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"RECONCILING" MULTIPLE CHILD SUPPORT ORDERS UNDER UIFSA AND FFCCSOA: THE *TWADDELL*, *ROBERTS*, AND *DUNN* CASES

■ John L. Saxon

Before the Uniform Interstate Family Support Act (UIFSA) and the federal Full Faith and Credit for Child Support Orders Act (FFCCSOA) were enacted, it was possible—and often common—for a noncustodial parent to be subject to two or more orders issued by courts in two or more states requiring him or her to pay child support (usually differing amounts of child support) for a particular child or family.[1]

For example, a divorce decree entered by a North Carolina district court might have required a noncustodial parent (John Doe) to pay $350 per month for the support of his two children (Jane and Johnny), while a subsequent child support order issued by a family court in South Carolina in a URESA[2] case required him to pay $250 (or perhaps $650) per month to his ex-wife as child support for Jane and Johnny. Assuming (1) that both the North Carolina district court and the South Carolina family court had subject matter jurisdiction and personal jurisdiction over Mr. Doe at the time the orders were entered and (2) that the South Carolina order did not modify, nullify, or supersede the prior North Carolina order,[3] *both* the North Carolina and South Carolina child support orders would have been valid when they were issued and, despite their inconsistency with respect to the amount of Mr. Doe's child support obligation, *both* orders would have simultaneously governed his legal duty to pay child support for Jane and Johnny.[4]

The Uniform Reciprocal Enforcement of Support Act (URESA)[5] was undoubtedly the primary reason for this proliferation of multiple, inconsistent orders in interstate child support cases. URESA—which established a procedural mechanism for establishing and enforcing child support across state lines—facilitated, if not encouraged, the entry of multiple, inconsistent child support orders in different states by

- allowing a responding state's court to enter a "de novo" child support order against a noncustodial parent even though the parent previously had been ordered by a court in another state to pay support with respect to the same child or family;
- providing that the amount, scope, and duration of the noncustodial parent's child support obligation should be determined under the law of the responding state rather than the law or order of the state in which the parent previously had been ordered to pay support; and
- providing that, unless the order expressly provided otherwise, a child support order issued by a court in the responding state under URESA or the state's general law governing family support (a) did not nullify, modify, or supersede a prior support order issued by any

other court with respect to the same child or family, and (b) was not nullified, modified, or superseded by a support order issued by any other court.[6]

One of the primary purposes of UIFSA and FFCCSOA was to replace the URESA system of multiple, inconsistent child support orders issued by courts in different states with a new and improved interstate system in which

- there would be one, and only one, "controlling" support order with respect to a parent's obligation to support a particular child or family;
- courts in every state would be prohibited from entering a new support order if another court had previously entered a controlling support order;
- all states would be required to recognize and enforce the one controlling order;
- courts in other states would be prohibited from modifying the controlling order as long as the issuing court retained "continued exclusive jurisdiction" with respect to the order.[7]

The drafters of UIFSA and FFCCSOA, however, recognized that while these new laws would repeal or supersede URESA, they would not immediately or automatically eliminate the thousands of multiple, inconsistent support orders that (a) were issued before their enactment[8] and (b) would continue to coexist for many years thereafter.[9]

UIFSA and FFCCSOA therefore established a set of rules to "reconcile"[10] multiple child support orders entered by different courts[11] with respect to a parent's obligation to support a particular child, children, or family, and to recognize one order as the controlling order[12] with respect to a parent's duty to support a particular child or family.[13] [The UIFSA and FFCCSOA rules regarding recognition and reconciliation of multiple child support orders are reprinted in the appendix on pages 12 and 13 of this bulletin.]

While UIFSA's and FFCCSOA's one-order rules are fairly straight-forward and, in most cases, are relatively easy to apply, state and local child support agencies, attorneys, and judges will encounter, in many cases, a number of more difficult and complex questions, issues, and problems involving the reconciliation and recognition of child support orders under UIFSA and FFCCSOA.

Scope and Applicability of UIFSA's and FFCCSOA's One-Order Rules

The first question that must be answered with respect to the reconciliation and recognition of child support orders under UIFSA and FFCCSOA is:

- To what child support cases and orders do UIFSA's and FFCCSOA's one-order rules apply?

Section 207 of UIFSA provides that UIFSA's one-order rules apply in "proceeding[s] brought under this Act."[14] It is clear, therefore, that the recognition and reconciliation rules contained in section 207 of UIFSA must be applied in any proceeding that is brought under UIFSA to establish, enforce, or modify a child support order.

UIFSA, however, is not the exclusive legal procedure for establishing, enforcing, or modifying a child support order in an interstate family support case,[15] and issues involving the reconciliation of multiple support orders therefore may arise in cases that are not "brought under" UIFSA.[16]

The language of UIFSA therefore suggests that UIFSA's recognition and reconciliation rules apply *only* in proceedings that are "brought under" UIFSA—thereby excluding intrastate child support cases, pending URESA proceedings that were filed before the enactment of UIFSA, and interstate child support proceedings that are brought under laws other than UIFSA.[17]

Any limitation with respect to the scope and application of UIFSA's one-order rules, however, was effectively negated by the adoption of identical rules under the 1996 FFCCSOA amendments.[18]

As a federal statute, FFCCSOA is binding, under the supremacy clause of the U.S. Constitution, on North Carolina, its state courts and judges, and its state and local government agencies.[19] And unlike UIFSA, FFCCSOA applies with respect to *all* child support orders entered by American courts,[20] including child support orders entered in intrastate, URESA, and other types of legal proceedings involving child support, as well as those entered under UIFSA.[21]

FFCCSOA therefore effectively extends the scope of UIFSA's one-order rules to *all* types of child support cases—not just UIFSA proceedings.

Although it is clear that FFCCSOA's and UIFSA's one-order rules apply with respect to child support orders entered after these statutes became effective, there was initially some uncertainty with respect to whether FFCCSOA and UIFSA also applied to "old" child support orders that were entered *before* their enactment.

It seems clear, however, that application of FFCCSOA's and UIFSA's one-order rules to these "old" child support orders is consistent with the overarching purpose of FFCCSOA and UIFSA—to facilitate and *expedite* the transition from URESA's multiple-order scheme to the new one-order system established by UIFSA and FFCCSOA.[22] And it is therefore not surprising that courts have concluded, apparently without exception, that FFCCSOA's and UIFSA's one-order rules apply to child support orders entered *before* these laws were enacted.[23]

Thus, FFCCSOA (and UIFSA through FFCCSOA's incorporation of UIFSA's one-order rules) applies "retroactively" in the sense that its one-order rules governing the reconciliation and recognition of child support orders must be applied in all *post-enactment* child support proceedings that involve the reconciliation, recognition, enforcement, or modification of child support orders that were entered *before* its enactment. At the same time, however, it is important to emphasize that this does *not* necessarily mean (1) that FFCCSOA retroactively invalidates child support orders that (a) were valid when they were entered but (b) do not *now* meet FFCCSOA's standards for recognition as the one controlling order, or (2) that a court's determination with respect to the one controlling order operates retroactively to divest a custodial parent's or child's rights with respect to unpaid child support that has accrued, before the date of the determination, under a valid child support order that is not entitled to recognition and enforcement under UIFSA's and FFCCSOA's one-order rules.[24]

Identifying Cases That Involve Multiple Child Support Orders

Since one of the primary purposes of UIFSA and FFCCSOA is to prevent the entry of *multiple* child support orders and eventually to replace multiple, inconsistent support orders with one controlling order governing a parent's obligation to support a particular child or family, the second question that must be answered is:

- How can a child support agency, attorney, or judge determine whether there are, in fact and law, *two or more* child support orders with respect to a particular parent, child, or family, or whether there is already *only one* controlling order for support?

UIFSA's and FFCCSOA's one-order rules prohibit a court from entering (and, except under certain limited circumstances, prohibit a court's modification of) a child support order if a sister state's court has already entered a support order involving the same parent and child and the other court's order is, or may be determined to be, the one controlling support order with respect to the parent's duty to support that child or family.[25] UIFSA's and FFCCSOA's one-order rules also implicitly prohibit a court from prospectively enforcing[26] a child support order if the order is not entitled to recognition and enforcement as the one controlling order under the criteria established by UIFSA and FFCCSOA.

Thus, given the broad scope and applicability of FFCCSOA (and, through FFCCSOA, UIFSA), virtually *every* case—interstate or intrastate, IV-D or non-IV-D, "old" or "new"—involving the establishment, enforcement, or modification of child support *may* require a court to apply UIFSA's and FFCCSOA's one-order rules before it establishes, enforces, or modifies a child support order.

A court, however, cannot determine whether UIFSA's and FFCCSOA's one-order rules actually apply in any given case, and cannot correctly apply these rules to a case, unless it knows:

- whether there are, in fact and law, other child support orders involving the same parent and child;
- how many other orders there are;
- when, where, and by whom the orders were entered;
- whether any of the orders have been modified;
- the *current* validity and legal status of each order;
- whether any of the courts that entered an order retains continuing exclusive jurisdiction with respect to the order; and
- whether another court has already recognized one of the multiple orders as the one controlling order under UIFSA or FFCCSOA.

In short, to comply with and properly implement UIFSA and FFCCSOA, courts need complete and accurate information with respect to other child support orders involving the same parent and child.

Unfortunately, neither UIFSA nor FFCCSOA expressly (a) requires parties to provide this information to the court in child support proceedings, or (b) requires a court to obtain this information before establishing, enforcing, or modifying a child support order.

UIFSA, however, does include a provision that indirectly requires parties to provide the court with information regarding the existence of other child support orders involving the same child or family. Section 311 of UIFSA requires that the petition and accompanying documents in UIFSA proceedings conform substantially to the federally-approved forms used by state and local child support enforcement agencies in interstate child support cases.[27] One of these federally-approved forms is the Child Support Enforcement Transmittal.[28] Section II (case summary) of this form requires the petitioner (1) to provide the court with certain information (date of order, case number, county and state in which the order was issued, amount of current support payable, date of last payment, and amount of support arrearages owed) regarding *all* child support orders that have been entered with respect to the child, children, or family for whom support is being sought or paid;[29] and (2) to indicate whether (a) another court has determined that one of the listed support orders is the one controlling order entitled to recognition and enforcement under UIFSA or FFCCSOA, or (b) one of the listed orders

may be entitled to recognition as the one controlling order under UIFSA and FFCCSOA.

