the Resolution of Advice and Consent regarding the *Hague Convention on the International Recovery of Child Support and Other forms of Family Maintenance*, Congress is also considering legislation to mandate the passage of UIFSA 2008 in every state. This has not been mandated yet.

# What version of UIFSA does MN have?

- Minnesota has the 1996 version of UIFSA.
- Minnesota has NOT enacted any later versions.
- Numbering of statute follows uniform law.



# TERMS

- § 101 of the uniform act provides definitions of 22 key terms.  
Minn. Stat. 518C.101 (a) – (v).
- Some of the terms we are highlighting today:

State	Register
Home State	Registering Tribunal
Initiating State & Tribunal	Responding State
Issuing State & Tribunal	Responding Tribunal
Income-withholding order	



# Home State

Minn. Stat. § 518C 101(d)

- The state in which a child lived with a parent or caretaker for least six consecutive months immediately preceding the filing of a petition or comparable pleading for support and, if a child is less than six months old, the state in which the child has lived since birth.
- “Home state” is primarily used when establishing an initial support order, or when making a choice between more than one possible jurisdiction.
- “Home state” has limited purpose in child support enforcement.
  - Home state under UCCJA is basis to confer jurisdiction
  - Home state under UIFSA is not. However, if two states with proper jurisdiction have both issued support orders, home state plays a role in selecting which state will have control for purposes of future modifications.





# Initiating State and Initiating Tribunal

Minn. Stat. §§ 518C.101(g) and (h)

- The “initiating” state and tribunal is the place from which a proceeding is filed and **sent out** to a another state.
- An initiating tribunal acts as a ministerial agent to forward pleadings to a responding state. (§304).
  - An initiating tribunal may or may not issue a support order.



# Issuing State and Issuing Tribunal

Minn. Stat. § 518C 101 (i) and (j)

- Issuing state is the state where a support or paternity order is **issued**.
  - The order can be registered in another state for modification or enforcement.
- Issuing tribunal is the court/tribunal that issued the support order or judgment determining parentage.



# Responding State or Tribunal

Minn. Stat. § 518C 101(p) and (q)

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- A responding state or tribunal is the place in which an existing order is registered or where a proceeding is initiated.
- The action may be to modify support or start a new action to establish support or parentage.
- A responding tribunal is the authorized tribunal in the responding state.



# State

## Minn. Stat. § 518C 101(s)

- Any “state” stands equal to any other “state”.
- UIFSA broadly defines “state.”
  - All 50 states plus Washington DC, Puerto Rico, the US Virgin Islands, any other US territory or insular possession.
  - American Indian tribes
    - Indian tribe treated as a state if have enacted UIFSA. If have not enacted UIFSA, use FFCCSOA.
  - 2001 amendments determined a foreign jurisdiction that has enacted a law or established procedure for insurance of enforcement of support orders which are substantially similar to the procedures under this act.
  - 2008 amendment differentiates between states and foreign countries in the definition of state.



# UIFSA AND JURISDICTION



**ACTIONS INVOLVING  
ONE VS. TWO  
STATES**

# JURISDICTION

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- Due process requirement:
  - To have jurisdiction, need **sufficient minimum contact** by the party with the state to enable a court in that state to exert personal jurisdiction over a party consistent with the Due Process clause.
  - *International Shoe Co. v. Washington*, 326 U.S. 310, 66 S. Ct. 154, 90 L. Ed. 95 (1945).





# UIFSA controls jurisdiction

- UIFSA sets out different jurisdictional requirements depending on the fact situation and whether you seek to:
  - Establish a paternity or support order.
  - Modify a support order issued by another state.
  - Modify a support order issued by Minnesota
  - Enforce a Minnesota order.
  - Enforce another state's order directly.



# JURISDICTION FOR ONE-STATE ACTION



Establishment

# Jurisdiction: UIFSA and one state action

- Long arm statute permits “one state” process to bring an action to establish support or parentage even if parties live in different states.
  - Need sufficient contact with Minnesota to have jurisdiction over the party.



# §201 long arm jurisdiction

(One-state action – avoids multiple state actions when possible.)

- 1) Personal service in this state;
- 2) Submission to jurisdiction by consent; by entering into a general appearance; or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;
- 3) Residence within the state with the child;
- 4) The individual resided in this state and provided prenatal expenses or support for the child;
- 5) The child resides in this state as a result of the acts or directives of the individual;
- 6) The individual engaged in sexual intercourse in this state & the child may have been conceived by that act of intercourse;
- 7) Asserted parentage under 257.751 to 257.75 (**ROP**); or
- 8) There's any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.



