

Changing Child Support

Children, including those whose parents were never married to each other, have a legal right to be supported by both parents. The amount of support is based on the incomes of the parents and the needs of the children. Support will be paid to the one with actual custody of the children, usually a parent, or to a public agency where welfare assistance is being paid. Unless welfare is paid, the parents are free to settle the case on their own, and are not required to use a county enforcement agency. However, any agreements should be put into the form of a court order to protect both parties in the event of a later disagreement. The time and expense of a court order are well spent if there is a dispute later.

But what becomes of a child support court order that over time no longer seems adequate? The costs of raising children and their needs may all change dramatically over time. A child support order that was once appropriate for an infant may not be appropriate for a teenage child. The changed financial circumstances of the parents may make a support order outdated. If the parent whose obligation is to pay experiences a substantial increase or decrease in income or incurs obligations to a second family, then the order may no longer be suitable. Consequently, it may be appropriate in some cases to modify a child support order to reflect changing circumstances.

Due to the mobile nature of military service, the parties in family law cases often reside in different states. Or they both may live in a state other than that which issued the support order. Therefore, it helps to know there are special rules regarding the modification of child support orders in interstate cases. The Uniform Interstate Family Support Act (UIFSA) governs the interstate modification of child support orders. Every state has adopted the UIFSA. Therefore, every child support modification case involving parties who live in different states is governed by the UIFSA.

The UIFSA outlines the rules for determining which state has jurisdiction to modify an order, the procedures for registering a support order for modification, and the rules for determining which state's laws apply to the interstate modification action. An online reference and guide for child support and its modification in interstate cases is at the Office of Child Support Enforcement website: <http://www.acf.hhs.gov/programs/cse/pubs/2002/reports/essentials/c12.html>

The Presidio of Monterey Legal Assistance Office provides service members, retirees and their spouses family law advice. Call 242-5084 for an appointment. We are located in building 275, Plummer Street, next to Soldiers' Field.

Sources: Office of Child Support Enforcement website; "Modification of Child Support Orders Under the Uniform Interstate Family Support Act (UIFSA)", Broughton, Army Lawyer, Dec 2004.