

# Jurisdictional Requirements of Child Support Modifications

STARK & STARK

ATTORNEYS AT LAW

Article By

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A change in circumstances is a common occurrence in post divorce matters. The financial status of either divorcing party can easily change following a divorce. Considering that financial obligations, like child support, are calculated at the time of divorce, changes in financial status are especially impactful for those making the child support payments.

However, there is another factor to consider when attempting to modify child support payments: the geographical location of the parties. Again, many things can change following a divorce—for example, either party can move from the state that initially granted the divorce. If that happens, it opens up a whole host of new questions. The foremost of which has to be, *Which state should the party attempting to modify the child support payments file their petition?* Choosing a state that has proper jurisdiction over a child support modification is critical because different states have different laws that could significantly affect what the revised payments are.

The **Uniform Interstate Family Support Act (UIFSA)** addresses this exact question and provides guidance as to which state has jurisdiction over the modification of child support payments. The UIFSA has been codified by every state. For example, in New Jersey, N.J.S.A. 2A:4-30.72a provides that a State has continuing, exclusive jurisdiction over a child support order as long as the State

remains the home of the obligor (the individual making the child support payments), the obligee (the individual receiving the child support payments) or the child who is the center of the child support order.

However, because the obligor and obligee, as well as the child can reside in different states, multiple states can technically have continuing exclusive jurisdiction. Now what happens? Per N.J.S.A. 2A:3-3074b(2), "if more than one of the tribunals would have continuing, exclusive jurisdiction under this act, an order issued by a tribunal in the current home state of the child shall be recognized, but if an order has not been issued in the current home state of the child, the order most recently issued controls and shall be recognized."

Therefore, the home state of the child, and specifically whether an order regarding child support has been issued by that home state, is a critical fact. New Jersey courts have applied UIFSA in multiple scenarios, including *Peace v. Peace*. In *Peace*, Plaintiff and Defendant were married and had one child together. The parties originally resided in New Jersey with their child until they separated and Defendant husband relocated to Nevada. A formal child support order was entered in December 1987 in Atlantic County, New Jersey. After moving to Nevada, husband filed for and was granted a divorce in Nevada. Wife and child remained in New Jersey. In November 1998, Wife applied for an increase in child support. While New Jersey retained continuing, exclusive jurisdiction due to the fact that it was the state where both the obligee and child continue to reside, Nevada also issued an order (the divorce decree).

The court determined, "it appears that because both Nevada and New Jersey have issued an order and remain the residence of a party, each has continuing, exclusive jurisdiction, as defined by UIFSA." Applying the section of UIFSA mentioned above, the Court noted that, "in this case, the child's home state is New Jersey. Therefore, New Jersey is the state with the controlling order. Conversely, Nevada's orders do not control...accordingly, any applications to modify Husband's child support obligation must be pursued in the New Jersey court."

Every post-divorce matter is different and you should consult your attorney to ensure that jurisdiction is proper before proceeding with any litigation.

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