# Sample language for 256.87 Complaint

- Pursuant to Minn. Stat. § 518C.201, Minnesota has jurisdiction over «Obligor», a nonresident, as «Obligor», asserted parentage under Minn. Stat. § 257.75 (Recognition of Parentage).
- Pursuant to Minn. Stat. § 518C.201, Minnesota has jurisdiction over «Obligor», a nonresident, as «Obligor» resided in the State of Minnesota with the child(ren.)



## Establishment of support, one state action, cont.

- Remember: were talking about establishing an original support order, not to modify an existing order.
- §201 is a “long arm statute.”
- Once jurisdiction is established to issue an order, the issuing state has “continuing exclusive jurisdiction” (CEJ) to modify its orders – until CEJ is lost. (More later on losing CEJ.)





# ONE STATE ACTION ENFORCEMENT



# Enforcement: UIFSA and one state action

- UIFSA also includes provisions for a state to enforce its own order by one-state or “direct” enforcement action against the Obligor.
  - Direct income withholding



# Enforcement – one state action.

- “Direct income withholding” served without prior registration of Minnesota’s order in obligor’s state.
  - If obligor has reason to contest the withholding order they may do it in the employer’s state. §506. **BE READY TO REGISTER!**
- Tribunal may issue an income withholding order that is effective in other states, because UIFSA mandates an employer’s compliance with income withholding orders from other states. §502.
- An employer applies the law of its own state in determining rules of priority between more than one income withholding order against any single person. §503.
- Employers are immune from civil liability for following the foreign court’s order. §504.
- The punishments for failure to comply with a valid income withholding order from a foreign state are the same as those for failing to comply with an income withholding order of the employer’s state. §505

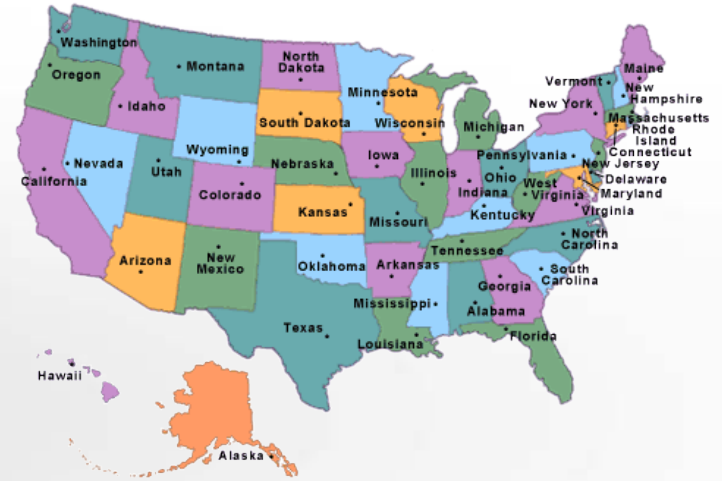


# Limits of Income Withholding orders

- The income withholding order may mandate a larger amount than the employer can withhold.
  - Child support > legal limit imposed on employer = legal limit
- Federal limits: 15 USC 1673 sets limits in various contexts on garnishments.
- The employer would look to the law of the **state of the obligor's principal place of employment** for the limits on garnishment amounts and employer's process fees.
- The employer limits the withholdings to the lower of the state or federal restriction on garnishment regardless of the order amount.
- The issuing tribunal's garnishment limits are not relevant.



# JURISDICTION FOR TWO-STATE ACTION





# UIFSA and two state action

- Provides a process for two states to work together to establish and modify support.
  - All contact to be “agency” to “agency”. Obligee not to contact responding agency directly.
- Provides method to determine which state will have “exclusive” jurisdiction to modify an order.
  - Continuing exclusive jurisdiction....more to come on this in a minute.
  - Prevents multiple orders. One order at a time.
- If jurisdiction to modify “lost” by the issuing state, it provides a method by which a party seeking modification can submit to jurisdiction in the other party’s state. (Rough justice.)





# Discovery and other rules regarding coordination between states



- §210, 316-318 all assist in providing handling hearings and evidence in multi-state situations.
- The statutes provide a way for the court to obtain evidence, provide for discovery, and hear testimony from more than one location.
- The nonresident party, may appear by and present evidence on telephone and telecopier as a matter of right. (§316).
- The courts may discuss issues directly with one another. (§317).
- Courts of the various states assist one another in discovery. (§318).



# TWO STATE ACTION: ESTABLISHMENT



# Two state action: Establishment

- If no jurisdiction in Minnesota, can request assistance of a state that has jurisdiction over the Obligor to establish support.
- “Uniform” UIFSA forms completed to request assistance of other state.  
(Transmittal, Petition, Testimony, etc.)  
Pleadings to have information as set forth in Minn. Stat. 518C.311. Must specify the relief sought.





