



PREVENTIVE LAW SERIES

MODIFICATION OF OUT-OF-STATE CHILD CUSTODY & CHILD SUPPORT ORDERS



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MODIFYING OUT OF STATE CHILD SUPPORT ORDERS

The federal law known as the Full Faith and Credit for Child Support Orders Act and the Uniform Interstate Family Support Act (UIFSA) ensure that **ONLY** one state will have jurisdiction over child support at any particular time. Usually, the state that made the **ORIGINAL** child support order will be the **ONLY** state that can modify or change the child support order. 28 U.S.C. § 1738b. However, in an emergency situation another state could issue a temporary child support order. Additionally, jurisdiction over child support could shift to a new state if: (1) the child and **BOTH** parents no longer live in the state that issued the original child support order, **OR** (2) both parents have filed written consent with the court that issued the original child support order. 28 U.S.C. § 1738b(e); Cal. Family Code §§ 4904(a)(1), (a)(2), 4960. You should consult with an attorney to determine the appropriate jurisdictional state.

If jurisdiction has shifted to San Diego, you may request the court to modify child support by doing the following:

1. Obtain a **certified** copy of the original child support order from the court that issued the original order;
2. Take the **certified** copy of the child support order to the San Diego Family Court and **Register the order with the appropriate court paperwork** (provided by the court clerk);
3. Once the order has been **registered**, file the Order to Show Cause paperwork to request modification of child support. If you fail to have your out-of-state order registered in this county, then this court will have **NO** jurisdiction to modify the orders.

See our handout "Orders to Show Cause" and consult with an attorney. You may also seek help from the San Diego County Department of Child Support Services at (619) 236-7600.

MODIFYING OUT-OF-STATE CHILD CUSTODY ORDERS

The Federal Parental Kidnapping Prevention Act (FPKPA) and the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) ensure that **ONLY ONE** state has jurisdiction over child custody at any particular time. No state may modify a child custody order of another state, unless (1) the state making the original custody order no longer has custody jurisdiction under the FPKPA/UCCJEA or (2) the state making the original custody order declines to exercise continuing custody jurisdiction. 28 U.S.C. § 1738a(d); Cal. Family Code § 3414(a).

Absolute priority is given to the state that qualifies as the child's "home state." "Home state" means the state in which, immediately preceding the time involved, the child lived with his parents, a parent, or a person acting as parent, for at least six consecutive months, and in the case of a child less than six months old, the State in which the child lived from birth with any of such persons. Periods of temporary absence of any of such persons are counted as part of the six-month or other period. 28 U.S.C. § 1738a(b)(4); Cal Family Code § 3402(g). In an emergency situation, any state where a child is present can issue a temporary child custody order where there is a threat of genuine immediate and substantial harm to the child. 28 U.S.C. § 1738a(c)(2)(C); Cal. Family Code § 3403(a)(3). If a minor child without the knowledge and consent of the other parent, has been illegally removed to

another jurisdiction, that new jurisdiction will not have the required home state jurisdiction and the child will need to be returned to the prior state of residence before the court can issue orders.

If California has become the home state of the child, you may request the court to modify child custody by doing the following:

1. Obtain a certified copy of the original child custody order from the court that issued the original order;
2. Take the certified copy of the child custody order to the San Diego Family Court and Register the order with the appropriate paperwork;
3. Once the order has been registered, file the Order to Show Cause paperwork to request modification of child custody.

If there is any question as to whether California has jurisdiction to modify custody, the California court should contact the court where the original custody order was issued in order to make a determination as to which state has proper jurisdiction. See our handout on "Orders to Show Cause" and consult with an attorney. You may also seek help from the San Diego County Department of Child Support Services at (619) 236-7600.

LEGAL ASSISTANCE SERVICES

A legal assistance attorney is available by appointment Monday through Thursday from 0800 - 1030 and 1300 - 1500, and Friday from 0900 - 1100. Powers of attorney and notaries are available Monday through Friday at the same times. For more information, please contact the Legal Assistance Office, located in Building 56, 32nd Street Naval Station, San Diego, CA, by telephone at (619) 556-2211, or our office at Naval Air Station North Island – Coronado, Building 318 – Second Deck, above the Fleet and Family Support Center, Saufley Road, by telephone at (619) 545-6437.

RESOURCES

San Diego County Department of Child Support Services: (619) 236-7600; www.sandiegochildsupport.org

California Department of Child Support Services: <http://www.childsup.ca.gov>

Nevada Division of Welfare and Supportive Services: <https://dwss.nv.gov>

Full Faith and Credit for Child Support Orders Act, 28 U.S.C. § 1738a (2012)

Federal Parental Kidnapping Prevention Act, 28 U.S.C. §§ 1738a–1738b (2012)

California Family Code §§ 3400 et seq., 4900 et seq. (2013)

Uniform Child Custody Jurisdiction and Enforcement Act

Uniform Interstate Family Support Act