

	<b><u>UCCJEA</u></b> <b>(Exh. A)</b>	<b><u>UIFSA</u></b> <b>(Exh. B)</b>	<b><u>PKPA</u></b> <b>(Exh. C)</b>	<b><u>HAGUE CONVENTION</u></b> <b>(Exh. D)</b>
<b>GOVERNING LAW</b>	STATE LAW  <b>CIVIL</b>  RECOGS INTERNAT'L COUNTRIES AS STATES  Indian Tribal Cts treated as states	STATE LAW  <b>CIVIL</b>  INTERNATIONAL RECIPROCITY WITH CERTAIN COUNTRIES	FEDERAL LAW (Supremacy Clause Preempts State Law)  <b>CIVIL</b>  DOES NOT APPLY IN INTERNATIONAL CASES  State includes 50 states. District of Columbia, Puerto Rico, US Territories	<b>TREATY (made law by ICARA)</b> <i>*Applies only to those countries that have signed the Convention.</i>  <b>CIVIL</b>  STATE & FED CTS HAVE CONCURRENT ORIG JD (Except no rights of access cases in Fed Ct.) i.e. Fed Ct does not decide custody or visitation issues.
<b>ISSUES</b>	<i>Deals with interstate jurisdiction of "child custody" actions and determinations...</i>  <b><u>To establish, register, modify &amp; enforce</u></b>  <b>CUSTODY &amp; VISITATION</b> <ul style="list-style-type: none"> <li>• Dependency, Abuse, Neglect cases</li> <li>• Domestic Violence</li> <li>• Paternity</li> <li>• Guardianship</li> <li>• TPR</li> </ul> <i>* SC = Our UCCJEA does not include Adoption cases; although some states UCCJEA law does include adoptions; No Juvenile Delinquency cases; or Proceedings re: the authorization of emergency med. care for child.</i>	<i>Deals with interstate jurisdiction of "support" actions and determinations...</i>  <b><u>To establish, register, modify &amp; enforce</u></b> <ul style="list-style-type: none"> <li>• <b>CHILD SUPPORT</b> (health care, arrearages, interest, &amp; attys fees)</li> <li>• <b><u>PARENTAGE Determination</u></b></li> <li>• <b><u>ALIMONY/SPOUSAL SUPPORT</u></b></li> </ul> <i>*Support includes spousal support and child support (however, different jurisdictional rules apply) to alimony and child support.</i>	<i>Deals with interstate jurisdiction of "child custody" actions and determinations...</i>  <b><u>To provide</u></b>  <b>OTHER STATES MUST GIVE FULL FAITH &amp; CREDIT TO CUSTODY ORDERS</b>  <b><u>&amp; To Facilitate Enforcement of CUSTODY ORDERS—</u></b>  <i>*Child custody = custody and visitation *Shall <u>not modify</u> custody orders; will <u>only enforce</u> orders made consistent with PKPA</i>	<i>Determines child state (i.e. country) of habitual residence.</i>  Addresses issues of <ul style="list-style-type: none"> <li>- <b><u>WRONGFUL REMOVAL</u></b></li> <li><i>or</i></li> <li>- <b><u>WRONGFUL RETENTION</u></b></li> </ul> <b>&amp;</b> <b>Determines whether party asserting custody actually had</b> <ul style="list-style-type: none"> <li>- <b>RTS OF CUSTODY</b> (which they were exercising)</li> <li><i>or</i></li> <li>- <b>RTS OF ACCESS In State Of Habitual Residence</b></li> </ul> <i>*Does include Adoption cases</i>

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<b>Subject Matter Jurisdiction</b>	SMJ	SMJ	SMJ	
<b>Personal Jurisdiction</b>	<b>Do not need PJ</b> over non-resident parent	<b>Must have PJ over Obligor</b>	<b>(Do not need PJ</b> over non-resident parent)	
<b>AGE APPLIES</b>	Children <b><u>UNDER 18</u></b>	The Age of Emancipation is <u>always</u> law of original state that established support via a court order even if that state loses CEJ to modify child support.	Children <b><u>UNDER 18</u></b>	Children <b><u>UNDER 16</u></b>
<b><u>BASES FOR INITIAL JD</u></b>  (i.e. No Order is in place)	<p><b>INITIAL CUSTODY DETERMIN. HIERARCHY</b></p> <p><b>1. <u>HOME STATE Priority</u></b> If no HS or HS declines b/c inconvenient forum or unjustifiable conduct, then</p> <p><b>2. <u>Significant Connection/ Substantial Contacts</u></b></p> <p>i. Must find child &amp; at least 1 parent has signif connections w/ "Other State" more than mere presence</p> <p style="text-align: center;">AND</p> <p>ii. Subst Evid in "Other State" concerning <u>child's care, protection, training &amp; pers relas</u> (past, pres &amp; future evid ok)</p> <p><b>3. <u>More