

# Transferring & Registering Cases Involving Minor Children

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MCR 3.212, UCCJEA, UIFSA  
and the domestication of foreign orders

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## Intrastate Transfers

Michigan Court Rule, 3.212 sets forth the requirements that must be met for a post-judgment transfer of a domestic relations case to take place between counties within the State of Michigan. A motion must be filed in the court that currently has the case. A motion to transfer cannot be granted unless *all* of the following conditions are met:

- (1) the transfer is requested on the basis of residence and convenience of the parties, or other good cause consistent with the best interest of the child;
- (2) neither party has resided in the county of current jurisdiction for at least 6 months prior to filing the motion;
- (3) at least one party has resided in the county to which the transfer is requested for at least 6 months;
- (4) and the county to which the transfer is requested is not contiguous to the county of current jurisdiction.

Filing fees include the \$20 motion fee as well as the fee for filing the case in the transferee county – \$150.00

**There is no such thing as “transferring” a case from one State to another. The term case “transfer” refers solely to intrastate (between counties); moving cases between States involves the Uniform Child Custody Jurisdiction Enforcement Act (UCCJEA), the Uniform Interstate Family Support Act (UIFSA) or the process of domesticating a foreign order.**

### Uniform Custody Jurisdiction Enforcement Act (UCCJEA)

UCCJEA, Public Act 310, effective June 1, 1997 provides the framework for determining which state’s court should resolve custody/parenting time disputes and further establishes a mechanism for the enforcement of other states’ custody and parenting time orders.

### Select Definitions Under UCCJEA

**Child-custody determination** — means a court decision, court orders and instructions providing for the custody of a child, including visitation rights; specifically excludes child support determination or other monetary obligations. Support issues are covered under the Uniform Interstate Family Support Act, MCL 552.1101 *et. seq.*

**Child-custody proceeding** — specifically excludes juvenile delinquency, contractual emancipation, or enforcement proceedings. Enforcement proceedings are provided for in Article 3 of the UCCJEA and may have different standards for jurisdictional requirements. It is a proceeding in which legal custody, physical custody or parenting time with respect to a child is an issue.

**Home State** — defined as “the state in which a child lived with a parent or person acting as a parent for at least 6 consecutive months immediately before the commencement of a child-custody proceeding”. If child is less than 6 months, the state in which the child lived from birth with a parent or person acting as a parent.

**Registration** – is compliance with the procedures set forth in section 304 of the act to make a child-custody determination enforceable in this State.

### **Initial Custody Determination**

Section 201 (MCL 722.1201) makes clear that Michigan can only make an initial child-custody determination if:

- This is the “home state” of the child or was the “home state” of the child within 6 months before the commencement of the proceeding and the child is absent from this state, but a parent or person acting as parent continues to reside here; OR
- There is no other court with jurisdiction as the “home state” or the home state declines jurisdiction and the child and at least one parent or person acting as parent has a “significant” connection with this state and substantial evidence is available here; OR
- All other courts have declined jurisdiction in favor of Michigan or no other court has jurisdiction.

### **Continuing Exclusive Jurisdiction**

Once the court establishes jurisdiction and makes a custody determination, that court retains exclusive jurisdiction to modify that determination unless it determines that 1) “neither the child, nor the child and 1 parent, nor the child and a person acting as a parent have a significant connection with this state and that substantial evidence is no longer available [in this state] concerning the child’s care, protection, training, and personal relationships”, *or*, 2) the court determines that neither the child, nor a parent or a person acting as parent resides in this state. MCL 722.1202

### **Modifying Another State’s Order**

Michigan courts *shall not* modify another state’s child custody order unless Michigan meets the jurisdictional requirements of MCL 722.1201, i.e., Michigan would have jurisdiction to make an initial custody determination *and* the court of the other state determines it no longer has exclusive, continuing jurisdiction or declines it, *or* the Michigan court or the court of the other state determines *no one* continues to reside in the other state. Section 203 (MCL 722.1203) UCCJEA provides that when all the relevant individuals leave the original order-issuing state, the exclusive jurisdiction for modification can be “assumed” by another court or tribunal without “permission” from the original court.

### **Emergency Jurisdiction**

The Act provides a basis for “temporary emergency jurisdiction” if the child is present in this state and the child has been abandoned or an order is necessary in an emergency to protect the child “...because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.” MCL 722.1204 (1)

This section further provides that if there is a previous child-custody determination that is entitled to be enforced under the UCCJEA, then the emergency temporary order must specify a period of time that the court considers adequate to allow the person seeking the order to obtain an order from the state having jurisdiction.

## Simultaneous Proceedings

Other than the “emergency” situation exception, if a child custody proceeding has already been commenced in another state, this state may *not* exercise jurisdiction unless the other court proceeding is terminated or stayed. If the Michigan court determines an appropriate proceeding in another state was filed first and the other court is exercising jurisdiction, the Michigan court shall stay its proceedings and communicate with the other court. Unless *the other court* determines Michigan is a more appropriate forum, the Michigan court shall *dismiss* its proceeding. MCL 722.1206.

