Intergovernmental Support

By Sandra Erskine for the Southeast MFSC Spring Conference
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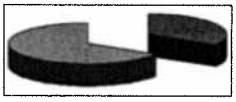
Intergovernmental Child Support Enforcement

- Change in Terminology
  - Interstate replaced with "Intergovernmental"
- What is Interstate Child Enforcement
  - How are interstate cases different from a domestic case?
  - Parties live across state lines
    - One-state process:
      - **Direct wage garnishment (IWN)**
    - Two-state process:
      - **Registration**

Why Does Interstate Matter?

- Intergovernmental support represents approximately 1/3 of all child support cases
- Likely to increase
  - Unemployment:
  - People leaving the state seeking employment
  - No direct income withholding notices to many states
    - Orders MUST be registered to be enforced



Understanding the Old System to Help Understand the New System

URESA vs. UIFSA

Good Reason For a Bad Reputation

- History of interstate child support
  - URESA
    - Uniform Reciprocal Enforcement of Support Act
  - RURESA
    - Revised Uniform Reciprocal Enforcement of Support Act

- Multiple orders under URESA
  - Hypothetical:
    - 2 orders
    - 2 arrearage amounts

Throw The Baby Out!!

- De Novo Reviews
  - Court entered new order
  - System not efficient
- Other Problems
  - NCP could not initiate action
  - 8-10 months to register an order
- Commissions formed to Address Problems
  - Throw the baby out with the bathwater

In With The New: UIFSA

- New uniform body of law addressing interstate child support enforcement and modification
  - UIFSA: Uniform Interstate Family Support Act
    - **Federal Model Act that was adopted by all the states**
- Other Sources of law
  - Social Security Act
    - PRWORA: **Personal Responsibility and Work Opportunity Reconciliation Act of 1996**
      - AKA: **Welfare Reform**
  - Title IV-D
    - **Congress mandated enactment of UIFSA**
    - **All states must adopt UIFSA by January 1, 1998**
    - **Funding loss**
    - **All states adopt**
  - CFR's: Federal Regulations to help administer program

Terms to know:

- **Issuing State:** State that issues the support order
- **Initiating State:** State that requests action
- **Responding State:** State where action takes place
- **Tribunal:** Entity that each state has designated as having the authority to enforce or if appropriate modify the support order
  - In Michigan it's the Circuit Court

The Cornerstone of UIFSA

CEJ

Controlling Exclusive Jurisdiction

So What's the Big Deal About CEJ

- Remember URESA & multiple orders - No more!!!
- CEJ: Controlling Exclusive Jurisdiction
  - Which state has right to modify order
  - Old order is modified
    - Still one order
  - What's NOT modifiable
    - Spousal support
    - Duration of obligation – emancipation date
    - Refer back to original order

CEJ in a Nutshell:

Only the issuing state is allowed to modify the support order unless everyone has left the issuing state, then the modification happens in the non-requesting party's state. That state now has CEJ to modify the order.

Exception: If all parties file written consent in the CEJ state for another state to modify the order.

Who Has CEJ

- Hypothetical - Michigan Order:
  - CP mom in Michigan and NCP dad moves to California
    - Dad requests a review
    - Mom requests a review
  - No one in Michigan
    - Dad moves to California & Mom moves to Florida. Mom asks for a modification.
    - Dad moves back to Michigan and wants a reduction
      - Both parties want Michigan to modify the order
        - Consent order obtained from Florida court

Long Arm Jurisdiction

- **Long Arm: Tribunal's right to exercise personal jurisdiction over a non-resident payor for the purpose of establishing or enforcing a support order.**
- **Objective:** Make it easier to establish and enforce court orders even though an individual isn't residing in the same state as CP and child
  - Treated like a non-intergovernmental case for purposes of establishment and enforcement
    - Wage garnishments across state lines
- **Basis for asserting Long Arm over nonresident (MCL 552.1201)**
  - Personal service within the State
  - Individual enters a general appearance or files responsive pleadings
  - Individual resided with minor child
  - Individual resided in the state and helped with prenatal expenses or support
  - Individual asserted parentage in this state
  - Sex in this state and child may have been conceived by the act
  - Individual asserted parentage in this state
  - Other constitutional grounds

No Long Arm Exists

- If NO long arm jurisdiction exists:
  - Establishment Action: Prosecutors Office asks NCP's home state to establish support (UI case type)
  - Enforcement Action:
    - No registration in Michigan
    - CP must seek either
      - Interstate redirection of support (IROS), or
      - Register in the state that has personal jurisdiction over NCP
    - Pass Through Case
    - UF case type
    - Funnel $$ through Michigan
    - Some administrative federal remedies still available
      - Tax-offset (Child Support only and NOT Spousal Support)
      - Passport Holds
    - Just because order can be registered under UCCJEA does not mean that it can be registered for enforcement under UIFSA

So How Does All This Work???