Thus, in UIFSA proceedings, courts should be able, by reviewing the case summary information on the UIFSA transmittal form, to determine (1) whether multiple child support orders have been issued with respect to the same child, children, or family; (2) whether a court has previously made a determination with respect to the status of an order as the one controlling order entitled to recognition under UIFSA and FFCCSOA; and (3) whether the court needs to reconcile the multiple support orders by determining which (if any) of the multiple orders is entitled to recognition under UIFSA and FFCCSOA.

The federal child support case registry (established under the 1996 federal child support enforcement amendments) is a second potential source of information with respect to multiple child support orders.[30] Information from the federal case registry, however, is available only in child support cases in which state or local child support enforcement agencies are involved (IV-D cases), and the registry does not include all child support orders entered before October 1, 1998.

A third way in which courts can obtain information with respect to multiple support orders is to adopt rules requiring *both* parties in *every* proceeding involving the establishment, enforcement, or modification of child support to submit an affidavit (similar to the affidavit required in child custody proceedings under the Uniform Child-Custody Jurisdiction and Enforcement Act[31]) providing information about the existence and status of other child support orders involving the same child, children, or family.

Reconciling Multiple Child Support Orders: Jurisdiction and Procedure

A third set of issues involving the reconciliation of multiple support orders under UIFSA and FFCCSOA relates to the procedures by which a court makes a determination with respect to the recognition of one controlling order.

- When should a court make this determination?
- What jurisdictional prerequisites apply with respect to such a proceeding and the parties?
- What procedures must the court follow in making this determination?

UIFSA's and FFCCSOA's rules regarding reconciliation and recognition of child support orders are not self-executing. Instead, courts must determine, on a case-by-case basis, whether a particular child support order (or which one of several multiple child support orders) is entitled to recognition as the one controlling order under UIFSA and FFCCSOA.

Although neither UIFSA nor FFCCSOA, expressly states *when* a court should, or must, determine whether an order is, or is not, entitled to recognition under UIFSA and FFCCSOA,[32] it nonetheless seems clear that, in order to expedite the transition from the multiple-order system of URESA to the one-order system envisioned by UIFSA and FFCCSOA, courts must, *sooner rather than later*, reconcile the thousands of multiple child support orders that were issued before the enactment of UIFSA and FFCCSOA.

Therefore, the *first* questions that a court should ask (and resolve, if possible) in *every* case involving the establishment, enforcement, or modification of a child support order are:

- Has this order been determined to be the one controlling order?
- If not, are there other child support orders involving this parent's obligation to support the same child or family?
- If there are multiple orders, which order is entitled to recognition?

And because a court lacks the subject matter jurisdiction to enter, enforce, or modify a child support order in violation of the limitations imposed by UIFSA's and FFCCSOA's one-order rules,[33] a court should ask and answer these questions *on its own motion* even if the issue of recognition under UIFSA and FFCCSOA has not been raised by a party.[34]

Subject Matter and Personal Jurisdiction

To make a binding determination with respect to the reconciliation and recognition of child support orders under UIFSA and FFCCSOA, a court must have jurisdiction over the case and the parties.

In North Carolina, the district court has subject matter jurisdiction to adjudicate issues involving application of UIFSA's and FFCCSOA's one-order rules in UIFSA proceedings and in other cases involving the establishment, enforcement, or modification of child support orders.[35]

Subject matter jurisdiction, however, is not enough. To make a binding determination with respect to the parties' rights and obligations under one or more child support orders, a court also must have personal jurisdiction over the affected parties.[36] In most cases, however, a court that is called upon to reconcile multiple support orders or determine whether a child support order is entitled to recognition under UIFSA and FFCCSOA will already have personal jurisdiction

over the parties because it is exercising or has exercised personal jurisdiction over the parties for the purpose of establishing, enforcing, or modifying at least one of the "competing" orders.[37]

Procedure: Motion, Notice, Evidence, Hearing, and Order

As originally enacted, UIFSA was completely silent with respect to the procedure that a court should follow in applying its one-order rules to reconcile multiple support orders. This omission was remedied in 1996 when UIFSA was revised to include a new provision establishing a procedure by which a party may request a court to reconcile multiple support orders and recognize one controlling order.

As revised, section 207(c) of UIFSA now provides that if two or more child support orders have been issued with respect to the same parent and child, a party may request a court in the state in which either individual party resides to determine which one (if any) of the orders must be recognized under UIFSA's one-order rules.[38]

Under section 207(c), a request (or motion) to reconcile multiple child support orders must be accompanied by a certified copy of every child support order that is currently in effect with respect to the same parent and child, and the party requesting the determination must give notice of the request to each party whose rights may be affected by the court's determination.[39]

Although North Carolina law generally requires only five days' notice of a hearing with respect to a motion,[40] a North Carolina court should not make a determination under section 207 unless all affected parties have been allowed sufficient time to respond to the motion and have had sufficient opportunity to submit testimony and documentary evidence (using UIFSA's special evidentiary provisions if appropriate).[41]

The court's order under section 207 must state the factual and legal basis (applying UIFSA's one-order rules) for its determination.[42] Within thirty days of the court's order with respect to reconciliation and recognition, the party obtaining the order must file a certified copy of the order with each court that issued or registered any of the child support orders affected by the court's determination.[43]

URESA, UIFSA, and FFCCSOA: How Many Orders Are There?

Another problem that may be encountered in cases involving the reconciliation of multiple child support orders under UIFSA's and FFCCSOA's one-order rules involves determining whether

- all of the orders are currently valid and should therefore be considered by the court in applying UIFSA's and FFCCSOA's one-order rules, *or*
- any of the orders are no longer valid (because they have expired, have been modified, nullified, or superseded, or are otherwise void or legally inoperative) and therefore should not be "counted" in applying UIFSA's and FFCCSOA's one-order rules.

UIFSA's and FFCCSOA's rules regarding the reconciliation of multiple child support orders apply only if there is *now* (that is, *at the time a court makes a determination* under UIFSA or FFCCSOA reconciling multiple orders or recognizing one controlling order) *more than one* valid child support order with respect to a parent's *current* obligation to support a particular child or family.[44]

Under UIFSA and FFCCSOA, a court's determination with respect to the reconciliation of multiple support orders and recognition of one controlling order must be "based on the facts in place at the time" the determination is made.[45] In other words, when a court reconciles multiple support orders under UIFSA or FFCCSOA, its decision must be based on a current "snapshot" of all the orders—that is, on the *current* validity and status of each order and the *current* circumstances relating to each order, the parties, and the child—*not* on the *past* validity, status, or circumstances of an order, party, or child.

For example, if the issue of a court's continuing exclusive jurisdiction (or whether an order has been issued by a court in the child's home state) is relevant with respect to the recognition of a child support order, the court's decision must be based on whether an issuing court *still* retains, *at the time the determination with respect to recognition is made*, continuing exclusive jurisdiction based on the continued, *current* residence of a party or child (or whether a state is *currently* the child's home state)—*not* whether an issuing court *had* continuing exclusive jurisdiction at some point in the past (or whether a state was *previously* the child's home state).[46]

This is not to say, however, that past events or circumstances are completely irrelevant with respect to the reconciliation and recognition of child support orders under UIFSA and FFCCSOA. For example, the fact that a child support order has been *previously* (and validly) modified, terminated, or superseded affects its *current* validity and status. Similarly, a court's lack of personal or subject matter jurisdiction at the time it entered an order affects the *current* validity of the order.

The following sections of this bulletin discuss two situations in which a court must determine whether

past events or circumstances affect the current validity or status of a child support order and thus its recognition or nonrecognition under UIFSA's and FFCCSOA's one-order rules.

Multiple Orders Entered Before UIFSA and FFCCSOA Became Effective

The first situation involves cases in which, *before* the date UIFSA and FFCCSOA became effective,[47] courts in two states entered child support orders with respect to the same parent and child and, under URESA or other state laws in effect at the time the orders were entered, the child support order entered by the court in one of the states may have modified, nullified, or superseded the child support order entered by a court in the other state.

For example, assume that in 1990 a South Carolina court entered a divorce decree in which John Doe was ordered to pay $550 per month to his ex-wife as child support for their two children; that Mr. Doe subsequently moved to North Carolina; that the ex-Mrs. Doe filed a URESA petition seeking enforcement of the South Carolina order in North Carolina; that in 1993 a North Carolina court entered a URESA order requiring Mr. Doe to pay only $300 per month in child support for the children; and that the ex-Mrs. Doe (who still lives in South Carolina with the children) now seeks to enforce the South Carolina order against Mr. Doe in North Carolina, arguing that under UIFSA and FFCCSOA the South Carolina order is the one controlling order.

How many orders are there? At first glance, it might seem obvious that there must be two child support orders—the 1990 South Carolina order and the 1993 North Carolina order—which must be "reconciled" under UIFSA and FFCCSOA. The question, however, is whether there are *currently* (that is, in June, 2000 when a court must determine whether to recognize and enforce the South Carolina order) two valid orders governing Mr. Doe's duty to support his children, or whether the North Carolina order effectively modified, nullified, or superseded the South Carolina order so that the North Carolina order is *now* the *only* valid order and therefore must be recognized as the one controlling order under UIFSA and FFCCSOA.[48]

If there are *two* orders (that is, if *both* the 1990 South Carolina order and the 1993 North Carolina order remain valid because the North Carolina order did not modify, nullify, or supersede the prior South Carolina order), the South Carolina order is entitled to recognition and enforcement under UIFSA and FFCCSOA.[49] If, however, the 1993 North Carolina order effectively modified, nullified, or superseded the 1990 South Carolina child support order, the North Carolina order is now the *only* order governing Mr. Doe's duty to support his children, and must therefore be recognized under UIFSA and FFCCSOA as the one controlling order.[50]

To determine whether the North Carolina order effectively modified, nullified, or superseded the South Carolina order, a court must first determine what law applies with respect to the establishment and modification of child support orders before UIFSA and FFCCSOA became effective. In other words, the court must determine whether the current validity of a child support order that was established or modified before UIFSA and FFCCSOA should be determined (a) under the law (URESA or other state laws) that was in effect at the time the order was entered or purportedly modified, or (b) through the retroactive application of UIFSA's and FFCCSOA's one-order rules.