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## OCSE Forms

Intergovernmental Forms		
<div>Revised</div> <div>(Expiration Date: 5/31/2014)</div>		
Form	Title	Size/Format
OCSE-OMB-0970-0085	<a href="#">Notice of Determination of Controlling Order</a>	112.51 KB; Adobe PDF
OCSE-OMB-0970-0085-G	<a href="#">General Testimony</a>	216.93 KB; Adobe PDF
OCSE-OMB-0970-0085-GI	<a href="#">General Testimony Instructions</a>	240.10 KB; Adobe PDF
OCSE-OMB-0970-0085-L	<a href="#">Locate Data Sheet</a>	150.44 KB; Adobe PDF
OCSE-OMB-0970-0085-P	<a href="#">Affidavit in Support of Establishing Paternity</a>	250.48 KB; Adobe PDF
OCSE-OMB-0970-0085-R	<a href="#">Registration Statement</a>	135.87 KB; Adobe PDF
OCSE-OMB-0970-0085-T1	<a href="#">Child Support Enforcement Transmittal #1: Initial Request</a>	280.88 KB; Adobe PDF
OCSE-OMB-0970-0085-T2	<a href="#">Child Support Enforcement Transmittal #2: Subsequent Actions</a>	208.57 KB; Adobe PDF
OCSE-OMB-0970-0085-T3	<a href="#">Child Support Enforcement Transmittal #3: Request for Assistance/Discovery</a>	218.21 KB; Adobe PDF
OCSE-OMB-0970-0085-U	<a href="#">Uniform Support Petition</a>	163.02 KB; Adobe PDF

Form Title Size/Format

# Minn. Stat. § 518C.305 Duties of Responding Tribunal

- (1) issue or enforce a support order, modify a child support order, or render a judgment to determine parentage;
- (2) order an obligor to comply with a support order, specifying the amount and the manner of compliance;
- (3) order income withholding;
- (4) determine the amount of any 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 tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;



# Minn. Stat. § 518C.305 Duties of Responding Tribunal, cont.

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- (9) issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;
- (10) order the obligor to seek appropriate employment by specified methods;
- (11) award reasonable attorney's fees and other fees and costs; and
- (12) grant any other available remedy.





# Minn. Stat. § 518C.305 Duties of Responding Tribunal, cont.

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- Responding tribunal shall include in the support order or in the documents accompanying the order, the calculations on which the support order is based.
- A responding tribunal may not condition the payment of a support order upon compliance by a party with provisions for visitation.
- If a responding tribunal issues an order the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.



# Minn. Stat. § 518C.307 Duties of Enforcement Agency

- 1) take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent;
- (2) request an appropriate tribunal to set a date, time, and place for a hearing;
- (3) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;
- (4) within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;**
- (5) within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and**
- (6) notify the petitioner if jurisdiction over the respondent cannot be obtained.



# Establishment of support over a resident.

Minn. Stat. § 518C.401

- If a support order has not been issued, the responding state can take action against the resident to establish an order.
- Individual seeking the support order **resides in another state or a support enforcement agency is located in another state** that wishes to seek enforcement.



# Simultaneous proceedings

## Minn. Stat. 518C § 204

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- KEY: One order at a time.
- This state may exercise jurisdiction to establish a support order after a pleading in any other state has been filed **only if**:
  - This pleading is filed before the expiration of time in the other state challenge jurisdiction
  - The contesting party timely challenges the exercise of jurisdiction in the other state
  - If relevant, this state is the home state of the child. (Home state of child trumps.)
  - For the same reasons, the state shall not establish a child support order if the above procedure has been followed in the petition was followed in a sister state.



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# CONTINUING EXCLUSIVE JURISDICTION

***KEY CONCEPT REGARDING  
JURISDICTION FOR  
MODIFICATION***



# Continuing **E**xclusive **J**urisdiction

Minn. Stat. 518C § 205 (CEJ)

- Continuing Exclusive Jurisdiction is a key concept of UIFSA.
- As long as one of the *individual parties* or *the child* continue to reside in the state, that state/tribunal has maintains CEJ and has the sole authority to modify its own **child support** order.
  - It does not matter whether it is one of the individual parties or the child that remain in the state.





# Continuing Exclusive Jurisdiction

## Minn. Stat. 518C § 205 (CEJ), cont.

- *Individual parties* is intended to exclude support enforcement authorities.
- Even if all the parties and the child no longer reside in the state, the orders are still effective and fully **enforceable until modified** pursuant to Article 6.
- CEJ of a spousal support order is permanent. (State that issued the maintenance/alimony order always keeps CEJ.)
- Once established, the court with CEJ may request other courts to enforce its orders, or if necessary modify its orders, or respond to the request of other states attempting to enforce the order. (§206).