Convenient or Appropriate Forum</u></b>: If all courts under 1 and 2 decline b/c <u>another</u> state a more convenient forum or unjustifiable conduct by party seeking jd in other states</p>	<p><b>INITIAL CHILD SUPPORT HIERARCHY</b></p> <p><b><u>Tribunal</u></b>: Cts + Admin agencies in States</p> <p><b><u>LONG ARM JURISDICTION</u></b></p> <p>1. Pers service upon Obligor <u>in state</u></p> <p>2. Obligor <u>submits to Jd</u> by consent</p> <p>3. Obligor resided with child in state</p> <p>4. Obligor resided in state (not with child) but supported child &amp; provided prenatal support</p> <p>5. Obligor directed child to live in that state b/c of his Acts</p> <p>6. Obligor &amp; Obligee had sexual intercourse in state &amp; child potentially conceived then</p>	<p><b>An Order is consistent with PKPA <u>if</u>:</b></p> <p>1. Home State; <i>or</i></p> <p>2. No significant connection to HS and best interest of child b/c sign con/sub evi; <b>Exh. E - See Doe v. Baby Girl, 376 S.C. 267, 281, 657 S.E.2d 455, 462 (2008).</b> <i>or</i></p> <p>3. Child is in St and abandoned or abused, threat of abuse to child, sibling, parent; <i>or</i></p> <p>4. No other state has jd under 1,2,3 or other state with jd declined b/c inconvenient forum; <i>or</i></p> <p>5. State has CJ</p>	<p><b>FILE WITH CENTRAL AUTH IN US = <u>US DEPT OF STATE, OFFICE OF CHILDREN'S ISSUES</u></b></p> <p>1. Child was <b>Wrongfully Removed</b> from state of Habitual Residence <i>or</i></p> <p>2. Child was <b>Wrongfully Retained</b> from returning to State of Habitual Residence</p> <p><b>Both in violation of:</b></p> <ul style="list-style-type: none"> <li>• Other party's <b><u>rights of custody</u></b> <i>or</i></li> <li>• Other party's <b><u>rights of access</u></b></li> </ul> <p><b>Rights of Custody</b>-Def: rights relating to care of the child and child's place of residence. <b>Rights of access</b>- Def: right to take a child for a lim. period of time to a place other than the child's habitual residence, i.e. visitation rights.</p>

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	<p><b>4. <u>When no other state has JD:</u></b> “Vacuum JD” applies</p>	<p>7. Responsible Father Registry <a href="https://ssl.sc.gov/DSSFatherRegistry/FatherReg/RegIndex.aspx">https://ssl.sc.gov/DSSFatherRegistry/FatherReg/RegIndex.aspx</a> <i>(a.k.a. Putative Father Registry in other states. Gives fathers notice of adoption proceedings.)</i></p> <p>8. Any other basis for jd in State &amp; US Constitutions</p>	<p>(In adoption cases, child has no home state.)</p> <p><b>Exh. F- See Adoption of Zachariah K.,</b> 6 Cal. App. 4th 1025, 8 Cal. Rptr. 2d 423 (1992).</p>	
<p><b>BASES FOR EMERG JD § 204 b/c applying emergency jurisdiction in state that otherwise does not have jurisdiction</b></p>	<p><b>Child is in state and:</b> 1. <u>Abandoned</u> Child <i>or</i> 2. Need to protect <u>child, sibling</u> or <u>parent of child</u> b/c subjected to <u>threat of abuse</u> or <u>mistreatment</u> (CDV case)</p> <p><b>*Neglect is NOT a factor.*</b></p> <p><b>*Court asserting Emerg JD is Expressly REQUIRED to communicate with court with ECJ*</b></p> <p>TEMPORARY until an Order is issued in state with initial jd <b>or</b> state with ECJ <u>unless</u> no action initiated in state that has jd before Temp Order expires. Then, emergency state could become child’s home state if more than 6 months have passed. (cont’d)</p> <p>BUT for the Order to become Final, the Def. must receive <u>Notice of Hrg</u> &amp; an <u>Opportunity to be Heard</u>.</p>	<p><u>No emergency provisions</u></p>	<p><b>Child is in state and:</b> 1. Abandoned <i>or</i> 2. Abused</p> <p><b>*Neglect is NOT a factor.*</b></p>	<p>Treats all applications similar to UCJEA § 204.</p>

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<p><b>DEFENSES TO EMERG JD</b></p>	<p>1. Not Abandoned or no threats/abuse</p> <p>2. Parent failed to disclose another action pending in pleadings</p> <p>3. Party did not attempt to use the appropriate court and the case is not an emergency.</p> <p>Emergency JD is only TEMPORARY and is reserved for extraordinary circumstances</p>		<p>1. St. has no jurisdiction</p> <p>2. Child not abandoned</p> <p>3. No abuse</p>	