Twaddell v. Anderson

The December, 1999 decision of North Carolina's Court of Appeals in *Twaddell v. Anderson* was one of the first reported appellate decisions to specifically address this issue.[51]

In *Twaddell*, the North Carolina Court of Appeals held that, in a proceeding under UIFSA to register and enforce a 1981 California child support order in North Carolina, North Carolina's pre-1996 URESA statute—not UIFSA or FFCCSOA—applied with respect to the question of whether a 1986 child support order entered by a North Carolina court in a URESA proceeding (requiring Mr. Anderson to pay $220 per month in support for his two children) modified, nullified, or superseded the California child support order (requiring him to pay $400 per month in support for the children).

Applying former G.S. 52A-21 (North Carolina's URESA statute in effect when the district court entered the 1986 URESA order), the court of appeals held that because the 1986 North Carolina URESA order did not contain any language which *expressly* modified, nullified, or superseded the 1981 California order, the North Carolina order did not, as a matter of law, modify, nullify, or supersede the California order, which remained valid from the time it was entered in 1981 until 1998 when it was registered for enforcement in North Carolina.[52] Thus, in 1998 when Ms. Twaddell registered the California support order in North Carolina, there were *two* valid child support orders—the 1981 California order and the 1986 North Carolina order.

Having determined that the case involved two valid child support orders, the court then looked to UIFSA and FFCCSOA to "reconcile" the orders and recognize one of them as the controlling child support order. Applying UIFSA's and FFCCSOA's one-order rules, the court determined that the 1981 California order was entitled to recognition because, although the North Carolina court retained continuing exclusive jurisdiction over the 1986 URESA order based on Mr. Anderson's continued residence in North Carolina, the California court also retained continuing exclusive jurisdiction based on Ms. Twaddell's continued residence in California and California remained the home state of the children.[53]

Assume, though, that the court in *Twaddell* had decided that, under the URESA statute in effect in 1986, the North Carolina URESA order effectively modified, nullified, or superseded the 1981 California order (for example, by including language expressly modifying, nullifying, or superseding the California order, or by modifying the California order after it had been registered in North Carolina under former G.S. 52A-30).[54] In that case, the court would have been forced to conclude that, because North Carolina's 1986 URESA order effectively modified, nullified, or superseded the prior California order when the North Carolina order was entered in 1986, there was now (that is, when Ms. Twaddell sought enforcement of the California order in 1998) *only one* child support order—the 1986 North Carolina order—and that the North Carolina order was therefore entitled to recognition.[55]

Twaddell therefore stands for the proposition that, in cases involving multiple child support orders that were entered or modified *before* the UIFSA and FFCCSOA became effective, a court must (a) first, look to the law (URESA or other state law) that was in effect *at the time the orders were entered* to determine whether any of the orders were effectively modified, nullified, or superseded *before* UIFSA and FFCCSOA took effect, and (b) then apply UIFSA's and FFCCSOA's one-order rules to reconcile any or all of the child support orders that were not effectively modified, nullified, or superseded before UIFSA and FFCCSOA became effective.

Thus, while the multiple-order and interstate modification provisions of URESA (and other state laws) have now been repealed or superseded by the one-order rules in UIFSA and FFCCSOA, URESA (and other state laws) remain relevant in determining the *current* validity and status of orders that were entered or modified *before* UIFSA and FFCCSOA became effective.

Orders Entered *After* UIFSA and FFCCSOA Became Effective

A second situation in which a prior event or circumstance may affect the current validity of a child support order in connection with the reconciliation and recognition of child support orders under UIFSA and FFCCSOA involves cases in which, *after* the enactment and implementation of UIFSA and FFCCSOA,[56] a state court has issued a new child support order (or modified a child support order) in violation of the one-order limitations established by UIFSA and FFCCSOA.

For example, assume that a South Carolina court entered a valid child support order in 1993 requiring a parent to pay child support for her two children; that the noncustodial parent subsequently moved to New Jersey; that a New Jersey court entered a "de novo" URESA order in 1997 (before New Jersey enacted UIFSA) requiring the noncustodial parent to pay child support; that the custodial parent and child subsequently moved to North Carolina; and that a North Carolina court must now determine whether the South Carolina order or the New Jersey order is the one controlling order entitled to recognition under UIFSA and FFCCSOA.

If both the South Carolina and New Jersey orders are still valid, the North Carolina court must recognize and enforce the New Jersey order under UIFSA and FFCCSOA the New Jersey order is the only child support order issued by a court that currently has continuing exclusive jurisdiction based on the continued residence in the state of an individual party or child.[57] But if the New Jersey order is void (because, in 1997, the New Jersey court lacked the personal jurisdiction or subject matter jurisdiction required to enter a valid order), the North Carolina court must recognize and enforce the South Carolina order because (even though the South Carolina court no longer has continuing exclusive jurisdiction) it is the only valid child support order in this case.[58]

Onslow County ex rel. Roberts v. Roberts

An unpublished decision by the North Carolina Court of Appeals, *Onslow County ex rel. Roberts v. Roberts*, may be the first case in the nation to address the situation described above.[59]

The *Roberts* case involved a custodial parent's attempt to enforce a Connecticut child support order against a noncustodial parent who was living in North Carolina. A divorce decree entered by a Connecticut court in 1993 ordered Mr. Roberts to pay $120 per week in child support for his two children. After Mr.

Roberts moved to North Carolina, a Connecticut child support enforcement agency, acting on behalf of the custodial parent, registered the Connecticut child support order in North Carolina by filing it, on September 21, 1994, with the Onslow County Clerk of Superior Court pursuant to the North Carolina URESA statute in effect at that time.

Mr. Roberts then filed a motion requesting the North Carolina district court to modify the registered Connecticut child support order. The district court granted Mr. Roberts' motion and entered an order in December, 1994, reducing his child support payments by more than half. Neither Ms. Roberts nor the child support enforcement agency appealed this order.

In 1998, the child support enforcement agency again registered the 1993 Connecticut order in North Carolina—this time, under North Carolina's new UIFSA statute—and requested that the North Carolina court require Mr. Roberts to pay all of the arrearages that had accrued under the Connecticut order (including arrearages that had accrued after the North Carolina court purportedly modified the Connecticut order).

The court of appeals reversed the district court's decision refusing to recognize and enforce the Connecticut order. The appellate court held (1) that the district court's modification of the registered Connecticut child support order (entered after enactment of FFCCSOA) violated FFCCSOA's restrictions on modifying a child support order when the issuing court retains continuing exclusive jurisdiction; (2) that the district court lacked subject matter jurisdiction to modify the Connecticut order in a manner inconsistent with FFCCSOA; (3) that the district court's order modifying the Connecticut order was therefore void; (4) that the original, unmodified 1993 Connecticut child support order was therefore the only valid child support order; and (5) that, under UIFSA and FFCCSOA, North Carolina's courts were required to recognize and enforce (and were prohibited from modifying) the original, unmodified 1993 Connecticut order.[60]

Thus, under the reasoning in *Roberts*, any child support order that is entered after the enactment and implementation of UIFSA and FFCCSOA in violation of their one-order rules is absolutely void (not merely voidable) for lack of subject matter jurisdiction, and therefore does not "count" as a valid child support order when a court reconciles multiple support orders under UIFSA and FFCCSOA.

Returning now to the hypothetical posed at the beginning of this section, it seems clear that, under the *Roberts* decision, a North Carolina court must recognize the South Carolina child support order as the one controlling order under UIFSA and FFCCSOA because the New Jersey order was entered contrary to FFCCSOA's one-order provisions and was therefore void *ab initio* because the New Jersey court lacked subject matter jurisdiction to enter a child support order that violated the limitations imposed by FFCCSOA.[61]

Enforcement of Recognized and "Unrecognized" Orders

The ultimate issue with respect to the reconciliation of multiple support orders under UIFSA and FFCCSOA involves the effect (and effective date) of a court's determination that one of several child support orders is the one controlling order entitled to recognition under UIFSA and FFCCSOA, and the effect of this determination with respect to "unrecognized" child support orders. The questions here are:

- After a court has determined that one child support order is the controlling order under UIFSA and FFCCSOA and that another order is *not* entitled to recognition, what effect does the court's determination have with respect to the continued validity and enforcement of the "unrecognized" order?
- Does a court's determination recognizing a child support order as the one controlling order apply *prospectively* or does it operate *retroactively* to invalidate or limit the enforceability of "unrecognized" orders?

The key to answering these questions is found in the provisions of UIFSA and FFCCSOA concerning the legal status of the one controlling child support order recognized under UIFSA and FFCCSOA.

UIFSA and FFCCSOA provide that, if a child support order is entitled to recognition as the one controlling order, (1) no American court may enter a new child support order with respect to the parent's duty to support the same child or family,[62] (2) child support agencies and courts in every state must recognize and enforce the one controlling order prospectively and with respect to accrued, unpaid arrearages,[63] and (3) no court, other than the court that issued the order, may modify the order as long as the issuing court retains continuing exclusive jurisdiction.[64]

The flip side of the recognition coin is that, once a court has determined that a child support order is *not* entitled to recognition as the one controlling order, the "unrecognized" order is no longer entitled to *prospective* recognition or enforcement (that is, recognition and enforcement with respect to a parent's current, on-going, or future child support obligation, as distinguished from his or her obligation to pay past-due child support arrearages that have already accrued under a valid order) in the issuing state or other states.

This distinction—between a court's obligation under UIFSA and FFCCSOA to "prospectively" enforce the recognized, controlling child support order (that is, to enforce the order with respect to a parent's current, on-going, or future duty to pay support) and a court's constitutional obligation, under the full faith and credit clause of the U.S. Constitution, to enforce vested, past-due child support arrearages that have accrued under a valid child support order—is crucial.