# Conflicting child support orders

## Minn. Stat. 518C§ 207

- UIFSA requires states recognize other states' orders if the other state had proper jurisdiction to issue the order.
- UIFSA does not allow creation of multiple support orders. ***One ongoing support order at a time.***
- §207 is a cornerstone of the one-order-system.
  - 2008 amendments requires the tribunal that determines the controlling order to state in its order the total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited.



# Conflicting support orders

## Minn. Stat. §518C.207



- If confronted with multiple child-support orders with regard to the same obligor and the same child a determination is made per the rules set forth in §207(b) as to which order will control.
  - If only one state has CEJ, its order is controlling.
  - If more than one state has CEJ: the order issued by the child's **current** “home state” controls.
  - If the child no longer resides in a state that issued an order, the most recent order controls.
- When enforcing orders, courts cannot give preference to their orders over support orders issued by other states for other obligees. (§208).
- **“No stacking” of obligations.** The court must credit all payments made by an obligor against all obligations for the same child. (§209).



# UIFSA

## Consent to Jurisdiction

- §611 (a) (2) allows the parties to agree to modification jurisdiction of this state which is the residence of the child, or an individual party is subject to the personal jurisdiction of that state; and, written consents by all parties were filed in the original issuing tribunal transferring jurisdiction to the new state.
- UIFSA (2001) also allows an issuing state to continue to have modification jurisdiction by joint consent of the parties even after all of the parties and the child moved out of the state. §205(a)(2) UIFSA (2001).
  - Wareham v. Wareham, 762 N.W.2d 562 (Minn. Ct. App. 2010).
  - Legislative fix.



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# MODIFICATION



# Modification of a child support order from another state.

## Minn. Stat. 518C §§ 611, 612 & 613

- Only applies to child-support orders. Other issues (property, parenting time) addressed under other laws.
- Modification of the child-support order from another state results in loss of CEJ by the original state.
- CEJ is lost only when the **child and all the parties** have left the issuing state (and didn't return.)
- Once modification jurisdiction is assumed, the new state is the only one with CEJ over all modifiable aspects.
- If original state loses CEJ, it can still enforce its own order as to arrears and interest occurring before the modification, enforce the non-modifiable aspects of the order and provide relief for violations of its own orders that occurred before the effective date of the new modification. §612.
- UIFSA mandates that a state whose order has been modified must recognize upon registration the modified elements for enforcement. §612.





## Modification jurisdiction: Which UIFSA section applies?

- If no one lives in the issuing state, the obligee and the obligor each live in **different states**, then §611 controls.
- If everyone now lives in the **same state (but not the state that issued the order)** §613 controls. Can register the order and modify in the state everyone is now living in.
- §611 applies when §613 does not.



## Modification of a child support order

### Which UIFSA section applies, cont.

- **Written consent:** A child support order may be modified by the responding state under §611 by joint consent of the parties to jurisdiction:
  - The child or one party is subject to personal jurisdiction of the new state;
  - All parties have filed a consent with the ***issuing tribunal*** to have the new state assume CEJ and modify the order.
  - Minn. Stat. 518C § 611 (a)(2).



# Modification of a child support order

No one lives in the issuing state

Parties live in different states. Minn. Stat § 611

- **If there is no consent: “Rough Justice”**
  - The child, the individual obligee, and the obligor do NOT reside in the issuing state.
  - The petitioner is a nonresident of the responding state; **and**
  - The respondent is subject to personal jurisdiction of the responding state.
- Can only modify the “modifiable terms” (e.g. not duration). Can modify the payee or the amount.
- Use child support guidelines of the “new” state.
- This new state now has CEJ. (And continues to have unless loses CEJ.)



## Modification of support orders of another state when **all of the parties reside in Minnesota. §613**

- All the parties and the child no longer reside in the issuing state.
  - The parties all reside in Minnesota.
  - Register the order for modification in Minnesota. The Minnesota agency can initiate registration in Minnesota.
    - It is no longer an interstate situation, except for those original nonmodifiable aspects of the child support order.
  - The issuing state's duration provision remains unaffected.
- Minnesota procedure and substantive laws (e.g. child-support guidelines) apply.



# Notice to issuing tribunal of modification

## Minn. Stat. § 518C. 614

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- §614 mandates that the party who obtains a modification order must, within 30 days of modifying a child support order originally issued by another state, file a certified copy of the order with the issuing tribunal, and in each tribunal the party knows the earlier order had has been registered.
- Failure to notify prior tribunals of modifications can result in sanctions against the party who obtained the modification, but does not affect validity or enforceability of the order.