<p><b>BASES FOR JD TO MODIFY PRIOR ORDER</b></p>	<p>Cannot modify unless court has jurisdiction to make initial custody determination</p> <p style="text-align: center;"><i>and</i></p> <p><u>ECJ</u>* state defers or no one lives in ECJ state anymore.</p> <p>ECJ remains until no sign con/sub evidence or no one lives there anymore</p> <p>State w/ ECJ I has to formally decline on sign/sub grounds; ECJ or any other ct can determine no one lives in ECJ state anymore</p> <p><i>*UCCJEA uses term ECJ = exclusive continuing jurisdiction</i></p>	<p>• Issuing St always has CEJ for alimony.</p> <p><b>Child Support:</b> Issuing St has CEJ* until it loses it. (Issuing St never loses CEJ as long as one person continues to reside there.)</p> <p>1. <u>CEJ</u> state if 1 parent or child still resides there (<i>MERE PRESENCE OK</i>)</p> <p>2. If no parent or child resides in the orig CEJ state, then the parent desiring modification has to <b>Register Order</b> and <b>Move to Amend</b> in the <u>state of the other parent</u> (Defendant)</p> <p>3. CEJ can be lost by consent of both parents in writing and on file in the court last modifying or issuing an order. <i>*UIFSA uses term CEJ - constitutes exclusive jurisdiction</i></p>	<p><b><u>CANNOT MODIFY IF:</u></b></p> <p>1. CJ state had jd at time of issuance;</p> <p>2. CJ state still has jd;</p> <p>3. Either party or child live in CJ state.</p> <p><b><u>CAN MODIFY ONLY IF:</u></b></p> <p>1. This state has jd (under initial above) and</p> <p>2. CJ state no longer has jd or has declined jd</p> <p><b>Exh. G - See Clay v. Burckle</b>, 633 S.E.2d 173, 369 S.C. 651 (S.C. Ct. App. 2006).</p>	

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<p><b>REGIS. &amp; ENFORCE. OF ORDERS</b></p>	<p>1. Request sent to court with 2 copies (1 <b>certified</b>) Petit must be <b>verified</b>. Stating order not modified; list names, addresses of registering party and other party</p> <p>2. Order filed as a Foreign Judgment</p> <p>3. Notice is served <b>by Clerk of Court</b> on any parent (but attorney should also make service in case the clerk does not)</p> <p><i>*A party can register a child support custody order in any state, even if there is no present intent to enforce or modify the orders registered.</i></p> <p><i>*Exh. H- Note SC has new forms to register foreign orders.</i></p>	<p>Can enforce an order without registration by income withholding.</p> <p>Can register a child support order in <u>any state where the payer has property or earns money.</u></p> <p>Income withholding Order does not have to be registered but can be sent directly <u>to the obligor's employer</u></p> <p><b>To Register Order:</b></p> <ul style="list-style-type: none"> <li>• Letter of transmittal</li> <li>• 2 copies of order (1 certified)</li> <li>• Sworn statement by person seeking registered or certified statement <u>showing amt of arrearage</u></li> <li>• Name of Obligor</li> <li>• Address, SSN#</li> <li>• Obligor's employer or other source of income</li> <li>• Description of prop owned by obligor</li> <li>• Name &amp; address of obligee and/or agency money supposed to go to</li> <li>• Filed as a Foreign Judgment</li> </ul>		
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<b>DEADLINE TO REQUEST HEARING TO CONTEST REGIST.</b>	Person seeking to contest registration of foreign order must request a hearing within <b><u>20 days</u></b> after service of notice.	Non-registering party seeking to contest must request a hearing within <b><u>20 days</u></b> after notice of registration.		<b><u>20 days</u></b> to contest if order filed using UCCJEA in state court where order from Hab Resid says Return child to Petit.-Smart Strategy & do not have to be a signatory to Hague to get this treatment.
