

LIST OF CITATIONS/STATUTES FOR PRESENTATION:

UIFSA Whatifsas

International Choices of Law - Responding Cases - UIFSA Excerpts

FAMILY CODE SECTION 5700.102. DEFINITIONS. In this act:

...

- (5) “Foreign country” means a country, including a political subdivision thereof, other than the United States, that authorizes the issuance of support orders and:
 - (A) which has been declared under the law of the United States to be a foreign reciprocating country;
 - (B) which has established a reciprocal arrangement for child support with this state as provided in Section 308;
 - (C) which has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this [act]; or
 - (D) in which the Convention is in force with respect to the United States.
- (6) “Foreign support order” means a support order of a foreign tribunal.
- (7) “Foreign tribunal” means a court, administrative agency, or quasi-judicial entity of a foreign country which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term includes a competent authority under the Convention.

...

- (18) “Outside this state” means a location in another state or a country other than the United States, whether or not the country is a foreign country.*

FAMILY CODE SECTION 5700.210. APPLICATION OF ACT TO NONRESIDENT SUBJECT TO PERSONAL JURISDICTION. A tribunal of this state exercising personal jurisdiction over a nonresident in a proceeding under this [act, under other law of this state relating to a support order, or recognizing a foreign support order may receive evidence from outside this state pursuant to Section 316, communicate with a tribunal outside this state pursuant to Section 317, and obtain discovery through a tribunal outside this state pursuant to Section 318. In all other respects, Article 3 through 6 do not apply, and the tribunal shall apply the procedural and substantive law of this state.

FAMILY CODE SECTION 5700. 303. APPLICATION OF LAW OF STATE.

Except as otherwise provided in this act, a responding tribunal of this state shall:

- (1) apply the procedural and substantive law generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and
- (2) determine the duty of support and the amount payable in accordance with the law and support guidelines of this state.

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FAMILY CODE SECTION 5700. 316. SPECIAL RULES OF EVIDENCE AND PROCEDURE.

- (a) The physical presence of a nonresident party who is an individual in a tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage of a child.
- (b) An affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing outside this state.
- ...
- (e) Documentary evidence transmitted from outside this state to a tribunal of this state by telephone, telecopier, or other electronic means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission.
- (f) In a proceeding under this act, a tribunal of this state shall permit a party or witness residing outside this state to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means at a designated tribunal or other location. A tribunal of this state shall cooperate with other tribunals in designating an appropriate location for the deposition or testimony.

FAMILY CODE SECTION 5700. 317. COMMUNICATIONS BETWEEN TRIBUNALS.

A tribunal of this state may communicate with a tribunal outside this state in a record or by telephone, electronic mail, or other means, to obtain information concerning the laws, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding. A tribunal of this state may furnish similar information by similar means to a tribunal outside this state.

FAMILY CODE SECTION 5700. 318. ASSISTANCE WITH DISCOVERY. A tribunal of this state may:

- (1) request a tribunal outside this state to assist in obtaining discovery; and
- (2) upon request, compel a person over which it has jurisdiction to respond to a discovery order issued by a tribunal outside this state.

FAMILY CODE SECTION 5700. 401. ESTABLISHMENT OF SUPPORT ORDER.

- (a) If a support order entitled to recognition under this act has not been issued, a responding tribunal of this state with personal jurisdiction over the parties may issue a support order if:
 - (1) the individual seeking the order resides outside this state; or
 - (2) the support enforcement agency seeking the order is located outside this state.

FAMILY CODE SECTION 5700. 607. CONTEST OF REGISTRATION OR ENFORCEMENT.

- (a) A party contesting the validity or enforcement of a registered support order or seeking

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to vacate the registration has the burden of proving one or more of the following defenses:

- (1) the issuing tribunal lacked personal jurisdiction over the contesting party;
- (2) the order was obtained by fraud;
- (3) the order has been vacated, suspended, or modified by a later order;
- (4) the issuing tribunal has stayed the order pending appeal;
- (5) there is a defense under the law of this state to the remedy sought;
- (6) full or partial payment has been made;
- (7) the statute of limitation under Section 604 precludes enforcement of some or all of the alleged arrearage; or
- (8) the alleged controlling order is not the controlling order.

FAMILY CODE SECTION 5700. 611. MODIFICATION OF CHILD-SUPPORT ORDER OF ANOTHER STATE. . . .

- (f) Notwithstanding subsections (a) through (e) and Section 201(b), a tribunal of this state retains jurisdiction to modify an order issued by a tribunal of this state if:
- (1) one party resides in another state; and
 - (2) the other party resides outside the United States.

FAMILY CODE SECTION 5700. 615. JURISDICTION TO MODIFY CHILD-SUPPORT ORDER OF FOREIGN COUNTRY.

- (a) Except as otherwise provided in Section 711, if a foreign country lacks or refuses to exercise jurisdiction to modify its child-support order pursuant to its laws, a tribunal of this state may assume jurisdiction to modify the child-support order and bind all individuals subject to the personal jurisdiction of the tribunal whether the consent to modification of a child-support order otherwise required of the individual pursuant to Section 611 has been given or whether the individual seeking modification is a resident of this state or of the foreign country.
- (b) An order issued by a tribunal of this state modifying a foreign child-support order pursuant to this section is the controlling order.