# REGISTRATION



Enforcement  
or  
Modification



# Registration

- Registration is a detailed process by which an order from another state is filed with the court in the responding state. Creates a court file so that court (legal) action can be taken to ***enforce and/or modify*** a court order.
- An order does not have to be registered to have effect in foreign jurisdiction, for example an income-withholding order issued in state A is enforceable in state B.
  - But may need a court file created, via registration, if legal action in state B is needed.



# Registration Process

## Article 6

- A registered order is a foreign support order or an income withholding order enforceable in this state. (§601).
- UIFSA provides for two types of registration:
  - Registration for enforcement
  - Registration for modification.
    - Note – when registering an order, identify whether you are registering the order only for enforcement or if you are registering the order so it can be modified.



# Registration of a support order

- You register an order in a different state in order to enforce that order (e.g., a contempt proceeding) or because that new state has jurisdiction to modify the order.
  - Can register for enforcement in many or even all states at once.
  - Register for modification in only one state.
- Registration of a support order is like enforcing a foreign judgment, only the support order does not have to have become a judgment. (Support orders don't become a judgment until a month after they come due).
- Registration of another state's order makes that order as enforceable in the registering state as if the order had been made by a tribunal in that state. §603.



# Procedure (§602) to register an order

(Similar for both enforcement or modification)

- Transmittal sent to the state in which the order(s) will be registered along with:
  - Two copies, including one certified copy, of all orders to be registered, including any modification of an order.
  - A sworn statement by the party seeking registration, or a certified statement by the custodian of the record showing the amount of any arrearage
  - The name and another identifying characteristics (social security #) of the obligor.
  - The name and address of the obligee. (May be omitted in some circumstances).
- Responding agency processes registration and files the documents with the tribunal. On receipt, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of form.
- Other pleadings may be included
- No fees or costs involved. (§313).
- To register for modification: use the same procedure. You may also file your motion to modify at the same time as the registration packet. (§609).



# Due process requirements for registration

## Minn. Stat. 518C § 605

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- The non-registering party has a right to notice.
  - Copies of the order as well as any allegation of arrearages
  - That a registered order is enforceable as of the date of registration in the same manner as though it were issued by this State.
  - That to contest the validity or enforcement of the registered order a hearing must be requested within [20] days after notice;
  - Failure to contest the validity or enforceability of the registered order will result in confirmation of the order and any alleged arrearages.
- If the non-registering party contest the validity or enforcement of registered order or its arrearages alleged they are entitled to a hearing. (§606).



# Defenses to the registration for enforcement

## Minn. Stat. 518C § 607

- The issuing tribunal lacked personal jurisdiction over the contesting party.
- Order was obtained by fraud;
- Invalid order: vacated, suspended, or modified by a later order;
- The issuing tribunal has stayed the order pending appeal;
- There is a defense under the law of this state to the remedy sought;
- Full or partial payment has been made; or
- The statute of limitation under §604 has lapsed for all or some of the arrearages.
- New for UIFSA (2001) the alleged controlling order is not the controlling order. (§607(8)(2001)).





# Tribunal's response to contest of registration

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The tribunal may:

- stay any portion under dispute. §607 (b)
- continue to enforce any undisputed portion of the order. §607 (b)
- determine that no valid defense was established and enforce the order in whole. §607 (c)
- confirm the order. §608.
  - If confirmed whether by operation of law (no contest to the registration) or after notice and hearing a final order is issued, all further contests of the order are precluded with respect to any matter that could have been asserted at the time of registration.



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# CHOICE OF LAW

Which state's law and procedures apply to the registered order?



# Choice of Law

## Minn. Stat. 518C § 604

- Enforcement: The local tribunal applies its procedures to enforce support, even though it is enforcing another state's order.
- The law of the issuing state governs the nature, extent, amount, and duration of current support payments and other obligations of support and the payment of arrearages under the order.
- Absent the loss of continuing exclusive jurisdiction (CEJ) by the issuing state (and registration for modification) the order never becomes a modifiable order of the responding state.



# Choice of Law

## Duration

### Minn. Stat. 518C § 604

- Duration of the obligation is based on the law of the state that issued the original order, or as modified by the issuing state. **Even if the order is registered for modification and modified**, you still look to the law of the original issuing state to determine **duration** of the support obligation. Examples:
  - Support order issued originally in state which has law providing for support payable until the child's 21<sup>st</sup> birthday. All parties move to a new state where law is support ends when child is 18. Support is payable until the child's 21<sup>st</sup> birthday.
  - Support order issued in a state where support ends at 18 years of age. Everybody moves to a new state where support is payable until the child is 21 years of age. The new court does not have jurisdiction to extend child-support past the original age of 18.
- Practice Tip: if you know you are dealing with an interstate case, the original child-support order should include that state's law for duration. See also *"Intergovernmental Referral Guide on OCSE web site."*
- The law of the issuing state also governs whether a support obligation has been satisfied, for example by third-party payments.