When (a) there are two valid child support orders that were both entered before the enactment of UIFSA and FFCCSOA and (b) a court has not yet made a determination with respect to which one of the orders must be recognized as the one controlling order, *both* orders remain valid and effective *until* one or both of them are modified, terminated, or expire in accordance with applicable law or *until* a court makes a determination that one of the orders is entitled to recognition under UIFSA and FFCCSOA. "Each multiple order is entitled to [f]ull [f]aith and [c]redit … *until* the single controlling order entitled to prospective enforcement is determined by a tribunal with appropriate jurisdiction in accordance with §207 …. *Until that time*, all of the competing multiple orders are presumptively valid; *after* that action by the tribunal, both UIFSA and FFCCSOA dictate that only one order is entitled to that status."[65]

A determination that an order is not entitled to recognition is, in essence, a modification of that order that affects the parent's *prospective* duty to pay child support. The modification (and by analogy, the nonrecognition) of a child support order under UIFSA renders the order "prospectively defunct."[66] This means that when a child support order is modified in accordance with UIFSA, it is no longer entitled to "prospective enforcement" but may still be enforced with respect to "amounts accruing before the modification."[67] Thus, modification under UIFSA affects only the *prospective* validity of a child support order (that is, its continued authority to determine the amount, scope, and duration of a parent's current, on-going, or future child support obligation) but does *not* retroactively affect the prior validity of the modified order nor discharge or limit a parent's *continued* obligation to pay child support arrearages accrued *before* the order was modified and were vested as of the date the order was modified.

In other words, the modification of a child support order under UIFSA (and, by analogy, a court's determination that a child support order is not entitled to recognition under UIFSA) operates *prospectively* from the date of the court's determination with respect to the parent's current and future obligation to support his or her child, but does not operate *retroactively* to affect his or her continued obligation to pay vested child support arrearages that accrued *before* the date the order was modified (or another order was recognized).

A contrary interpretation of UIFSA and FFCCSOA—holding that the recognition of a controlling order retroactively invalidates "unrecognized" orders or prohibits the collection of child support arrearages that accrued under these "unrecognized" orders *before* the date another order was recognized under UIFSA and FFCCSOA—would almost certainly be inconsistent with the U.S. Constitution and state laws implementing the Bradley amendment.[68]

The U.S. Constitution requires that state courts give full faith and credit to final judgments rendered by the courts of sister states.[69] UIFSA's and FFCCSOA's one-order rules do not, and cannot, supersede this constitutional requirement. And because G.S. 50-13.10 (and similar laws enacted by every other state in response to the Bradley amendment) provides (with some exceptions) that unpaid child support becomes a vested legal right and constitutes a final judgment when it becomes due, vested child support arrearages that accrue under a valid child support order prior to the date the order is validly modified, terminated, superseded, or rendered prospectively inoperative *must*, under the U.S. Constitution, be recognized and enforced by the courts of sister states.[70]

It seems clear, therefore, that the effect of a court's recognition of a controlling order under UIFSA and FFCCSOA is that

- the controlling order will govern, prospectively from the date of the court's determination until the order is validly modified in accordance with UIFSA and FFCCSOA, the amount, scope, and duration of the parent's current, on-going, and future obligation to support his or her child;
- other courts may not enter a new child support order and may not modify the controlling order as long as the issuing court retains continuing exclusive jurisdiction;
- the controlling order must be enforced prospectively with respect to the parent's continuing child support obligation and with respect to vested child support arrearages that accrued under the order before the date it was recognized;
- the controlling order is the only child support order that may be enforced with respect to the parent's current, on-going, or future duty to support his or her child;
- as of the date the controlling order is recognized, all "unrecognized" child support orders are rendered "prospectively defunct" with respect to the parent's current, on-going, and future obligation to pay child support; and

- vested child support arrearages that accrued under valid, but unrecognized, child support orders *before* the date a controlling order is recognized remain valid and enforceable against the parent under UIFSA or other applicable law unless barred by the applicable statute of limitations.

Dunn v. Dunn

At least two appellate decisions from other states, however, have reached a contrary conclusion—holding that UIFSA's and FFCCSOA's one-order rules should be applied *retroactively* to prohibit the collection or enforcement of vested child support arrearages that accrued under a valid child support order *before* UIFSA and FFCCSOA became effective and *before* a court determined that the order under which these arrearages accrued was not entitled to recognition as the one controlling order under UIFSA and FFCCSOA.[71]

In one of these cases, *Dunn v. Dunn*, an Ohio appellate court held that a custodial parent could not enforce her right to receive almost $93,000 in unpaid child support owed under a 1988 Ohio court order because, under UIFSA's and FFCCSOA's one-order rules, a 1991 URESA order entered by a California court (establishing a lower child support obligation than the Ohio order) was the one controlling order entitled to recognition under UIFSA and FFCCSOA.

In *Dunn*, an Ohio court entered a child support order in 1988 under which Mr. Dunn was required to pay $223 per week in support for his two children. The custodial parent (Ms. Dunn) and children moved to Florida. Mr. Dunn moved to California. In 1991 a California court, in response to a URESA petition filed on behalf of Ms. Dunn and the children, entered a "de novo" support order reducing Mr. Dunn's child support obligation to $201 per month. Mr. Dunn paid all of the child support he owed under the California order as well as the arrearages that had accrued under the Ohio order prior to 1991. In 1998 Ms. Dunn filed a motion with the Ohio court seeking almost $93,000 in past-due child support under the 1988 Ohio order (representing the difference between the amount payable under the Ohio order from 1991 through 1998 and the amount of support paid pursuant to the California order).

The trial court held that the issuance of the California URESA order did not, under the URESA statutes then in effect, affect the continued validity of the Ohio child support order, and that neither UIFSA nor FFCCSOA precluded Ms. Dunn's right to collect the arrearages that had accrued under the Ohio order since 1991.

On appeal, the appellate court reversed the trial court's decision and held (1) that, applying UIFSA's and FFCCSOA's one-order rules regarding reconciliation of multiple support orders, the California order was entitled to recognition as the one controlling support order; (2) that the court's recognition of the California order applied retroactively to the date the California order was issued (January 1, 1991); and (3) that the Ohio order was therefore not entitled to recognition or enforcement with respect to child support payments that would otherwise have been payable under the Ohio order after the California order was entered.

The *Dunn* decision is clearly correct with respect to its holding that, under UIFSA's and FFCCSOA's one-order rules, the 1991 California order, rather than the 1988 Ohio child support order, was entitled to recognition as the one controlling order because, on March 27, 2000 when the court made its determination with respect to recognition under UIFSA and FFCCSOA, the California order was the *only* child support order that had been issued by a court that currently retained continuing exclusive jurisdiction based on the continued residence of an individual party within the state (Mr. Dunn still lived in California; Ms. Dunn and the children no longer lived in Ohio).[72]

The *Dunn* court, however, was almost certainly mistaken in holding that its recognition of the California child support order took effect *retroactively* as of the date the California order was entered, and that this retroactive recognition of the California order thereby retroactively nullified the "unrecognized" Ohio order and retroactively divested Ms. Dunn and her children of their vested (and constitutionally-protected) legal right to almost $93,000 in child support arrearages that had accrued under the Ohio order between 1991 and 1998.

In support of its conclusion that UIFSA's and FFCCSOA's one-order rules regarding reconciliation and recognition of child support orders should be applied retroactively, the Ohio Court of Appeals cited a number of cases (including the North Carolina Court of Appeals' decision in *Twaddell v. Anderson*) in which appellate courts have held that UIFSA and FFCCSOA apply "retroactively" with respect to child support orders that were entered before FFCCSOA and UIFSA were enacted.[73] Unfortunately, however, the *Dunn* court seems to have misunderstood what these decisions meant when they held that UIFSA and FFCCSOA should be applied "retroactively."

Most of the decisions cited in *Dunn* appear to have used the word "retroactive" in an extremely limited sense—indicating that UIFSA's and FFCCSOA's one-order rules apply not only to child support orders entered after their enactment, but also to child support orders that were entered before UIFSA and FFCCSOA became effective.[74]

For example, in the *Isabel M.* case (the first case that used the word "retroactive" with respect to the application of FFCCSOA), the issue was whether a New York court had the authority (in December, 1994) to modify a child support order that had been entered by a Pennsylvania court in 1992. The noncustodial parent argued that the New York court could not modify the Pennsylvania order because FFCCSOA (enacted on October 20, 1994) prohibited the New York court from modifying the Pennsylvania order as long as the Pennsylvania court retained continuing exclusive jurisdiction (based on the noncustodial parent's continued residence in Pennsylvania). The custodial parent responded by arguing that FFCCSOA's restrictions with respect to modification of child support orders did not apply with respect to orders or actions that were entered or filed *before* FFCCSOA was enacted.

The New York family court held that it did not have the authority to modify the Pennsylvania order, reasoning that, because the court's decision with respect to modification (entered on December 12, 1994) was made *after* FFCCSOA became effective (on October 20, 1994), the court was required to apply the law currently in effect (FFCCSOA) to determine the court's authority to modify the Pennsylvania order even though (a) the action seeking modification was filed in 1993 (*before* FFCCSOA was enacted), and (b) the Pennsylvania order, which became entitled to recognition under FFCCSOA, was entered in 1992 (*before* FFCCSOA was enacted).

Thus, in holding that FFCCSOA "should be applied retroactively," the court in *Isabel M.* was simply saying that FFCCSOA's rules must be applied in all cases decided *after* FFCCSOA was enacted, even if the decision is entered in connection with a pending action that was filed *before* FFCCSOA was enacted or involves a child support order that was entered *before* FFCCSOA was enacted. It did not hold that a court's determination with respect to reconciliation of multiple support orders and recognition of one controlling order under UIFSA or FFCCSOA takes effect retroactively, retroactively nullifies an "unrecognized" child support order, or retroactively divests a custodial parent or children of their vested right to collect child support arrearages that accrued under an "unrecognized" order *before* the date the court recognized another order as the controlling order.[75]

Turning our attention back to *Dunn*, the Ohio Court of Appeals, having determined that its recognition of the California support order should be given retroactive effect, concluded that its retroactive application of UIFSA and FFCCSOA in the *Dunn* case did not violate Ohio's constitutional ban against retroactive legislation because UIFSA and FFCCSOA are "remedial" legislation that affect only the procedural—not substantive—rights of parties.