Processing Intergovernmental Cases

When to Use the Intergovernmental Process in Establishment cases

- Establishment Actions: Parties do not have a court order for support and there are no grounds for asserting Long Arm Jurisdiction:
  - Must use the 2 state process:
    - NCP is in Michigan
      - UE case is opened and Michigan produces the support order
    - CP is in Michigan
      - UI case is opened and NCP's state produces the support order

When to Use the Intergovernmental Process in Enforcement Cases (*Initiating Cases*)

- Michigan as the Initiating State
  - CP moves to Michigan and has an out of state order
    - Referral from DHS because CP is receiving Public Assistance
    - CP request services (NCP may also request services)
    - IROS vs. Registration
  - Michigan Order: NCP leaves Michigan
    - When to register Michigan's support order in NCP's new state
      - Can't find NCP's employer
      - NCP is a job hopper
      - Other's state's enforcement more effective due to proximity
      - Unemployment Compensation Bureau
        - Direct IWN permissible: GA, IN, MA, MI, MN, NY, ND, OH, OK, PA, TN, WI.
        - If not listed above - must register!!
        - Time is of the essence

When to Use the Intergovernmental Process in Enforcement Cases (*Responding Cases*)

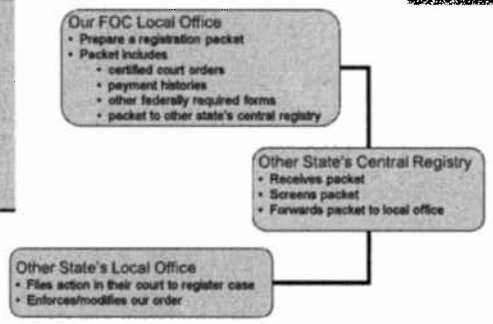
- Michigan as the Responding state:
  - Other state's order and NCP moves to Michigan
    - UN or UM case is open
    - Registration is required so that our Tribunal has jurisdiction to enforce.
    - Most case are registered for enforcement only
    - If order is being registered for Modification review rules pertaining to CEJ
  - Michigan order and CP moves to another state
    - CP goes on public assistance in her new state
    - Michigan case code stays the same
    - Michigan redirects support to CP's new state

Forms Required For Registering a Case

- Registration for Enforcement:
  - Transmittal #1
  - Registration Statement
  - Certified Orders and 2 copies
  - Certified Statement of arrears by custodian of records or Sworn Statement by party seeking registration
- Registration for Modification & Enforcement:
  - Same as registration plus:
    - General Testimony
    - Uniform Support Petition

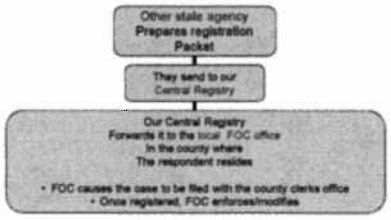
Michigan as the Initiating State

MI needs another state's help to collect/enforce/modify support



Michigan as the Responding State

Another state needs MI's help to collect/enforce/modify support



Interstate Redirection of Support (IROS)

- **CP moves to Michigan:**
  - NCP still in *issuing state*
  - We ask other state to continue enforcement and send CP's $$ through MiSDU
    - CP request IV-D services in Michigan
    - CP receives public assistance in Michigan
  - Set-up Interstate Initiating Case
    - Screens set up: CASE, ISIN
    - Child Support and *unassigned arrears* are loaded on our system as "C/S debt"
    - Other state collects money from NCP and sends it to Michigan

Interstate Redirection of Support (IROS)

- **Michigan CP moves to another state:**
  - NCP still in Michigan
  - Other state asks that we continue enforcement and send them CP's $$
    - CP request IV-D services in his/her new state
    - CP receives public assistance in his/her new state
  - Set-up Interstate Responding case
    - Screens set up: CASE, ISIN
    - Child Support and *unassigned arrears* move to other state debt type (O/S debt)
    - We collect money from NCP and send it to the initiating state's SDU to distribute it to CP