# Choice of Law

## Arrearages

### Minn. Stat. 518C § 604

- 604 (b) provides that the statute of limitations under the laws of this state or of the issuing state, whichever is longer applies.
  - Example: Order from Georgia is registered in Minnesota for enforcement. Georgia has no statute of limitations for child support enforcement. GA Code section 9-12-60. Minnesota currently has 10 year statute of limitations. ( 20 year statute of limitation stayed.) Minn. Stat. 541.04.
    - The longer of the two statute of limitations applies. The arrears are not subject to a statute of limitations.



# Choice of law

## Modification

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- If the issuing tribunal no longer has continuing exclusive jurisdiction (CEJ), then the new state's requirements, procedures, and defenses are used for the modifiable aspects.
- The state that has modification jurisdiction uses its own child support guidelines.





# HANDLING INTERNATIONAL CASES



# Current Foreign Reciprocating Countries

Australia	Canada	Czech Republic
El Salvador	Finland	Hungary
Finland	Hungary	Ireland
Israel	Netherlands	Norway
Poland	Portugal	Slovak Republic
Switzerland	United Kingdom of Great Britain and Northern Ireland	



# Processing Cases with Foreign Reciprocating Countries

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- Treated as if is a request from another U.S. state.
- Other countries are not bound by federal timeframe requirements.
- State IV-D agencies must meet same case processing timeframes as the do with inter-state cases.
- Cannot require physical presence of the foreign resident.
  - See PIQ-04-01, March 31, 2004, Processing Cases with Foreign Reciprocating Countries
- International residents can apply directly for IV-D services. (See PIQ 15099-01)



# Possible Tips and Trips

- Tips:
  - Use “one state process” (long arm) if possible.
  - Use e-mail if possible
  - See OCSE Caseworker’s Guide to Processing Cases with Foreign Reciprocating Countries
  - Websites with wage information (E.g. Norway.) Use “translate this page” on Google.
- Trip-ups:
  - Language barrier
  - Time zone differences
  - Format of dates
  - Exchange rates



# Norway publishes “tax list” each year

## Shows annual income of every Norwegian taxpayer

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PEOPLE

For example: John Doe Oslo

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TAX LISTS FOR POSTAL 2011 Sorted by year of birth:

All

Select sort: INCOME TOP WEALTH TOP TAX TOP

Select Year: 2009 2008 2007 2006

#	Name	Born	Tax Municipality	Income	Wealth	Tax
1	Jorunn Grimestad Staurem (1)	1938	Skedsmo	828 755	0	280 778
2	Martin Staurem (4)	1949	Skedsmo	760 456	0	352 199
3	Arild Helseth (5)	1960	Skedsmo	522 020	0	209 750
4	Anne-Brith Amundsen (8)	1943	Moss	420 159	1871134	170 428
5	Sten Are Lindseth Os (6)	1966	Oslo	405 578	0	143 437
6	Steinar Andresen NY	1951	Skedsmo	370 643	194 494	127 917
7	Find Amundsen (10)	1940	Moss	349 267	1805884	104 152
8	Runa Kvaerner Kleven (9)	1960	Skedsmo	341 058	249 990	116 948
9	Irene Ešov (7)	1963	Skedsmo	301 671	334 319	102 562
10	Berit Reidun Bratner NY*	1922	Oslo	258 208	2145553	82 761

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# Currency Conversion

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- What date should be applied for converting the foreign country's order amount into a U.S. dollar amount (for example, the date the request for review was received or the date the order was entered)?
- PIQ-04-01Response: There is no Federal rule on this issue. The decision should be made based on state law and procedure





# Hague Convention

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- September 29, 2010: U.S. Senate approved the Resolution of Advice and Consent regarding the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance.
  - The Convention provides for cooperation between child support authorities of those countries that are party to the Convention. The Convention requires cooperation in establishing paternity and support orders, establishes procedures for the recognition of child support orders and procedures for case processing. Text: [http://www.hcch.net/index\\_en.php?act=conventions.text&cid=131](http://www.hcch.net/index_en.php?act=conventions.text&cid=131)



Additional steps needed **before** the Treaty can be in force for the United States.