Again, the Ohio correct was at least partially correct in characterizing UIFSA as a "remedial" or "procedural" statute in the sense that it establishes legal procedures by which family support orders may be established, enforced, and modified in interstate cases and does not, in and of itself, create any substantive legal rights or obligations with respect to a parent's duty to support his or her children or the amount, scope, or duration of a parent's legal obligations with respect to child support (which are instead created and defined by the general domestic relations or family laws of each state).[76] It is also true, however, that the enactment and implementation of UIFSA and FFCCSOA nonetheless affect, either directly or indirectly through application of their one-order and choice of law rules and other provisions, the substantive legal rights and obligations of parents with respect to child support. But, more importantly, it is clear that the court's retroactive application of UIFSA's and FFCCSOA's one-order rules in *Dunn* affected Ms. Dunn's substantive legal rights. On the day before the *Dunn* decision, Ms. Dunn and her children had a vested, constitutionally-protected, legal right to almost $93,000 in past-due child support payments owed under the 1988 Ohio order. The day after the *Dunn* decision, the $93,000 child support arrearage no longer existed, retroactively eradicated by the court's decision.

It therefore seems clear that the outcome in *Dunn* was not dictated by UIFSA and FFCCSOA, and instead that, in a case in which the facts are similar to those in *Dunn*, UIFSA, FFCCSOA, the Bradley amendment, and the U.S. Constitution almost certainly would require a North Carolina court to hold:

1. that both the Ohio and California orders were, under the law then in effect, valid when they were entered;
2. that, under the URESA statute in effect in 1991, the California order did not modify, nullify, or supersede the 1988 Ohio order;
3. that both orders remained valid and enforceable until one of them was prospectively (and properly) modified or otherwise rendered inoperative under UIFSA and FFCCSOA;
4. that, until one of the orders was prospectively modified, nullified, superseded, or terminated in accordance with UIFSA, FFCCSOA, and other applicable law, unpaid child support under both orders continued to accrue, and constituted a vested, non-modifiable legal right and judgment;
5. that, because Ms. Dunn and the children no longer lived in Ohio and Mr. Dunn still lived

in California, the California order was entitled to recognition as the one controlling order under UIFSA and FFCCSOA;

6. that North Carolina's courts (a) were required to enforce the California order prospectively with respect to Mr. Dunn's current, on-going, and future child support obligation and with respect to any unpaid child support arrearages that had accrued under the order, and (b) were prohibited from modifying the California order as long as the California court retains continuing exclusive jurisdiction;
7. that the "unrecognized" Ohio court order no longer governed the existence, amount, scope, or duration of Mr. Dunn's current, on-going, or future legal obligation to support his children; and
8. that, notwithstanding the court's recognition of the California order under UIFSA and FFCCSOA, any vested child support arrearages that had accrued under the "unrecognized" Ohio order *before* the date of the North Carolina court's determination with respect to recognition remained due and owing and were entitled, under the U.S. Constitution, to legal recognition by North Carolina's courts and enforcement in North Carolina as a vested legal right and judgment of a sister state's court.

Conclusion

While the one-order system envisioned by UIFSA and FFCCSOA holds the promise of eliminating (or at least ameliorating) many of the problems that have plagued the interstate establishment, enforcement, and modification of child support orders, courts, child support enforcement agencies, and attorneys will, for many years to come, be faced with difficult questions, issues, and problems that are the continued legacy of URESA's multiple-order system.

In many cases, these problems may be successfully addressed and solved through the careful and correct application of UIFSA's and FFCCSOA's one-order rules. In other cases, the solution may lie in judicial or legislative action that clarifies, supplements, or revises existing laws and procedures to answer, address, and resolve some of the questions, issues, and problems discussed above.

Appendix

UIFSA §207 [G.S. 52C-2-207]

Recognition of controlling child support order.

(a) If a proceeding is brought under this Chapter and only one tribunal has issued a child support order, the order of that tribunal controls and must be so recognized.

(b) If a proceeding is brought under this Chapter, and two or more child support orders have been issued by tribunals of this State or another state with regard to the same obligor and child, a tribunal of this State shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(1) If only one of the tribunals would have continuing, exclusive jurisdiction under this Chapter, the order of that tribunal controls and must be so recognized.

(2) If more than one of the tribunals would have continuing, exclusive jurisdiction under this Chapter, an order issued by a tribunal in the current home state of the child controls and must be so recognized, but if an order has not been issued in the current home state of the child, the order most recently issued controls and must be so recognized.

(3) If none of the tribunals would have continuing, exclusive jurisdiction under this Chapter, the tribunal of this State having jurisdiction over the parties shall issue a child support order, which controls and must be so recognized.

(c) If two or more child support orders have been issued for the same obligor and child and if the obligor or the individual obligee resides in this State, a party may request a tribunal of this State to determine which order controls and must be so recognized under subsection (b) of this section. The request must be accompanied by a certified copy of every support order in effect. The requesting party shall give notice of the request to each party whose rights may be affected by a certified copy of every support order in the effect. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

(d) The tribunal that issued the controlling order under subsection (a), (b), or (c) of this section is the tribunal that has continuing, exclusive jurisdiction under G.S. 52C-2-205.

(e) A tribunal of this State which determines by order the identity of the controlling order under subdivision (b)(1) or (2) of this section or which issues a new controlling order under subdivision (b)(3) of this section shall state in that order the basis upon which the tribunal made its determination.

(f) Within 30 days after issuance of an order determining the identity of the controlling order, the party obtaining the order shall file a certified copy of it with each tribunal that issued or registered an earlier order of child support. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

Added by Sess. Laws 1995, c. 538, § 7(c), eff. Jan. 1, 1996. Amended by S.L. 1997-433, § 10.3(b), eff. Oct. 1, 1997; S.L. 1998-17, § 1, eff. June 30, 1998.

FFCCSOA [28 U.S.C. 1738B(f)]

Recognition of child support orders.

If one or more child support orders have been issued with regard to an obligor and a child, a court shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement:

(1) If only one court has issued a child support order, the order of that court must be recognized.

(2) If two or more courts have issued child support orders for the same obligor and child, and only one of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized.

(3) If two or more courts have issued child support orders for the same obligor and child, and more than one of the courts would have continuing, exclusive jurisdiction under this section, an order issued by a court in the current home State of the child must be recognized, but if an order has not been issued in the current home State of the child, the order most recently issued must be recognized.

(4) If two or more courts have issued child support orders for the same obligor and child, and none of the courts would have continuing, exclusive jurisdiction under this section, a court may issue a child support order, which must be recognized.

(5) The court that has issued an order recognized under this subsection is the court having continuing, exclusive jurisdiction.

Pub. Law No. 103-383, § 3(a) (October 20, 1994), as amended by Pub.Law No. 104-193, §322 (August 22, 1996).

Notes

[1] The Official Comments to the Uniform Interstate Family Support Act (UIFSA) estimate that "multiple orders covering the same parties and child number in the tens of thousands." G.S. 52C-2-207 (Official Comment). The "unofficial annotations" to UIFSA (written by one of the act's official reporters) assert that, while "no one knows how many multiple orders covering the same parties and child have been created thanks to [the Uniform Reciprocal Enforcement of Support Act (URESA)]," the number is large enough that the transition from URESA's multiple-order scheme to UIFSA's one-order system "will take a long time." John J. Sampson, "Unofficial Annotations to the Uniform Interstate Family Support Act (1996)," 32 Fam. L. Q. 385, 440, n. 97 (1998) [cited hereafter as Sampson, Unofficial Annotations to UIFSA (1996)].

[2] URESA refers to the Uniform Reciprocal Enforcement of Support Act and the Revised Uniform Reciprocal Enforcement of Support Act (RURESA).

[3] The modification of "foreign" child support orders (that is, child support orders issued by a court of a sister state) under URESA and other laws prior to the enactment of UIFSA and the federal Full Faith and Credit for Child Support Orders Act (FFCCSOA) is discussed in notes 52 and 54.

[4] The fact that Mr. Doe was ordered to pay $350 in a particular month under the North Carolina order and $650 for the same month under the South Carolina order does *not* mean that he was required to pay $1,000 per month in child support under the two orders. Instead, URESA provided that child support payments for a particular child or family for a particular period of time applied against the payer's obligation under all child support orders for the same child or family for the same period of time. G.S. 52A-21 (repealed January 1, 1996). UIFSA includes a similar provision regarding the application of child support payments when there are multiple child support orders involving an obligor's responsibility to support a particular child or family. G.S. 52C-2-209. Thus, Mr. Doe's payment of $500 in child support for Jane and Johnny in January would satisfy in full his child support obligation for the month under the North Carolina order and satisfy all but $150 of his obligation for the same month under the South Carolina order.

[5] URESA was first promulgated by the National Conference of Commissioners on Uniform State Laws (NCCUSL) in 1950, and was revised in 1952 and 1958. NCCUSL promulgated the Revised Uniform Reciprocal Enforcement of Support Act (RURESA) in

1968. North Carolina's URESA statute (Chapter 52A of the General Statutes) was enacted in 1951, revised in 1975, and repealed effective January 1, 1996. While all fifty states enacted some version of URESA (or a similar statute governing interstate child support enforcement), the URESA statutes of different states and the decisions of state courts applying and interpreting URESA were far from uniform.

[6] *See* G.S. 52C-6-601 (Official Comment); U.S. Commission on Interstate Child Support, *Supporting Our Children: A Blueprint for Reform* (Washington, D.C.: American Bar Association, 1992), xix; John L. Saxon, *Enforcement and Modification of Out-of-State Child Support Orders* [Special Series No. 13], (Chapel Hill, N.C.: Institute of Government, The University of North Carolina at Chapel Hill, 1994) (cited hereafter as Saxon, *Special Series* No. 13).

Another aspect of URESA—the unlimited ability of t a responding or registering state's court to modify, nullify, or supersede a valid child support order previously issued by a sister state's court—was as problematic as URESA's provisions allowing courts in different states to enter multiple, inconsistent child support orders with respect to the same parent and child.