## UCCJEA Affidavit

UCCJEA requires that with a party’s first pleading in any child custody proceeding, an affidavit or sworn statement must be submitted which contains information concerning the places where the child has resided and with whom for the preceding 5 years as well as information concerning any other child custody proceedings. Section 209; MCL 722.1209

## Registration of Child Custody Determination for Enforcement

A party may register an out-of-state order in Michigan by following the procedures outlined in Section 304 (MCL 722.1304) of the Act. A party may register with or without a simultaneous request for enforcement.

It should be noted that registration allows *enforcement* of the order, but *not modification unless* the case meets the jurisdictional requirements of article 2. (See discussion under Modifying Another State’s Order)

To register an out-of-state child custody determination, section 304 (MCL 722.1304) requires:

“(1) A child custody determination issued by a court of another state may be registered in this state, with or without simultaneous request for enforcement, by sending all of the following to the circuit court in this state:

- (a) A letter or other document requesting registration
  - (b) Two copies, including 1 certified copy, of the child custody determination sought to be registered, and a statement under penalty and perjury that, to the best of the knowledge and belief of the person seeking registration, the child custody determination has not been modified.
  - (c) Except as otherwise provided in section 209 (relating to domestic violence), the name and address of the person seeking registration and of each parent or person acting as parent who has been awarded custody or parenting time in the child-custody determination sought to be registered.”
- (2) On receipt of the documents required by subsection (1), the registering court shall do both of the following:

- (a) cause the child-custody determination to be filed as a foreign judgment, together with 1 copy of any accompanying documents and information, regardless of form.
- (b) Serve notice upon the persons named under subsection (1) (c) and provide them with an opportunity to contest the registration in accordance with this section.”

A party may contest the registration by requesting a hearing within 21 days. The only grounds for objecting to the registration are that the issuing court did not have jurisdiction under this Act, the order has been properly vacated, stayed or modified, or the other party was not given proper notice of the prior proceedings that resulted in the order.

If no objections are filed, or the court determines the objections are not valid, the out-of-state order shall be confirmed. MCL 722.1304 (4) and (5).

**NOTE:** When filing for registration, the original custody determination and all modifications to the original order need to be filed. The copies must be certified copies. The proper case type code for registering a child custody determination under UCCJEA is “DC”.

Once confirmed, a Michigan court may grant any relief normally available under Michigan law to enforce the out-of-state order. (MCL 722.1305)

### **Petition to Enforce Out-of-State Order**

With or without first registering an out-of-state order, a party may file a petition seeking enforcement. (MCL 722.1307) This procedure may be exercised where jurisdiction in Michigan is not proper; however, petitioner seeks enforcement of a valid order from another state and needs assistance from Michigan law enforcement for the return of the child.

The petition must be verified and attach certified copies of relevant orders. The petition must further contain:

- (2) A petition for enforcement of a child-custody determination must state all of the following:
  - (a) Whether the court that issued the child-custody determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was.
  - (b) Whether the child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this act or federal law and, if so, identify the court, the case number of the proceeding, and the action taken.
  - (c) Whether a proceeding has been commenced that could affect the current proceeding, including a proceeding relating to domestic violence, a protective order, termination of parental rights, or adoption and, if so, identify the court and the case number and nature of the proceeding.
  - (d) The present physical address and the respondent if known

- (e) Whether relief in addition to the immediate physical custody of the child and attorney fees is sought, including a request for assistance from law enforcement officials and, if so, relief sought.
- (f) If the child-custody determination has been registered and confirmed under section 304, the date and place of registration.

Upon filing the petition, the statute requires the court to issue an order directing the respondent to appear with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The statute requires a hearing “on the first judicial day possible”. The order must advise that the court will order the delivery of the child. An additional hearing may be scheduled if the out-of-state child custody determination has not been registered and confirmed.

### **The Uniform Interstate Family Support Act (UIFSA)**

**UCCJEA does not address child support orders.** An order can be registered and confirmed for enforcement under UCCJEA, or, the Court may have assumed jurisdiction to modify a child custody determination under Section 203 of the Act, but there is nothing in the UCCJEA permitting the court to establish, modify or enforce child support.

Child support orders are addressed under the Uniform Interstate Family Support Act (UIFSA) MCL 552.1101 *et seq.* Child support orders issued by another state can be registered in Michigan and enforced and/or modified depending upon the circumstances of the case.

Jurisdiction is an important consideration when registering an order under UIFSA. One of the primary purposes of UIFSA was to ensure that there is only **one** controlling order governing support at any given time. The controlling order is the order that is issued by the state that has established continuing exclusive jurisdiction (CEJ). Once a state has established CEJ, it retains continuing exclusive jurisdiction to modify the order as long as **a** party or child remains in that state, or, unless **all** parties have filed written consent with the court for another state’s court to assume CEJ. (MCL 552.1224)

Unlike custody proceedings, support proceedings require that the court have personal jurisdiction over the obligor/payer in order to establish a support obligation. When the payer of support continues to reside within the state that issued the order then both enforcement and modification jurisdiction remains in that state. Even though the support recipient and child may have moved to Michigan and even though Michigan might have become the “home state” of the child and assumed jurisdiction over custody/parenting time under the UCCJEA, if the payer continues to reside in the state that issued the support order, that state will continue to have CEJ to modify and enforce the support order.