- The Congress must adopt and enact implementing legislation
  - The Department of Health and Human Services already has submitted draft implementing legislation and will provide support in moving that legislation forward.
    - Pursuant to the draft legislation, all states must enact UIFSA 2008 by the effective date noted in the legislation. The draft legislation currently gives states two years to pass new state laws



## Additional steps needed before the Treaty can be in force for the United States, cont.

- The President must sign the instrument of ratification for the Treaty.
- After passage of enabling legislation and signature by the President, the U.S. will be able to deposit its instrument of ratification with the Ministry of Foreign Affairs of the Kingdom of the Netherlands, which is the depositary for the Treaty.
  - If at least one other country has deposited its instrument of ratification, acceptance or approval, the Treaty will enter into force for the United States on the first day of the first month that is not less than three months after the date of the U.S. deposit.
  - If the United States is the first country to deposit its instrument, the Treaty will enter into force on the first day of the first month that is not less than three months after a second country deposits its instrument.
  - Once the Treaty is in force, it will apply to cases being worked between countries that are party to the Treaty.



# SCENERIOS



Scenario 1: Divorce in Wisconsin. Mother still lives in Wisconsin; Dad & Daughter move to Minnesota.  
Which state can modify?

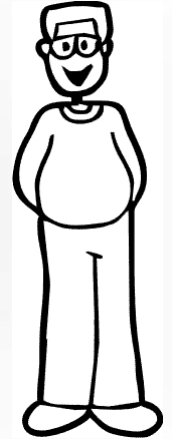


Modifications must  
be made in  
Wisconsin





Scenario 2: Original orders in Minnesota. Mother and child live in Oklahoma. Dad lives in Arizona. Mother wants to modify support. Which state can she seek modification in?



Answer: Mom must submit to jurisdiction in Arizona. Register for modification in Arizona, which has jurisdiction over dad.





Scenario 3: Original orders in Kansas. Mother and child live in Minnesota. Dad lives in Manitoba, Canada. Father wants to modify support. Where can he seek modification?



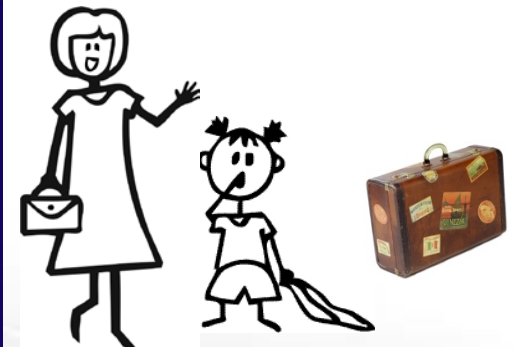
Answer: Father must submit to jurisdiction in Minnesota. Register in Minnesota for modification.



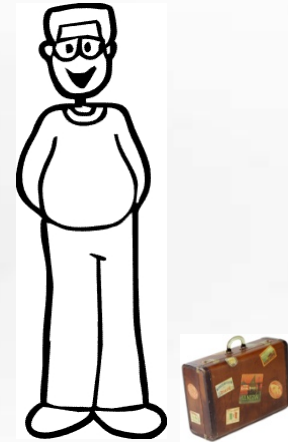
Scenario 4: Original orders in California. Mother and child live in Minnesota. Dad lives in Arkansas. Mother wants to ENFORCE support via income withholding or other method. What can she do?



Answer: Mom can register for enforcement in Arkansas which has jurisdiction over dad.



Scenario 5: Original orders in California. Mother and child live in Minnesota. Dad lives in Arkansas. Mother registered for enforcement in Arkansas. Father now wants to modify. What can he do?



Answer: Father can register for **MODIFICATION** in Minnesota, which will then obtain CEJ for all further modifications.



# HELPFUL RESOURCES





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[OCSE Policy Issuances Dealing with International Child Support](#)

### Overview

[Latest Federal Register Announcement of Reciprocating Countries](#) (November 28, 2008 - 47K Adobe PDF))  
[Also available in text format](#)

### The Hague Convention

[Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance](#)

### U.S. Department of State

[Child Support Enforcement Abroad](#)

### Statutory Provisions

[Title IV-D](#)  
UIFSA: [2001 UIFSA Revisions](#)  
[US Model Bilateral Agreement](#) (42K Adobe PDF)



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Overview of Canadian System of Support Establishment, Variation & Enforcement200Kb Microsoft PowerPoint File

IRG Address Information

Reciprocating Agreement (See below)

Executive Summary on Cross-Border Payment Processing

Caseworker's Guide Appendix 6 - Canada

A Caseworker's Guide to Processing Cases with Foreign Reciprocating Countries

Foreign Reciprocating Canadian Provinces and Territories

(For Province/Territory contact information, please access the IRG Address Information link above. Note: To get this information on the IRG page, you will need to select Canada on the International drop down menu on the left; then select a Province or Territory from the drop down menu that will appear in the middle of the page.)