<b>DEFENSES TO REGIST. ORDER FOR ENFORCEMENT</b>	<p><b>1. Lack of SMJ by issuing ct</b></p> <p><b>2. Child custody order vacated, stayed or subsequently modified</b></p> <p><b>3. Lack of notice &amp; opportunity to be heard in child custody proceedings that brought about order</b></p> <p>Once Registration proceeding is confirmed by operation of law (missed 20 day deadline or no defense), further contest is precluded.</p>	<p>1. Lack of pj. over contesting party</p> <p>2. Order obtained by <u>FRAUD</u>*</p> <p>3. Regis order vacated, modified or suspended*</p> <p>4. Order stayed <u>pending appeal</u>*</p> <p>5. Defense of law of this state</p> <p>6. Full or partial payment made*</p> <p>7. Stat of limitations precludes enforcement*</p> <p><b>BUT FAILURE TO CONTEST DOES NOT WAIVE THESE DEFENSES AT ENFORCEMENT HRG</b></p> <p><b>Exh. I - See <i>Badeaux v. Davis</i>, 522 S.E.2d 835, 337 S.C. 195, 209 (S.C. Ct. App. 1999).</b></p>		

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<p><b>ENFORCE- MENT POWERS</b></p> <p><i>Ex Parte</i></p>	<p><u>Expedited Enforcement Proceedings:</u></p> <p><b>TURBO HABEAS*—petitioner only has to show:</b></p> <ul style="list-style-type: none"> <li>• Show Certif. copy of order</li> <li>• Evidence of violations</li> <li>• Remedy Petitioner desires</li> <li>• Ct orders Defendant to submit to immediate hrg (next judicial day)</li> </ul> <p><i>“Turbo Habeas”-enforcement tool for the prompt recovery of children wrongfully removed or wrongfully retained outside of the decree stat</i></p> <p><b>CAN REQUEST EVEN IF NOT AN EMERGENCY!!!</b></p> <p>W/ visitation, Emerg Court can allow <u>compensatory make-up</u> time or provide set schedule if order says “reasonable visit” on an emerg basis w/o violating PKPA. Time must be set for length of this order.</p> <p><u>“PICK UP ORDER:”</u> Enhanced Ct Remedies If fear parent will <u>FLEE</u>, File: <b>a. Verified petition &amp;</b></p> <p><b>b. Ct req ct to immediately take testimony from <u>petitioner or other witness in person or by phone.</u></b></p>	<ul style="list-style-type: none"> <li>• Issue/Enforce Support Order</li> <li>• Require Compliance</li> <li>• Income W/Holding</li> <li>• Determine amt of arrearage (*SOL is later of either issuing state or enforcing state*)</li> <li>• Civil/Criminal Contempt</li> <li>• Set aside property</li> <li>• Place Liens Order on Obligor’s Prop</li> <li>• Order an obligor to keep ct informed of contact info</li> <li>• Issue Bench Warrant</li> <li>• Order Obligor to seek employment</li> <li>• Award reasonable atty’s fees &amp; costs</li> <li>• Any other remedy avail</li> <li>• Cannot w/hold visitation even if obligor is not complying with case</li> </ul>		<p>Final decision within 6 weeks.</p> <p>Ct. has power to stay any other action in any other pending cases that may impact the ct’s decision, i.e. a divorce action.</p> <p>If more than 6 weeks, state may request reasons for delay.</p> <p>The Convention’s expedited nature has not been construed as a license to conduct hearings <i>ex parte</i>.</p> <p><b>Exh. J - See Wanninger v. Wanninger</b>, 850 F. Supp. 78 (D. Mass. 1994) (Ct denied a request to issue an <i>ex parte</i> order and required attendance).</p>
