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For Parents Living In Different States

## Child Support Issues For Parents Living In Different States

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This is the third in a series of three articles about parents and children who live in or hope to live in different states. It addresses child support issues for parents who live in different states. The first article, [Can My Child Move Out of New Jersey?](#), describes New Jersey laws that apply when one parent wants to move with a child or children out of New Jersey. The second article, [Custody and Parenting-time Issues For Parents Living in Different States](#), discusses the importance of maintaining the child's relationship with both parents.

When a custodial parent (the parent with custody of a child) needs child support from a non-custodial parent who lives in another state, it can be confusing to try to figure out which state court to turn to for help. There are rules that guide which court in which state may consider child support cases.

Usually, a state court may enter an order requiring payment of money from a parent who lives in another state only if that out-of-state parent has a specific connection to the other state. This connection gives the court something that is known as *personal jurisdiction* or *jurisdiction over the person*. Personal jurisdiction is a set of rules for determining whether or not a specific state court may hear a case involving certain specific persons.

### How does a court decide which state will hear child support cases?

The law that helps courts decide which state will hear child support cases when parents live in different states is called the Uniform Interstate Family Support Act (UIFSA). UIFSA has a process of getting child support.

- Step One: Getting a court to issue the first child support order (*establishment*)
- Step Two: Changing the amount of a child support order when the income of either parent has

changed (*modification*); and

- Step Three: Pursuing collection of the order (*enforcement*).

## How does a state court get personal jurisdiction over a parent?

Under UIFSA, a state may get or keep personal jurisdiction over a non-custodial parent if:

- The non-custodial parent is personally served (given a copy of documents in person) with a summons or notice (an official document telling the parent that he or she is directed to come to court) within that state;
- The non-custodial parent voluntarily agrees to have the court of a particular state hear the matter;
- The non-custodial parent fails to contest (object to) the jurisdiction issue;
- The non-custodial parent lived with the child in the particular state at any point in the past;
- The non-custodial parent lived in the state before the child's birth and provided prenatal expenses or support for the child;
- The child lives in the state as a result of the acts or directives of the non-custodial parent; or
- The non-custodial parent engaged in sexual intercourse in the state, and the child may have been conceived by that act of intercourse.

## Step One: Getting the First Child Support Order (Establishment)

**Personal jurisdiction over both parents required:** To hear a new child support case, a court must have personal jurisdiction over both parents. (See [How does a state court get personal jurisdiction over a parent?](#) for ways a state court can declare personal jurisdiction over a parent in another state.)

- If, at the time the custodial parent first applies for a child support order, both parents and child reside in the same state, the court of that state will enter the order.
- If the whole family previously lived in the home state of the custodial parent and child, that state will continue to have personal jurisdiction over the non-custodial parent, even after he or she moves away.
- If the court of the custodial parent's home state does not have personal jurisdiction over the non-custodial parent, the custodial parent may voluntarily submit to the jurisdiction of the court in the home state of the non-custodial parent. The custodial parent would then file his or her application for child support in the non-custodial parent's home state.

The laws of the state that enters the first child support order are the laws that will determine the following:

- How should the amount of child support be calculated?
- When does a child no longer need child support?
- Should parents contribute to the child's college education?

## Step Two: Applying to the Court to Change (Modify) a Child Support Order

***If at least one parent still lives in the state that entered the first child support order:*** Under UIFSA, the state where the first child support order was entered has *continuing exclusive jurisdiction* over the case. This means that, as long as at least one parent still lives in the first state to enter a child support order, that state is the *only* state that can change the order. So, whether the custodial or non-custodial parent wants to change the child support order, he or she must apply for modification through the court of the same state that entered the first child support order. (**Note:** If a parent moves to a *different county within the state* after the first interstate child support order is entered, an application to modify the order may have to be filed in a different county courthouse within the state, but the state does not change.)

***If both parents have moved out of the state that issued the first child support order:*** If both parents have moved out of the state that issued the first child support order, the same rules used to determine where to get the first child support order are used to determine which state should decide the application for a change (modification) in the order.

## Jurisdiction after the Modified Child Support Order Is Entered

After the court hears the application to modify the order, the court that enters the modified order becomes the court that will have continuing exclusive jurisdiction over the case. From this point forward, the following rules apply:

- ***Where at least one parent remains in the state of the court that issued the modified order:*** Only that state may hear future applications about this child support case.
- ***Where both parents move out of the state that issued the modified order:*** The same rules used to determine where to get the first child support order are used to determine which state should decide any future applications for a modification of the order.

## Which state laws does a court use to determine certain issues in an application to modify a child support order?

In applications to modify child support orders, different state laws are applied to decide different issues, such as the amount of child support, whether a child still requires support, and whether parents should contribute to college expenses. This is important, because states have different laws about these issues. For example, New Jersey requires parents to contribute financially to the college education costs of their children. This is not the law in many other states. The UIFSA rules for the most common issues are:

- Determining the amount of child support to be paid: The laws of the state that gains jurisdiction to modify or change a child support order are used to determine this issue.
- Determining the issue of when a child no longer requires support: The laws of the state that entered the original child support order are used to determine this issue.
- Determining the issue of whether parents should contribute to the child's college education: The laws of the state that entered the original child support order are used to determine this issue.

## Step Three: Collecting Child Support (Enforcement)

As described above, under UIFSA, only one state at a time is allowed to enter or modify the amount of a child support order. However, enforcement is a different matter. The custodial parent can bring an

application to enforce child support in either of two places:

- The state that has the “continuing exclusive jurisdiction” (the last state to enter or modify the child support award), or
- The state where the non-custodial parent lives.

The UIFSA statute gives the custodial parent two choices for enforcement. This is so that he or she may get help from local authorities in the state where the non-custodial parent resides. It is often easier for local authorities to garnish wages or execute arrest warrants against the non-custodial parent than it is for child support officials in a distant state.

And, often, in cases where a non-custodial parent lives out of state but a New Jersey court has jurisdiction to enter or modify a child support order, the New Jersey Superior Court probation department (the agency in charge of helping with child support collection) will send the case to the state of the non-custodial parent for enforcement of the court order and collection of the child support.

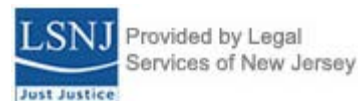
## UIFSA Coordinators

The UIFSA statute requires each state to provide a UIFSA coordinator to help parents who need to file interstate child support orders. The UIFSA coordinator knows about UIFSA procedures and will work with a parent who needs to file an interstate child support application. This way, a parent seeking support does not have to travel to another state to file an application for child support.

In New Jersey, each county courthouse has a UIFSA coordinator. If you live in New Jersey and have questions about whether or not the New Jersey courts may hear your child support case, you may apply through the court in your county for child support. If you need to file your application in another state, the UIFSA coordinator will advise you and assist you with the procedure. To get in touch with a UIFSA coordinator in your local county courthouse, see the list of telephone numbers for [Superior Court Family Division Managers](#) (from the New Jersey Judiciary).

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