Interstate & Micses

- Screens to know When processing Cases
  - CASE: Set Interstate Indicator
  - SORD: Update CEJ information & issuing order information
  - ISIN: Set up other agency information
  - ISND: Send "CSENet" transactions
    - Electronic communications
  - ICOR: Receive electronic Correspondences from other agencies
    - Record of what has been sent and received
    - Reprints of forms generated through ISND
- Forms are available on Micses
  - ISND/ICOR
    - Transmittals
      - #1 Initial Transaction
      - #2 Status Updates
      - #3 Requests for Info
  - FHST
    - System generated documents
  - DOGN
    - Interstate Tab
      - General Testimony
      - Registration Statements
      - Uniform Interstate Support Petition

Alerts

- Alerts today
  - Cumbersome
    - Many Screens
      - ALRT
      - CASD
      - ICOR
      - ISND
      - CASD
  - Lots of irrelevant info
  - All interstate alerts are treated as action alerts – response required
- Big Changes coming this fall!!
  - JAD earlier this year
  - 1 Stop Shop
    - ALRT
    - ICOR
    - ISND
  - Not alerts will be action alerts
  - Ability to select whether a response is necessary

Who's the Boss?

- Who decides when arrears are satisfied
  - State that issued/modified order (MCL 552.1605(1))
    - "Issuing stat's law governs the nature, extent, amount, and duration of current payments and other obligation of support and the payment of arrearages under the order"
  - Hypothetical: Arrears don't match
- Who decides when IV-D case should be closed
  - Initiating state
  - IV-D case IS NOT the same as court case
    - IV-D # vs. Docket #
  - Case closure guidelines
  - Hypothetical: Can't locate NCP for 3 years

International/Tribal Support

- Definition of State Under UIFSA MCL 552.1104(f)
  - **"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. State includes an Indian tribe and a foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders that are substantially similar to the procedures under this act, the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act, 1952 PA 9, MCL 780.151 to 780.183.**
  - Reciprocity
    - Federal Bi-lateral Agreements
    - State Bi-lateral Agreements
- Foreign Jurisdiction falls outside of the scope of UIFSA:
  - Possible action to enforce order principles of Comity
    - 'More than a courtesy' but 'less than and obligation'
    - Can't offend public policy and court had jurisdiction to issue order
    - Action by private attorney
  - Seek Establishment of a new order
- Hague Convention: Expansion of International Support Enforcement
  - UIFSA 2008
  - Change in terminology: Intergovernmental

Bi-lateral Agreements

Federal Reciprocating Agreements

- Australia
- Canada (NOT all Provinces)
- Czech Republic
- El Salvador
- Finland
- Hungary
- Ireland
- Israel
- Netherlands
- Norway
- Poland
- Portugal
- Slovak Republic
- Switzerland
- The United Kingdom of Great Britain and Northern Ireland

Michigan Reciprocating Agreements

- Canadian Provinces
  - Alberta
  - British Columbia
  - Manitoba
  - New Brunswick
  - Newfoundland
  - Nova Scotia
  - Prince Edward Island
  - Saskatchewan
- Foreign Nations
  - Great Britain
  - France
  - Germany
  - Australia

Case Codes

- Michigan Case Codes
  - DS, DP,DM,DC:
    - Case codes stay the same
- Interstate Establishment Case Codes
  - UI: Another state establishes support per Michigan's request
  - UE: Michigan establishes support per another state's request
- Interstate Enforcement Case Codes
  - UN: Michigan registers another state's order in our court for enforcement purposes only
  - UM: Michigan registers another state's order in our court:
    - for modification only
    - for modification and enforcement
    - when both parties reside in Michigan
  - UF: No long arm jurisdiction.
    - Michigan must rely on another state to enforce the existing court order

Intergovernmental Resources

- Statutes to know:
  - New CFR's pertaining to Intergovernmental Support effective Jan. 2010
  - Uniform Interstate Family Support Act (UIFSA): MCL 552.1101 et seq.
  - Full Faith and Credit for Child Support Orders Act (FFCCSOA): 28 USC 1728B
- Valuable tools:
  - Office of Child Support – federal website:
    - MI-Support: Program Library under Chapter Listings
    - General Info: http://www.acf.hhs.gov/programs/cse/index.html
    - Federal Forms: http://www.acf.hhs.gov/programs/cse/forms/
    - Interstate Training: https://ocse.acf.hhs.gov/necsrspub/training/uifsaweb/index.html
    - Intergovernmental Referral Guide (IRG) Map: Information by state including contact information for Central Registries https://ocse.acf.hhs.gov/ext/irg/sps/selectastate.cfm

THANK YOU