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	<p>c. Court <u>must make finding of immediate serious harm to child or removal from the state</u></p> <p>d. If Court makes such finding, it can issue a <u>WARRANT</u> to immediately pick up the child</p> <p>e. Respond. must be served with petition, warrant and order immediately after child taken.</p> <p>f. Enforcement Petition hearing next Judicial Day</p> <p><u>Can Also use other Civil Enforcement Means</u></p> <ul style="list-style-type: none"> <li>-Prosecutor or other approp official is authorized to locate child &amp; enforce custody determination</li> <li>-Authority to utilize any civil proceeding to secure enforcement of custody determination</li> <li>-Can use law enforcement <u>civilly</u> to locate child &amp; enforce a custody determination.</li> </ul> <p><b>COURT MUST CONTACT COURT THAT ISSUED ORIG ORDER AS WELL IF GETTING EXPEDITED ENFORCEMENT (PROBABLY TO CONFIRM VALLIDITY OF ORDER) REGISTERING JUST FOR ENFORCEMENT NOT MODIFICATION.</b></p>			
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<p><b>DEFENSES TO ENFORCEMENT</b></p> <p><b>Whether or not under Turbo Habeas</b></p>	<p><b><u>Defenses to Turbo Habeas:</u></b></p> <ol style="list-style-type: none"> <li>1. Lack of SMJ by issuing ct</li> <li>2. Lack of notice &amp; opportunity to be heard in child custody proceedings that brought about order</li> <li>3. Child custody order vacated, stayed or subseq modified</li> </ol> <p>But <b><u>if order was already registered, there is only one Defense:</u></b> Order was vacated, stayed or modified since registration</p> <p>On <b><u>International Level:</u></b> Child Custody Law of Country that issued the initial custody order violates fundamental principles of human rights; <u>Ct awards fees and costs to prevailing party</u></p>	<ol style="list-style-type: none"> <li>1. Lack of pj. Over Defendant</li> <li>2. Order obtained by <u>FRAUD</u></li> <li>3. Regis order vacated, modified or suspended</li> <li>4. Order stayed pending <u>appeal</u></li> <li>5. Defense of law of this state</li> <li>6. Full or partial payment made</li> <li>7. Stat of limitations precludes enforcement</li> </ol> <p><u>SOL</u>- the longer of the law in either initiating State or enforcement State</p>		<p><b><u>CLEAR &amp; CONVINCING EVIDENCE STD:</u></b></p> <p>Article 13(b): Grave risk of <u>physical or psychological harm</u> to return child to state of habitual residence</p> <p>Article 20: State of Habitual residence violates <u>fund human rights</u></p> <p><b><u>PREPONDERANCE OF EVIDENCE STD:</u></b></p> <p>13(a) No right of access or custody or not exercising rights</p> <p>Consent/Acquiescence by complaining parent</p> <p>Child's preference &amp; of age &amp; maturity to decide</p> <p>Waited more than one year to file the action since child was taken and child well settled.</p> <p><i>If the petitioning party is able to prove that the child was wrongfully removed or retained, and the abducting party has had the child for less than 1 year, the child must be returned to his habitual state of residence.</i></p>
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<p><b>DISCOVERY TOOLS</b></p>	<p>Can depose Witness by phone, audiovisual means, or other electronic means for deposition or trial.</p> <p>Documentary evidence transmitted via technological measures is subject to “original writing” rule.</p>	<p>Petit does not have to come to state to <u>establish, enforce or modify</u> support order</p> <p>-<u>affids, verif petit, fed forms</u> admissible &amp; not <u>excluded by hearsay if given under oath</u></p> <p>-Certified copy of cs pymts can be forwarded to responding tribunal</p> <p>-Bills for expenses can be submitted if reasonable &amp; necessary</p> <p>-Docs can be transmitted by fax; originals not necessary</p> <p>-Can take testimony over the phone.</p> <p>-If obligor takes 5th A, <u>court can draw negative inference</u></p>		<p>Photocopies are acceptable in court.</p> <p>Do not have to authenticate docs in order to introduce them into evidence.</p>
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*Intentionally left blank.*