[7] *See* John L. Saxon and Jacqueline M. Kane, "The Uniform Interstate Family Support Act," *Family Law Bulletin* No. 8 (Chapel Hill, N.C.: Institute of Government, The University of North Carolina at Chapel Hill, 1996), 3, 7. UIFSA was promulgated by NCCUSL in 1992, and was revised in 1996. North Carolina's General Assembly enacted UIFSA as Chapter 52C of the General Statutes (replacing URESA) effective January 1, 1996. 1995 N.C. Sess. Laws, ch. 538, §7. In 1996, the United States Congress required all states, as a condition of receiving federal funding for state child support enforcement programs and assistance programs for needy families, to enact UIFSA by January 1, 1998. 42 U.S.C. 666(f) [added by Pub. L. 104-193, §321, 110 Stat. 2221 (August 22, 1996)]. Today, UIFSA has been enacted and is in effect in all fifty states, the District of Columbia, the U.S. Virgin Islands, and Guam. Sampson, Unofficial Annotations to UIFSA (1996), 32 Fam. L.Q. at 399, n. 21.

[8] As discussed in notes 47 through 61 and the accompanying text, the effective dates that UIFSA and FFCCSOA are extremely important with respect to determining whether a court had or has jurisdiction (a) to enter a child support order when another court has previously issued a valid, recognized child support order with respect to the same parent and child, or (b) to modify a child support order that is entitled to recognition as the one controlling order under UIFSA and FFCCSOA.

Determining the effective dates of UIFSA and FFCCSOA, however, is not as simple as one might first think.

States enacted and implemented UIFSA at different times over a five-year period from 1993 to 1998 and, while the requirements of FFCCSOA as amended in 1996 are consistent with UIFSA's one-order rules, the requirements of FFCCSOA and UIFSA were not uniform between October 20, 1994 and August 22, 1996. *See* John L. Saxon, "The Federal 'Full Faith and Credit for Child Support Orders Act,'" *Family Law Bulletin* No. 5 (Chapel Hill, N.C.: Institute of Government, The University of North Carolina at Chapel Hill, 1995) (cited hereafter as Saxon, *Family Law Bulletin* No. 5).

Twelve states (including Virginia and South Carolina) implemented UIFSA between March 12, 1993 and October 20, 1994. In these states, UIFSA's rules regarding reconciliation and recognition of child support orders have been effective since the date the state's UIFSA statute became effective. States (including North Carolina) that had not implemented UIFSA before October 20, 1994, became subject to FFCCSOA's original provisions with respect to recognition and modification of child support orders upon enactment of the federal statute (October 20, 1994).

North Carolina and fifteen other states implemented UIFSA between October 20, 1994 and August 22, 1996, and became subject to UIFSA's more explicit and stringent one-order requirements on the date UIFSA became effective in each state. The remaining twenty-two states became subject to the UIFSA and FFCCSOA one-order rules on August 22, 1996 (after Congress amended FFCCSOA to incorporate UIFSA's one-order rules) *even if they did not enact or implement UIFSA until some later date*.

Thus, in North Carolina, the effective dates for UIFSA's and FFCCSOA's rules regarding recognition of child support orders are October 20, 1994 (with respect to the original FFCCSOA requirements) and January 1, 1996 (with respect to the stricter UIFSA one-order requirements that were subsequently incorporated in FFCCSOA). [The North Carolina statute that repealed URESA and enacted UIFSA was not entirely clear with respect to the application of UIFSA with respect to interstate child support proceedings that were filed before or were pending on January 1, 1996. Any continuing question regarding the applicability of UIFSA's provisions with respect to URESA proceedings filed before January 1, 1996,

however, appears to have been resolved in favor of UIFSA's applicability by virtue of the FFCCSOA amendments enacted August 22, 1996.]

[9] "A keystone of UIFSA is to provide a transitional procedure for the *eventual* elimination of existing multiple support orders in an expeditious and efficient manner. But, even assuming all U.S. jurisdictions enact UIFSA, many years will pass before its one-order system will be completely in place. Multiple orders covering the same parties and child number in the tens of thousands; *it can be reasonably anticipated that these orders will continue in effect far into the future*." G.S. 52C-2-207, Official Comment (emphasis added). The "problematic mechanics of moving from the multiple-order scheme of URESA to the one-order system of UIFSA will plague IV-D workers and prosecuting and defending attorneys far into the future." Sampson, Unofficial Annotations to UIFSA (1996), 32 Fam. L.Q. at 440, n. 97.

[10] UIFSA uses the term "reconciliation" to refer to the process by which a court, applying UIFSA's one-order rules, determines which one, if any, of several child support orders issued by different courts with respect to the same parent and child is the one controlling order entitled to recognition and enforcement.

[11] UIFSA uses the term "tribunal" to refer to any state court or administrative agency that is authorized to establish, enforce, or modify a family support order. Because, in North Carolina, the state's district courts are designated as the tribunals authorized to establish, enforce, or modify family support orders, this bulletin uses the term "court" rather than "tribunal."

[12] *See* G.S. 52C-2-207; 28 U.S.C. 1738B(f). As originally enacted, FFCCSOA did not include any provisions for "reconciling" multiple child support orders in instances in which the issuing tribunals of two or more states had continuing exclusive jurisdiction. *See* Saxon, *Family Law Bulletin* No. 5, at 7, n. 46. As noted above, FFCCSOA was amended, effective August 22, 1996, to incorporate UIFSA's rules for reconciling multiple support orders and recognizing only one controlling child support order with respect to the same parent and child. Pub.L. No. 104-193, §322, 110 Stat. 2105 (August 22, 1996).

[13] UIFSA's and FFCCSOA's rules regarding reconciliation of multiple child support orders do not apply with respect to situations in which one court orders a parent to pay child support for one child or family of children and another court requires the same parent to pay child support with respect to a *different* child or children living in a different family. For example, assume that John Doe and Mary Doe are the parents of Jimmy Doe; that, following John's and Mary's divorce, John married Susan Roe; that John and Susan are the parents of Jill Doe; that John and Susan are now divorced; that Jill lives with Susan; that Jimmy lives with Mary; that a court in State A has ordered John to pay child support to Mary for Jimmy; and that a court in State B has ordered John to pay child support to Susan for Jill. Because the two orders requiring John to pay child support do not govern his duty to same the *same* child, they are not considered multiple child support orders that must be reconciled under section 207 of UIFSA.

[14] G.S. 52C-2-207(a), (b).

[15] G.S. 52C-1-103 provides that the remedies provided by UIFSA "are cumulative and do not affect the availability of remedies under other law." *See also* Pieper v. Pieper, 108 N.C. App. 722, 425 S.E.2d 435 (1993).

[16] For example, in the hypothetical case described on the first page of this bulletin, the North Carolina district court that entered a child support order as part of a divorce proceeding under Chapter 50 of the General Statutes might be called upon, in the context of a motion to modify or enforce Mr. Doe's child support obligation under the North Carolina order, to determine whether its child support order, or the child support order issued by the South Carolina court, is the one controlling child support order under FFCCSOA.

[17] While the Official Comment to section 103 of UIFSA suggests that UIFSA's rules regarding recognition of one controlling order prohibit a party from obtaining, through UIFSA *or through any other legal proceeding*, a new child support order when a court has previously issued a support order that is entitled to recognition under UIFSA, this interpretation, while clearly consistent with FFCCSOA and the concept of a one-order system, is inconsistent with the plain language in sections 103 and 207 which limits UIFSA's application to proceedings that are "brought under" UIFSA.

[18] 28 U.S.C. 1738B(f). As noted above, FFCCSOA, as originally enacted, did not mandate the recognition of only *one* controlling child support order or include provisions regarding the reconciliation of multiple support orders involving the same parent and child. The 1996 amendments to FFCCSOA, however, incorporated and "federalized" UIFSA's one-order rules.

[19] Kelly v. Otte, 123 N.C. App. 585, 589, 474 S.E.2d 131, 134 (1996) (holding that FFCCSOA supersedes URESA and other state child support laws to the extent they are inconsistent with the federal law's requirements).

[20] FFCCSOA defines "child support order" as *any* judgment, decree, or order (temporary or permanent, initial or modified) of a court requiring the periodic or lump sum payment of child support, the payment of child support arrearages, or the provision of health insurance, child care, or educational expenses for a child. 28 U.S.C. 1738B(b).

[21] The provisions of FFCCSOA limiting the modification of a recognized child support order issued by a sister state's court therefore supersede the jurisdiction of a North Carolina court to modify a "foreign" child support order under G.S. 50-13.7(b) when the issuing court retains continuing exclusive jurisdiction. *See* Saxon, *Family Law Bulletin* No. 5, at 5.

[22] "A keystone of UIFSA is to provide a transitional procedure for the eventual elimination of existing multiple support orders in an *expeditious* and efficient manner. G.S. 52C-2-207 (Official Comment) (emphasis added). A contrary interpretation—that FFCCSOA applies only with respect to child support orders entered after August 22, 1996—would frustrate one of the primary objectives of UIFSA and FFCCSOA by preserving the remnants of URESA's multiple-order scheme for at least 18 years (that is, until all of the pre-FFCCSOA child support orders have expired).

[23] *See* Saxon, *Family Law Bulletin* No. 5, at 2; Kelly v. Otte, 123 N.C. App. 585, 474 S.E.2d 131 (1996) (applying FFCCSOA with respect to a New Jersey child support order entered before enactment of FFCCSOA). *See also* In re Marriage of Lurie, 39 Cal. Rptr. 2d 835 (Cal. Ct. App. 1995); Peterson v. Israel, 1998 WL 457919 (Conn. Super. Ct., July 22, 1998); Div'n. of Child Support Enforcement ex rel. Jennings v. DeBussy, 707 A.2d 44 (Del. Fam. Ct. 1997); Day v. Dept. of Social and Rehab. Services, 900 P.2d 296 (Mont. 1995); Isabel M. v. Thomas M., 624 N.Y.S.2d 356 (N.Y. Fam. Ct. 1995).

[24] Issues involving these aspects of UIFSA's and FFCCSOA's "retroactivity" are discussed in notes 62 through 76 and the accompanying text.

