

# Changes Between UIFSA 1996 and UIFSA 2001

## Summary of UIFSA 2001 Changes:

- Revisions to the DCO Process: increased emphasis on the necessity of determining the controlling order when there are multiple support orders.
- Consolidation of Arrears: a requirement that the tribunal determine arrears under existing orders, in conjunction with a determination of the order that controls prospective current support.
- Changes to Modification Jurisdiction: a new basis for modification jurisdiction - the 2001 Amendments allow an issuing tribunal to modify an order, even if no one resides in the state, if both parties consent to the exercise of jurisdiction. This change will allow the same tribunal to retain issues over spousal support, property settlement, and child support if the parties so desire.
- Redirection of Payments: the process has been expedited.
- Additional Duties of the Support Enforcement Agency.
- Revisions to the Nondisclosure of Information.
- Challenges to Direct Income-Withholding.
- Provisions Applicable to International Cases: more direction regarding international support cases.
- Clarification regarding choice of law on interest rates and duration of support.
- The requirement of telephone hearings if requested by an out-of-state party.

## Detailed Changes in UIFSA 2001:

### *Determination of the Controlling Order (DCO)*

UIFSA provides for a single order to be effective for the parties and the child, regardless of where they may live. If more than one order for child support already exists, a determination of the controlling order (DCO) must be made.

The 2001 amendments address the type of jurisdiction a tribunal must have over the parties in order to make a DCO. They **require** that, in order to **make a DCO**, the tribunal have personal jurisdiction over the parties and that **the parties have received notice of the proceeding**.

The 1996 version of UIFSA allowed only a party to **request a DCO**. The 2001 amendments allow the IV-D agency to request a DCO. UIFSA 2001 further clarifies that a DCO may be made

in any of three situations: 1) with a registration for enforcement, 2) with a registration for modification, or 3) as a separate proceeding.

The 2001 amendments also address issues of notice. In a DCO proceeding in which two or more orders are alleged to be in effect, the request for DCO must identify the order believed by the requesting party to be the controlling order, as well as **the amount** of consolidated arrears under the orders. The other party must be notified that **he or she has a right to a DCO**. The notice must state the applicable procedures. It must also notify the **other party** that the order alleged to be controlling will be determined to be the controlling order unless the other party contests within the proper timeframe.

The amendments also specify the findings a tribunal must make in its DCO. The order must include the basis upon which the tribunal made the determination, the amount of prospective support, and the total amount of arrearages, including any interest, if applicable.

### ***Consolidation of Arrears***

The 1996 version of UIFSA did not require a determination of arrears in the context of a DCO (it only required an arrears determination in registration proceedings). The 2001 amendments require tribunals to determine the amount of **consolidated arrears under all** previous orders during a DCO.

### ***Jurisdiction to Modify***

An important part of UIFSA is the concept of "continuing, exclusive jurisdiction" (CEJ), which provides that the state which issued the controlling order **retains** jurisdiction to modify the order as long as the obligor, the obligee or the child live there. **The amendments of 2001 clarify that the residence of the parties at the time of the filing of the request governs whether a tribunal has CEJ.** The amendments also **allow for the parties to consent to the issuing tribunal retaining CEJ to modify, even if neither party nor the child lives there.** For example, if that tribunal has jurisdiction over custody matters, the parties may also want it to retain jurisdiction over support matters.

The 2001 amendments also make it clear that long-arm jurisdiction may not be used to gain personal jurisdiction over a party in a modification proceeding.

The law of the issuing state governs whether duration of support is a non-modifiable term. The 2001 amendments clarify that it is the initially determined controlling order that locks in the

duration of support. Once the support obligation has been fulfilled under the initial controlling order, a new order may not be established. For example, if the controlling order provided for support to age 18, the obligation ends at age 18; another tribunal cannot enter an order providing for post-majority support under its own law.

### ***Redirection of Payments***

In an effort to expedite the receipt of support by the obligee, the 2001 amendments provide for redirection of child support payments if neither party continues to live in the state that issued the controlling order. Upon request of a child support enforcement agency, the support agency or tribunal of the issuing state must redirect the payment to the agency in which the obligee is receiving services and issue a conforming income withholding order to the obligor's employer.

### ***Expansion of Duties of Support Enforcement Agency***

The 2001 amendments place additional responsibilities upon the support enforcement agency to seek a DCO, to convert any orders, arrears or judgments listed in foreign currency to US dollars, and to cooperate with a request for redirection of payments.

### ***Nondisclosure of Information***

The 2001 amendments change the language regarding protection of information in family violence or child abduction cases to make it consistent with the language in the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA).

### ***Direct Income Withholding***

The 1996 version of UIFSA allowed an obligor to challenge a direct income withholding as if it had been issued in the employer's state. Because some states do not have a process for challenging a withholding order already in effect, the 2001 amendments provide for registration of the income withholding order in the employer's state. Upon registration, the obligor can seek a stay of enforcement of the order pending resolution of the contest.

### ***International Cases***

The 2001 amendments expand the definition of **state** as it **relates** to a foreign country. They also address conversion of foreign currency by requiring that **states** convert the amounts to US dollars.

The amendments also provide for jurisdiction to modify a support order of a foreign country when the foreign country would have jurisdiction to modify its order under UIFSA, but under law or procedure of the foreign country the tribunal may not or will not exercise the jurisdiction to modify.

### ***Evidentiary Provisions***

While the 1996 version of UIFSA permitted a tribunal to accept testimony via telephone, audiovisual or other electronic means from a tribunal in that state, the 2001 amendments make such acceptance mandatory. In addition, documents may be admitted into evidence "under penalty of perjury" rather than "under oath".

### ***Temporary Support Order***

The 2001 amendments change the list of circumstances under which a temporary order may be issued, to make them consistent with the circumstances in the Uniform Parentage Act.

### ***Choice of Law***

The 2001 amendments clarify choice of law issues, most significantly in the area of interest. They require that, prior to the DCO, the applicable interest rate on arrears under a particular order is the law of the state that issued the support order. However, once the DCO is issued including a consolidated arrears amount, the laws regarding interest of the state issuing the controlling order will be applied prospectively.