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Administrative Office of the Courts

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1802 Uniform Interstate Family Support Act 2008

A. Bases for Jurisdiction Over Nonresident (Long-Arm Jurisdiction)

Long-arm jurisdiction grants the ability for New Jersey courts to exercise personal jurisdiction over a non-resident under the following circumstances:

1. The individual is personally served with a summons or notice within New Jersey (N.J.S.A. 2A:4-30.129(a)(1));
2. The individual willingly submits to jurisdiction by consent in a record, by entering a general appearance, or by filing a responsive document. As a result of one of the three, the individual waives any contest to personal jurisdiction (N.J.S.A. 2A:4-30.129(a)(2));
3. The individual resided with the child in New Jersey (N.J.S.A. 2A:4-30.129(a)(3));
4. The individual resided in New Jersey and provided prenatal expenses or support for the child (N.J.S.A. 2A:4-30.129(a)(4));
5. The child resides in New Jersey as a result of the acts or directives of the individual (N.J.S.A. 2A:4-30.129(a)(5));
6. The individual engaged in sexual intercourse in New Jersey and the child may have been conceived by that act of intercourse (N.J.S.A. 2A:4-30.129(a)(6)); or
7. There is any other personal jurisdiction basis consistent with the New Jersey Constitution or United States Constitution (N.J.S.A. 2A:4-30.129(a)(7)).

Note: Long-arm jurisdiction applies only to the establishment of paternity, spousal support, child support, and medical support. It does not apply to proceedings to modify an order.

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B. Continuing, Exclusive Jurisdiction (CEJ)

1. A state with continuing, exclusive jurisdiction (CEJ) is a state that has the authority to modify a child support order. A state that issued the initial order has CEJ as long as it remains the residence of the obligor, the obligee or the child. The Uniform Interstate Family Support Act (UIFSA) 2008 clarifies and expands CEJ as a concept that applies to the jurisdiction of modifying a child support order. States are permitted to modify the order under the following conditions:
 - a. At the time of filing a request for modification, New Jersey is the residence of the obligor, the obligee, or the child(ren). (N.J.S.A. 2A:4-30.133(a)(1));
 - b. A state is allowed to modify its existing order even if the state is not the residence of the obligor, obligee or the child(ren), as long as the parties consent in a record or in open court (N.J.S.A. 2A:4-30.133(a)(2));
 - c. The issuing state retains CEJ to modify its order when all parties have left the issuing state and when one party resides outside of the U.S. (N.J.S.A. 2A:4-30.178(f)); or
 - d. If a foreign country has issued the order but lacks or refuses to exercise jurisdiction to modify its order, the responding tribunal may assume jurisdiction to modify the existing order. The consent of both parties is not required (N.J.S.A. 2A:4-30.182(a)).

Note: UIFSA 2008 does not change the ability of a party residing outside of the U.S. to pursue modification in the state where the other party or child currently resides (Play Away Rule).

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2. New Jersey obtains CEJ when the child(ren) or one of the parties resides here and the support order is entered or modified by the tribunal.
3. A CEJ tribunal has the authority to modify a child support order and may assume subject matter jurisdiction over the case and personal jurisdiction over a party to the case.
4. Another state can assume CEJ when one of the parties and/or child(ren) reside there, no one remains in the original state that issued the order and the order is registered for modification in the non-requesting party's state. If another state modifies a New Jersey order, New Jersey loses CEJ and the other state gains it.

Note: Non-modifiable terms may **not** be modified by any state other than the issuing state even if the issuing state no longer has CEJ. These include alimony/spousal support, parentage, arrears accrued in another state, and the duration of current support. The state issuing the alimony/spousal support order retains CEJ over the matter for the life of the obligation (N.J.S.A. 2A:4-30.139, Continuing, exclusive jurisdiction to modify spousal support order).

C. Controlling Order

1. The controlling order is the order that controls the current child support obligation. A court that enters an order establishing child support retains CEJ to modify the order, and that court's order remains the controlling child support order for purposes of enforcement, until CEJ is conferred on another state's tribunal.
2. When two or more child support orders have been issued by tribunals of New Jersey, another state, or a foreign country for the same case participants with the same dependent(s), a tribunal must make a determination of controlling order (DCO) and calculate the

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arrears. In order for a tribunal to hold a DCO hearing, it must have personal jurisdiction over both parties. A party, including a support enforcement agency, may request its state's tribunal to determine the controlling order. A request for a DCO may be made in the context of a registration for enforcement or registration for modification, as well as in the context of a stand-alone proceeding. All parties must comply with the following procedures to determine a controlling order:

- a. The requesting party must provide to the tribunal conducting the hearing a certified copy of every support order currently in effect;
 - b. The requesting party must provide notice of the request to any party whose rights may be affected by a determination;
 - c. The tribunal making the DCO shall state in the order the basis for its determination and is required to specify the amount of prospective support and the total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments are credited; and
 - d. In 30 days or less after the DCO, certified copies of the determination shall be filed with each tribunal issuing or registering earlier support orders.
3. The controlling order is the single support order that should be enforced or the subject of any future modification.