[25] The prohibition against a state court's entering a child support order when a child support order issued by a sister state's court is entitled to recognition as the one controlling order under UIFSA and FFCCSOA is explicit under UIFSA [*see* GS 52C-4-401(a)] and implied in UIFSA's and FFCCSOA's provisions requiring the recognition of one, and only one, controlling child support order and restricting the modification of a recognized order through the entry of another child support order that "affects the amount, scope, or duration of the order and modifies, replaces, supersedes *or otherwise is made subsequent to*" the recognized child support order. *See* Isabel M. v. Thomas M., 624 N.Y.S.2d 356 (N.Y. Fam. Ct. 1995) (holding that FFCCSOA's restrictions with respect to modification of a recognized child support order also prohibit a state court from entering a new child support order when a sister state's court has issued a child support order that is entitled to recognition under FFCCSOA); Information Memorandum OCSE-IM-95-03 (U.S. Dept. of Health and Human Services, July 13, 1995).

[26] "Prospective" enforcement refers to enforcement of a parent's current, on-going, and future obligation to pay child support, as distinguished from his or her obligation to pay past-due child support arrearages that have *previously* accrued under a child support order.

[27] G.S. 52C-3-310.

[28] Form OMB-085A. Action Transmittal OCSE-AT-97-06 (U.S. Dept. of Health and Human Services, May 2, 1997).

[29] Although UIFSA provides that information contained in a verified UIFSA petition or affidavit is admissible as evidence in a UIFSA proceeding to the same extent as if it was offered as evidence through direct testimony at a hearing [*see* G.S. 52C-3-315(b)], the case summary information on the UIFSA transmittal form is generally not verified and therefore may not be admissible as evidence without further testimony or documentation (unless it is incorporated by reference in a sworn pleading or affidavit).

[30] 42 U.S.C. 653(h) [added by Pub. L. 104-93, §316(f), 110 Stat. 2216 (August 22, 1996)].

[31] G.S. 50A-209.

[32] For example, neither statute mandated that courts or child support enforcement agencies review all existing child support orders, or required courts to make determinations with respect to reconciliation and recognition of these orders within one, two, three, or five years from the date UIFSA and FFCCSOA were enacted. Nor does either statute expressly mandate that such a determination be made whenever a court is presented with an issue involving the enforcement or modification of an existing child support order issued before the enactment of UIFSA and FFCCSOA.

[33] Onslow County ex rel. Roberts v. Roberts, Case No. COA99-502 (N.C. Ct. App., March 7, 2000) (unpublished opinion).

[34] *See* Burgess v. Gibbs, 262 N.C. 462, 465, 137 S.E.2d 806, 808 (1964) (all courts have inherent judicial power to inquire into and determine questions with respect to their own jurisdiction); Dale v. Lattimore, 12 N.C. App. 348, 183 S.E.2d 417 (1971)

(trial court may dismiss action *ex mero motu* if it determines it lacks subject matter jurisdiction).

[35] G.S. 52C-2-207(c), 52C-1-101; G.S. 7A-244.

[36] *See* Anne Reitmayer, "Modification of Divorce Support Decrees Under RURESA," 20 New England L. Rev. 425 (1984–85).

[37] A court must have personal jurisdiction over a parent in order to enter a valid order requiring him or her to pay child support. And by filing a petition or complaint seeking the establishment of a child support order, a custodial parent submits himself or herself to the court's jurisdiction—at least with respect to issues involving child support. *See* G.S. 52C-3-314 (a petitioner's participation in a UIFSA proceeding in a responding state does not confer upon the responding state's court personal jurisdiction over the petitioner with respect to other legal proceedings that do not involve child support).

Thus, a court that enters a valid child support order will have personal jurisdiction over both individual parties and, more importantly, retains continuing personal jurisdiction over both parties with respect to the issue of child support even if one (or both) of the parties subsequently leaves the state. [The concept of a court's continuing personal jurisdiction over the parties in a child support proceeding, however, should not be confused with the concept of a court's continuing exclusive jurisdiction under UIFSA and FFCCSOA.]

Similarly, when a court in one state is called upon to enforce a child support order entered by another state's court, the enforcing court generally (but not always) has personal jurisdiction over both parties because enforcement actions are generally brought in the state in which the noncustodial parent resides and the custodial parent has availed herself of the enforcing state's jurisdiction with respect to matters involving enforcement of the child support order. Likewise, under UIFSA's and FFCCSOA's restrictions on modification of child support orders, a court that is called upon to modify a child support order will have personal jurisdiction over both parties because the order must be registered in a state that has jurisdiction over the non-moving party [G.S. 52C-6-611(a)(1)(iii)] and the moving party will have submitted himself or herself to the forum court's jurisdiction (at least with respect to determining his or her rights or obligations under the order) by registering the order for modification.

Therefore, when a court reconciles multiple child support orders in the context of a proceeding involving the establishment, enforcement, or modification of a child support order, the court almost always will have personal jurisdiction over both of the parties whose rights and obligations will be affected by the court's determination to recognize one order as the controlling order that is entitled to recognition and enforcement.

There may, of course, be some cases in which this is not so. For example, a custodial parent may register a child support order for enforcement in a state in which the noncustodial parent owns property but does not reside or work. In this case, the registering state's court will have *in rem* jurisdiction to enforce the order against the obligor's property in the state, but absent a general appearance or consent by the obligor will not have personal jurisdiction over the obligor for the purpose of modifying his or her child support obligation or reconciling his or her child support obligations under multiple support orders.

[38] G.S. 52C-2-207(c) (effective October 1, 1997). It is unclear whether section 207(c) was intended to establish the *exclusive* procedure for reconciling multiple support orders under UIFSA and whether its requirement that the request be filed in a state in which one of the individual parties resides therefore constitutes a limitation on the authority of a court in a state in which neither party currently resides to reconcile multiple support orders if it nonetheless has personal jurisdiction over the parties. Consider the following example: courts in States A and B have entered child support orders; the custodial parent and child now live in State C; the noncustodial parent now lives in State D. Section 207(c) might be read to allow the court in State C (where the custodial parent resides) to reconcile the orders even though it does (or might) not have personal jurisdiction over the noncustodial parent, or to preclude the courts in States A and B from making this determination even though either court would presumably have continuing personal jurisdiction over both parties.

[39] G.S. 52C-2-207(c). Section 207(c) presumes that a court will be fully informed about all existing orders if it is requested to determine which one of the orders is entitled to recognition as the one controlling order. G.S. 52C-2-207 (Official Comment).

[40] *See* G.S. 1A-1, Rule 6(d).

[41] *See* G.S. 52C-3-315.

[42] G.S. 52C-2-207(e). While section 207 assumes that the court's determination will be based on complete and accurate information with respect to the existence and status of all affected child support orders and will be made in accordance with UIFSA's and FFCCSOA's rules regarding recognition of one controlling order, the court's determination is conclusive and binding on all parties, assuming that all

parties were subject to the court's jurisdiction and received adequate notice and an opportunity to be heard, even if it was based on incomplete or erroneous information or was legally incorrect. G.S. 52C-2-207 (Official Comment).

[43] G.S. 52C-2-207(f). A party's failure to file certified copies of the court's order with other courts as required by section 207(f) does not affect the validity of the court's determination under section 207(c). G.S. 52C-2-207(f).

[44] If there is currently one, and only one, valid child support order governing a parent's obligation to support a particular child or family, that order is the one controlling child support order entitled to recognition and enforcement under UIFSA and FFCCSOA, and there is therefore no need for the court to apply the "multiple order" rules in section 207(b).

[45] Sampson, Unofficial Annotations to UIFSA (1996), 32 Fam. L.Q. at 434, n. 87.

[46] *See* Sampson, Unofficial Annotations to UIFSA (1996), 32 Fam. L.Q. at 434, n. 87 (the potential, but unrealized, interruption of a court's continuing exclusive jurisdiction *in the past* is irrelevant with respect to its recognition under section 207).

[47] Note 8 discusses when UIFSA and FFCCSOA became effective in North Carolina and other states.

[48] In order to be recognized as the one controlling child support order, an order must, at the time it is so recognized, be a valid child support order governing the noncustodial parent's current, on-going, or future child support obligation (as opposed to an order that relates *solely* to a parent's obligation to pay past-due child support arrearages or an order that has previously been modified, terminated, superseded, or expired).

[49] *See* G.S. 52C-2-207(b)(2); 28 U.S.C. 1738B(f)(3) (if there are two child support orders and each of the issuing courts has continuing exclusive jurisdiction, the order issued by the court in the child's current home state must be recognized as the one controlling order).

[50] *See* G.S. 52C-2-207(a); 28 U.S.C. 1738B(f)(1).

[51] Twaddell v. Anderson, __ N.C. App. ___, 523 S.E.2d 710 (1999). *See also* S.C. Dept. of Social Services in re Ratteree v. Hamlett, 498 S.E.2d 888 (S.C. Ct. App. 1998) (holding that, under the URESA statute in effect prior to enactment of UIFSA and FFCCSOA, a North Carolina child support order entered under URESA did not effectively modify, nullify, or supersede a prior South Carolina child support order entered with respect to the same parent and child, and that, as between the two "competing" child support orders, the South Carolina, rather than the North Carolina, order was the one order entitled to recognition and enforcement under UIFSA).

[52] Under URESA, a custodial parent could file a URESA petition asking the court of a "responding" state to establish a new ("de novo") child support order against a child's noncustodial parent even though the noncustodial parent had previously been ordered by another court to pay child support to the custodial parent for the same child.

Under URESA, a *de novo* child support order entered by a responding state's court did not modify, nullify, or supersede a child support order previously entered by the court of a sister state against the obligor for support of the same child *unless* the responding state's URESA order *expressly* stated that it intended to modify, nullify, or supersede the prior child support order. *See* G.S. 52A-29 (repealed January 1, 1996); Saxon, *Special Series* No. 13. *See also* Anne Reitmayer, "Modification of Divorce Support Decrees Under RURESA," 20 New England L. Rev. 425 (1984–85); Jane H. Gorham, "Stemming the Modification of Child-Support Orders by Responding Courts: A Proposal to Amend RURESA's Antisupercession Clause," 24 U. Mich. J. L. Ref. 405 (1991).

Thus, before the enactment of UIFSA and FFCCSOA, the effect of a child support order entered under URESA on a prior child support order entered by a sister state's court depended on whether the URESA statutes (or other state law) of the two states allowed the modification of a prior child support order through a URESA proceeding and whether the URESA child support order included, or failed to include, language purporting to modify, nullify, or supersede a prior child support order issued by another state.