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<p><b>QUIRKS ABOUT EACH JD RULE</b></p> <p><b>State would have CEJ b/c cannot waive SMJ</b></p>	<p><b><u>Unjustifiable Conduct</u></b>-Court shall decline jd if it has jd b/c of unjust conduct</p> <p>(Reprehensible manner such as <u>removing</u>, <u>secreting</u>, retaining or restraining a child <b>except fleeing from abuse does not qualify as unjustifiable conduct</b>)</p> <p>If party asserting jd has displayed <u>unjustifiable conduct</u>, State must decline jd. Court is then <b>REQUIRED</b> to assess <u>necessary and reasonable expenses</u> against party who sought to evoke jd. Court retains jd for transfer of case &amp; enforcement of fees.</p> <p><b><u>Exceptions to declining Unjustifiable Conduct jd:</u></b></p> <ol style="list-style-type: none"> <li>1. <u>Acquiescence</u> – all parents consented to <u>jd</u> of court (but Ct would have had SMJ anyway)</li> <li>2. HS and ECJ state defer to court on inconvenient forum grounds, i.e. no other state is convenient</li> <li>3. <u>No other court</u> would have jd or determines this state is more approp. (but for parental misconduct)</li> </ol>	<p><b><u>2 State Rule:</u></b> Two State Method</p> <p>If no PJ over non-resident, file papers with state authorities in your state and system will send to state where non-resident lives and <u>law of that state determines cs.</u></p> <p>Custodial parent does not have to appear, but can testify by phone. (compare where long arm works, court can make non-resident come to state).</p> <p>Immunity from Accidental Appearance &amp; Protected from service for other matters while in the state</p>		<p>Can invoke rule that Court only has <u>42 days or 6 weeks</u> to try the case.</p> <p><u>Child's best interests</u> are <b>not</b> a consideration.</p> <p>Cts can take judicial notice of decisions of other countries</p> <p>Judge deciding Hague case can ask country of habitual residence to provide opinion about its law re: wrongful removal &amp; retention</p> <p>Once Hague case is filed it is filed in federal court, state court custody case is stayed.</p>

	<b><u>UCCJEA</u></b> <b>(Exh. A)</b>	<b><u>UIFSA</u></b> <b>(Exh. B)</b>	<b><u>PKPA</u></b> <b>(Exh. C)</b>	<b><u>HAGUE CONVENTION</u></b> <b>(Exh. D)</b>
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	<p>Ct may decline jd if inconvenient forum (stay of exercise of jd).</p> <p><b>Notice by publication permissible if other means not effective.</b></p> <p><b>Mandatory provisions for judicial communication and cooperation between Cts in different states</b></p> <ul style="list-style-type: none"> <li>- Temporary Emergency jd.</li> <li>- Simultaneous proceedings</li> <li>- Expedited Enforcement</li> </ul>	<p><b><u>If 2 States each have an CS order-need to find Controlling Order</u></b>, the priority is as follows:</p> <ol style="list-style-type: none"> <li>1. Look for State with CEJ. If only one has CEJ—that order is CO.</li> <li>2. If 2 states have CEJ—apply hierarchy to find CO: <ol style="list-style-type: none"> <li>a. Is there an O from child’s current HS? That O wins.</li> <li>b. If no HS-is there a match btw either parent and O? If so, that O wins.</li> <li>c. If no HS and there is a match btw both parents and an O—then most recent O wins.</li> </ol> </li> </ol> <p><b>Only Issuing State can Modify Alimony/Spousal Support Order ever! (i.e. If alimony was issued in a SC order and one party moved to Alaska and the other moved to Hawaii, if either or both wanted to modify the alimony, the <b>action would have to be filed in SC.</b>)</b></p>		
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