Both personal and subject matter jurisdiction over the payer must be proven in order for Michigan to assume continuing exclusive jurisdiction and have the right to modify and/or enforce a support order. If Michigan does not have jurisdiction over the payer, then the order needs to be registered in the state where the payer resides.

UIFSA states that in order to establish, enforce or modify a support order or to determine paternity, personal jurisdiction may be exercised if any of the following are true:

- (a) the individual is personally served with citation, summons or notice *within this state*.
- (b) the individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving a contest to personal jurisdiction.
- (c) the individual resided with the child in this state.
- (d) The individual resided in this state and provided prenatal expenses or support for the child.
- (e) The child resides in this state as a result of the individual's acts or directives.
- (f) The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse.
- (g) The individual asserted parentage in the parentage registry maintained in this state
- (h) There is another basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

Under UIFSA a petitioner seeking to establish or to modify a support order must include in a verified petition the obligor and obligee names, addresses and social security numbers, the names, sex, addresses, social security numbers and dates of birth of each child and must be accompanied by a certified copy of any support order in effect. (MCL 552.1318)

### **Registration for Enforcement**

Section 601 sets forth the requirements for registration of an out-of-state order in Michigan for enforcement. The following documents are required:

- (a) A transmittal letter to the tribunal requesting registration and enforcement.
  - (b) Two copies; including 1 certified copy, of all orders to be registered, including any modification of an order.
  - (c) A sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage.
  - (d) The obligor's name and each of the following that is known:
    - (i) The obligor's address and social security number
    - (ii) The name and address of the obligor's employer and any other source of income to the obligor.
    - (iii) A description and the location of the obligor's property in this state not exempt from execution
  - (e) The obligee's name and address and, if applicable, the agency or person to whom support payments are remitted.
- (2) On receipt of a registration request, the registering tribunal shall cause the order to be filed as a foreign judgment, together with 1 copy of the documents and information, regardless of their form.

**A registered order is effective upon filing and is enforced as other orders of the court but may not be modified if another state has CEJ. (MCL 552.1603).**

The issuing state's law governs the nature, extent, amount and duration of current payments, other support obligations and arrearage payments under the order. The issuing state's law governs the emancipation age of the child. The longest of this state's or the issuing state's limitations statute applies to enforcement of the arrears. (MCL 552.1605).

### **Proceedings After Registration**

After an out-of-state order is registered, the non-registering party must be served with a copy of the order, accompanying documents and information concerning the ability of the non-registering party to contest the validity or enforcement of the order. (MCL 552.1621). The non-registering party has 20 days after service to request a hearing.

### **Modification**

Modification can be requested at the time of registration (552.1631). A registered order must be enforced as an order issued by this state but may only be modified if all the requirements of MCL 552.1635 are met. These requirements are:

- (i) the child, the individual obligee, and the obligor do not reside in the issuing state.
- (j) The Petitioner, who is a nonresident of this state, seeks modification.
- (k) The respondent is subject to the personal jurisdiction of this state's tribunal.

The only other circumstance under which modification is possible is when the child or at least one of the parties *is* subject to the personal jurisdiction of the court and ***all of the parties*** have filed written consent in the issuing tribunal allowing this state to modify the support order and assume continuing, exclusive jurisdiction. MCL 552.1635 (1)(b)

### **Domestication of Foreign Order**

When both parents and the child(ren) have moved from the state that issued the child custody/support order to Michigan, the easiest way to have Michigan assume jurisdiction over all issues in the case is to domesticate the order. Neither UCCJEA nor UIFSA replaced or eliminated the process of domestication of a foreign order when both parties reside in Michigan. To domesticate a foreign order, one of the parties must ***file a complaint*** asking the court to enter the foreign judgment as its own. This is an original, new proceeding and the complaint must be personally served on the other party. The pleadings must include the basis for the court to exercise subject matter jurisdiction, and the court must have personal jurisdiction over both parties. The case code would be DZ. If possible, obtain consents to Michigan assuming jurisdiction over all issues – custody, support and parenting time. This will aid in Michigan taking over the support case in the event another state agency is currently handling.

Another option (again, when ***both*** parties now reside in Michigan) would be to register the out-of-state order under UCCJEA and, in the prayer for relief, request registration of the support order under UIFSA as well. (See, MCL 552.1638)



## **Attachments**

- 1. Motion/stipulation to transfer case – intrastate***
- 2. UCCJEA Affidavit***
- 3. Notice of Registration of Out-of-State Child Custody Determination***
- 4. Order Registering Out-of-State Child Custody Determination***
- 5. Notice of Registration of Out-of-State Support Order***
- 6. Order Confirming Registration of Out-of-State Support Order***
- 7. UIFSA Decision Aid***