[53] *See* G.S. 52C-2-207(b)(2); 28 U.S.C. 1738B(f)(3) (if courts in two states have issued child support orders and both courts have continuing exclusive jurisdiction based on the continued residence in the state of an individual party or child, the order issued by the court in the child's current home state must be recognized as the one controlling order).

Because Mr. Anderson's continuing legal obligation to support his children had already terminated when the children reached majority and Ms. Twaddell was seeking collection of vested, past-due child support arrearages only, North Carolina's constitutionally-mandated obligation to recognize and enforce the vested, past-due child support arrearages that accrued under the 1981 California order was *not* dependent on the court's determination that the 1981 California order was the one controlling order entitled to recognition under UIFSA and FFCCSOA. *See* notes 68 through 70 and the accompanying text.

[54] As noted above, a *de novo* child support order entered by a responding state's court in a URESA proceeding could modify, nullify, or supersede a child support order previously entered by another state's court *if* the responding state's URESA order *expressly* stated that it modified, nullified, or superseded the prior order. *See* G.S. 52A-21 (repealed January 1, 1996).

URESA also allowed a custodial parent to enforce a child support order issued by one state (State A) by registering it with a court in a sister state (State B). In URESA proceedings involving *registration* of an out-of-state child support order (as opposed to a proceeding involving the entry of a *de novo* support order by the responding state's court), North Carolina's court of appeals held that registering a sister state's child support order in North Carolina under URESA "transformed" (at least prospectively) the registered child support order into a North Carolina order that could be modified in the same manner, under the same circumstances, and to the same extent as a child support order entered by a North Carolina court. Allsup v. Allsup, 88 N.C. App. 533, 363 S.E.2d 883, *aff'd* 323 N.C. 603, 374 S.E.2d 237 (1988); G.S. 52A-30(a) (repealed January 1, 1996).

Thus, any order entered by a North Carolina court increasing or decreasing a parent's child support obligation under a "foreign" child support order that had been registered in North Carolina under URESA constituted a modification of the registered order. [Although this specific issue was seldom, if ever, addressed by appellate courts, it is probably reasonable to conclude that, under URESA, the modification of a registered child support order by the registering state's court effectively modified, nullified, or superseded the registered order *if* the issuing state's URESA statute included a provision recognizing the authority of courts in responding or registering states to modify the issuing state's child support orders and the responding or registering state's court had personal jurisdiction over both parties at the time it modified the issuing state's order. *See* Margaret Campbell Haynes, "The Uniform Reciprocal Enforcement of Support Act," Ch. 4 in Margaret C. Haynes and G. Diane Dodson (eds.), *Interstate Child Support Remedies* (1989), 107–09.]

And apart from URESA, G.S. 50-13.7(b) allowed a North Carolina court to modify a child support order entered by another state's court as long as the North Carolina court obtained jurisdiction over the case and found that a substantial "change of circumstances" had occurred since entry of the prior order.

Thus, it was not at all uncommon, before the enactment of UIFSA and FFCCSOA, for a court in one state to modify a child support order entered by another state's court, and the effect of the modification may well have been to completely and effectively nullify, terminate, replace, or supersede a valid child support order previously entered by another state's court. *See* Saxon, *Special Series* No. 13. At the same time, however, it is important to note that not every child support order entered in a URESA proceeding had the effect of modifying, nullifying, or superseding a prior child support order issued by a sister state's court.

[55] In this hypothetical, the California order would not have been entitled to *prospective* enforcement because (a) it was legally superseded by the North Carolina order in 1986, and (b) it therefore could not be recognized as the one controlling order under UIFSA and FFCCSOA. Nonetheless, the "unrecognized" California order would have remained valid *until it was modified* by the North Carolina order in 1986 and any arrearages that accrued under the California order between 1981 and 1986 would have remained enforceable under UIFSA, FFCCSOA, and the full faith and credit clause of the U.S. Constitution, unless barred by the applicable statute of limitations. *See* notes 62 through 76 and accompanying text.

[56] Note 8 discusses the dates UIFSA and FFCCSOA became effective in North Carolina and other states.

[57] *See* G.S. 52C-2-207(b)(1); 28 U.S.C. 1738B(f)(2) (if there are two orders but only one was issued by a court that has continuing exclusive jurisdiction, the order issued by the court with continuing exclusive jurisdiction must be recognized).

[58] *See* G.S. 52C-2-207(a) (Official Comment) (if there is only one child support order, that order is the one controlling order [until it is subsequently modified in accordance with UIFSA] "irrespective of when and where it was issued and whether any of the individual parties or the child continue to reside in the issuing state); 28 U.S.C. 1738B(f)(1).

[59] Onslow County ex rel. Roberts v. Roberts, Case No. COA99-502 (N.C. Ct. App., March 7, 2000) (opinion by Judge Martin, Judges Timmons-Goodson and Horton concurring) (unpublished decision).

[60] Because the court found that FFCCSOA's provisions constituted limits on subject matter jurisdiction, the court rejected the noncustodial parent's argument that the district court's 1994 modification of the Connecticut order was *res judicata* due to the plaintiff's failure to appeal.

[61] The result would be the same if the New Jersey court lacked personal jurisdiction over the noncustodial parent at the time it entered the order.

[62] G.S. 52C-4-401(a); Isabel M. v. Thomas M., 624 N.Y.S.2d 356 (N.Y. Fam. Ct. 1995).

[63] Interestingly, while UIFSA includes detailed rules to determine whether an order is the one controlling order, it does not contain any explicit or concise statement with respect to the consequences of this recognition. Nonetheless, it is clear from a reading of the entire UIFSA statute and the official comments that one of the three primary consequences that flows from the recognition of a particular child support order as the one controlling order is that all states are required to recognize and enforce the order with respect to current, on-going, and future child support payments as well as accrued, past-due child support arrearages. *See* G.S. 52C-2-207 (Official Comment) (the one recognized controlling order is the only order that "is entitled to prospective enforcement by a sister state"); Sampson, Unofficial Annotations to UIFSA (1996), 32 Fam. L. Q. at 441, n. 99. *See also* 28 U.S.C. 1738B(a)(1); Welsher v. Rager, 127 N.C. App. 521, 491 S.E.2d 661 (1997).

[64] G.S. 52C-6-611, 613; Hinton v. Hinton, 128 N.C. App. 637, 496 S.E.2d 409 (1998).

[65] Sampson, Unofficial Annotations to UIFSA (1996), 32 Fam. L.Q. at 447, n. 110.

[66] Sampson, Unofficial Annotations to UIFSA (1996), 32 Fam. L. Q. at 442, n 101.

[67] G.S. 52C-2-205(c).

[68] The Bradley amendment to Title IV-D of the federal Social Security Act [42 U.S.C. 666(a)(9)] required states to enact laws providing that unpaid, court-ordered child support constituted a vested right when due, prohibiting the retroactive modification of vested child support arrearages, considering past-due child support as a final judgment, and extending full faith and credit with respect to the enforceability of judgments for past-due child support. North Carolina's General Assembly implemented the Bradley amendment in 1987 by enacting G.S. 50-13.10.

[69] U.S. Constitution, Art. IV, sec. 1.

[70] Fleming v. Fleming, 49 N.C. App. 345, 271 S.E.2d 584 (1980); Saxon, *Special Series* No. 13, at 2.

[71] Dunn v. Dunn, 26 BNA Fam. L. Rptr. 1295 (Ohio Court of Appeals, 12th District, March 27, 2000); *see also* In re Marriage of Yuro, 968 P.2d 1053 (Az. Ct. App. 1998).

[72] UIFSA, section 207(b)(1) [G.S. 52C-2-207 (b)(1)]; 28 U.S.C. 1738(f)(2).

[73] Twaddell v. Anderson, ___ N.C.App. ___, 523 S.E.2d 710 (1999); In re Marriage of Yuro, 968 P.2d 1053 (Ariz. App. 1998); Peterson v. Israel, 1998 WL 457919 (Conn. Super. Ct. 1998); Div'n of Child Support Enforcement v. Debussy, 707 A.2d 44 (Del. Fam. Ct. 1997); Day v. Dept. of Social and Rehab. Services, 900 P.2d 296 (Mont. 1995); In re Marriage of Lurie, 39 Cal. Rptr. 2d 835 (Cal. App. 1996); Isabel M. v. Thomas M., 624 N.Y.S.2d 356 (N.Y. Fam. Ct. 1995).

[74] In retrospect, it appears that "retroactive" may have been an extremely unfortunate choice of words to describe UIFSA's and FFCCSOA's application with respect to child support orders entered before these laws became effective.

[75] Indeed, only two of the decisions cited in *Dunn* with respect to the retroactivity of UIFSA and FFCCSOA—*Twaddell v. Anderson* and *In re Marriage of Yuro*—involved a court's reconciliation of "competing" child support orders that were entered before UIFSA and FFCCSOA became effective.

As previously noted, because the vested child support arrearages that had accrued under the California order were protected under the full faith and credit clause of the U.S. Constitution, the decision in *Twaddell* did not, in fact, depend on whether the California order was entitled to recognition and prospective enforcement under UIFSA and FFCCSOA.

Similarly, although the Arizona Court of Appeals, like the Ohio appellate court in *Dunn*, held in *Yuro* that a 1988 New Mexico URESA order could not have modified a 1985 California child support order because the modification would have been retroactively prohibited by the 1994 enactment of FFCCSOA, the *Yuro* case, like *Twaddell*, appears to have involved only the collection of vested child support arrearages that were enforceable under the full faith and credit clause of the U.S. Constitution—not the prospective enforcement of a parent's on-going obligation to support his or her child. Thus, the *Yuro* court's decision with respect to reconciliation and recognition (like that in *Twaddell*) was not, in fact, necessary to its determination regarding the enforceability of the child support arrearages due under the California order.

[76] *See* G.S. 52C-3-303; Sampson, Unofficial Annotations to UIFSA (1996), 32 Fam. L. Q. at 451, n. 117; State v. Frisard, 694 So.2d 1032 (La. App. 1997) (UIFSA is not self-contained, but instead is supplemented by the procedural and substantive law of the forum state, including the forum state's (or in some instances the issuing state's) substantive law with respect to the existence, amount, scope, and duration of family support).

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