Province	Website / Reciprocating Agreement
Alberta	<a href="http://www.albertamep.gov.ab.ca/Reciprocating%20Agreement">www.albertamep.gov.ab.ca/Reciprocating Agreement</a>
British Columbia	<a href="http://www.fmep.gov.bc.ca/Reciprocating%20Agreement">http://www.fmep.gov.bc.ca/Reciprocating Agreement</a>
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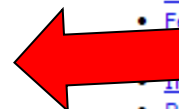
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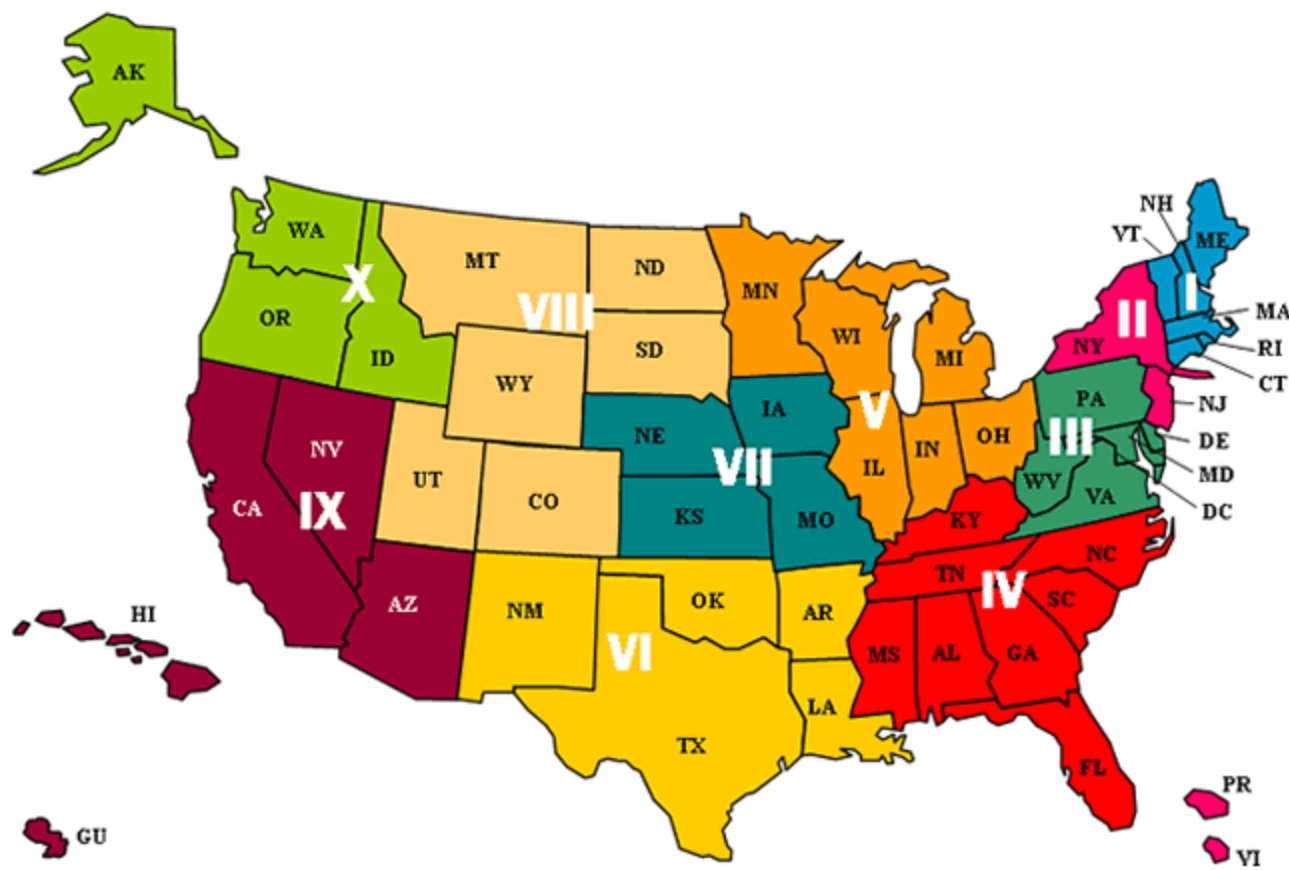
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### A. General/State-At-A-Glance

A1. What is your state's program administration/operation type (state administered/state operated, state administered/County operated, or a combination)?	The Department of Human Services is the executive branch agency responsible for supervising Minnesota's child support system, which is administered by county child support offices.
A2. How many local IV-D offices are in your state (excluding agencies with cooperative	84 county IV-D offices.

---

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[Sandra.torgerson@co.dakota.mn.us](mailto:Sandra.torgerson@co.dakota.mn.us)

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