D. Direct Income Withholding (One-State Process)

1. General Provisions

Direct income withholding is the preferred mechanism for enforcing a child support order. Once the Probation Child Support Enforcement (PCSE) Unit or party identifies an out-of-state

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employer, PCSE staff must send an income withholding order directly to that employer and the employer must comply with the order.

2. Defining Income

- a. States define income differently. Therefore, some states may not allow withholding against certain types of income (e.g., unemployment benefits, lump sums, etc.).
- b. New Jersey's definition of income includes commissions, salaries, earnings, wages, rent monies, unemployment compensation, worker's compensation, plus others. A complete definition of income can be found in N.J.S.A. 2A:4-30.125.

3. Employer Compliance

- a. Upon receipt of an income withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.
- b. If the out-of-state income withholding order appears to be valid, the employer shall treat it as if a tribunal of the employer's state had issued it.
- c. The employer shall withhold and distribute the funds as directed in the withholding order. A withholding order contains the following:
 1. The child support amount and frequency;
 2. The person or agency designated to receive payments and the address to which the payments are to be forwarded;

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3. Medical support, whether in the form of periodic cash payments stated as a specific amount or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;
 4. The amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as specific amounts; and
 5. The amount of periodic payments toward arrearages and interest on arrearages, stated as specific amounts.
- d. The employer shall comply with its state's law with respect to the following:
1. The employer's fee for processing an income withholding order (in New Jersey it is \$1);
 2. The maximum amount permitted to be withheld from the obligor's income, not to exceed the maximum amount permitted under section 303(b) of the federal Consumer Credit Protection Act (CCPA); and
 3. The times within which the employer must implement the withholding order and forward the child support payments.
- e. If an obligor's employer receives income withholding orders as to different obligees and the same obligor, the employer must comply with its state's laws regarding the limitation of amounts that can be withheld and allocated to the multiple obligations.

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- f. An employer complying with another state's income withholding order is not subject to civil liability to an individual or agency for the compliance.

4. Enforcing Employer Compliance

- a. If an employer fails to comply with the New Jersey income withholding order, PCSE staff should first attempt to contact the employer to determine why the income withholding was not implemented. If the employer indicates it did not receive the original document or if the employer appears unwilling to implement the withholding, PCSE staff should send a second income withholding order to the employer.
- b. A New Jersey employer that willfully fails to comply with an income withholding order is subject to penalties that may be imposed for non-compliance. PCSE staff may list this employer for an *Order to Show Cause – Enforcement Action* (CS670).

5. Income Withholding Contest

Under UIFSA 2008, an obligor may file a contest to an out-of-state income withholding order by registering the income withholding order in obligor's home state and filing a contest to that order in the same manner as if the order had been issued by the issuing state.

In these instances, PCSE may be contacted to provide supporting documentation.

E. Registration for Enforcement (Two-State Process)

Under UIFSA, a support order may be registered for enforcement in another jurisdiction. The registration of a support order is an administrative act. A registered order is subject to the same laws and procedures for

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enforcement as a support order issued by the registering state. A support order registered for enforcement is enforceable on the date registered.

Registration is the primary method of requesting another jurisdiction to enforce a support order. While registration offers an improved method for seeking the assistance of another jurisdiction to enforce a support order, it should only be used when one-state remedies, such as direct income withholding, have been exhausted. One-state remedies are preferred because the state issuing the support order maintains control over enforcement, collection, and distribution.

1. Parties Who May Register a Support Order

An individual or a support enforcement agency may register a support order for enforcement. An individual means a party to the support action, including a County Welfare Agency (CWA). A support enforcement agency includes a state Title IV-D agency and any state or local government entity charged with establishing or enforcing support. If a support enforcement agency finds that registration for enforcement is necessary, it may register the order to another state by completing the required federally approved transmittals and supporting documents.

Note: The obligee's consent is not required for a support enforcement agency to register an order for enforcement.

2. Place of Filing Registrations

A party or support enforcement agency will generally register a support order for enforcement with another state if the obligor resides or owns property there. The issuing state must register the support order with the state where the obligor resides or owns property so that the registering state's support enforcement agency can enforce the support order.