



Uniform Custody Jurisdiction and Enforcement Act (UCCJEA)

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BIDC Beyond the Basics Workshop

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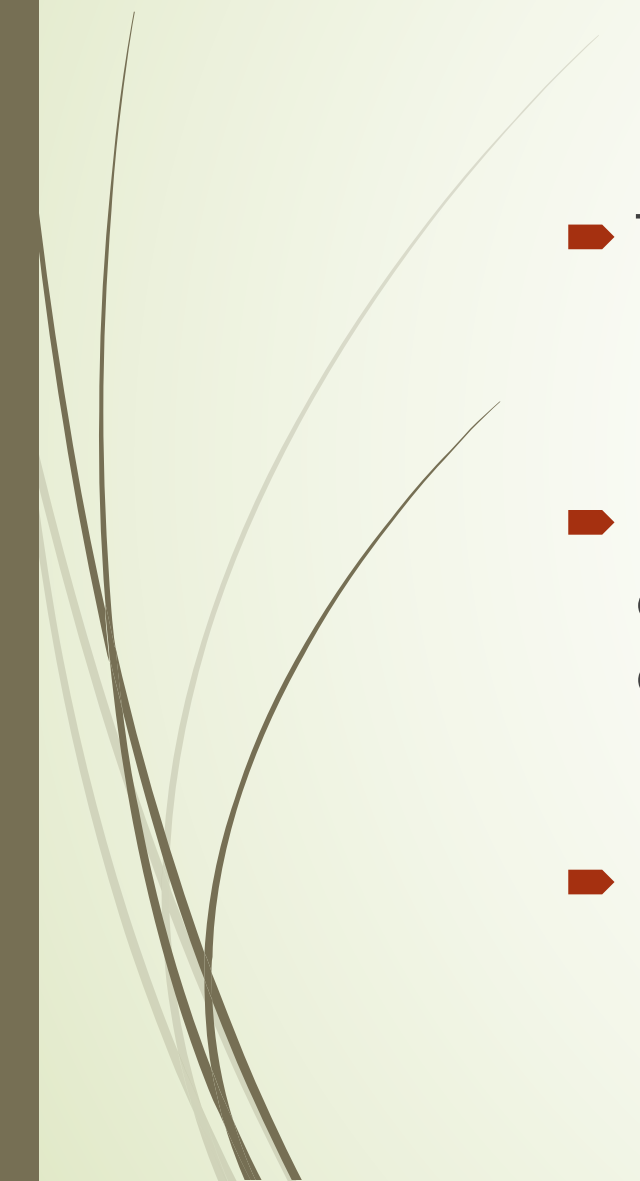


Overview

- Refresher of the Basics
- Going Beyond
- Questions



UCCJEA: The Basics—What is it?

- The UCCJEA is a uniform law adopted in all 50 states, the District of Columbia and the Virgin Islands
 - In short the provisions in the UCCJEA determine which court has the authority to issues orders over a child (its all about jurisdiction)
 - In Colorado it can be found at C.R.S. §14-13-101 et seq.
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UCCJEA: The Basics—structure of Act

- Part one General Provisions
 - Definitions
 - When it applies
 - Communication between Courts
- Part Two: Jurisdiction
 - Initial jurisdiction
 - Continuing Exclusive Jurisdiction
 - Emergency Jurisdiction
- Part Three: Enforcement
 - Enforcement Procedure
 - Registration Procedure
- Part Four: Miscellaneous



UCCJEA: The Basics—Test Yourself

Mother and Father were married in 2010 in Kansas. In 2012, Child was born. In 2016 Mother filed for divorce in Kansas. Shortly after Mother filed, Father moved to Colorado. The Kansas court awarded primary custody to Mother giving what amounted to school-year time to Mother and summer-time to Father.

Last summer, while child was with Father, Father decided he wants to file a motion to modify his parenting time. Where should this be filed?



UCCJEA—The Basics moving around once you have an order

- We know that Kansas made the initial child custody determination because a divorce is a child custody proceeding
- Kansas maintains continuing, exclusive jurisdiction
- it has not lost this jurisdiction
 - Mother still lives in Kansas
 - The Court has not declined jurisdiction



UCCJEA—The Basics—where to file an initial case

Mother, Father and child lived in Kansas from 2010-2016. When Mother and Father broke up, Father moved to Colorado. Mother and Father came to a verbal agreement in which child spent the school-year with Mother in Kansas and Summers in Colorado with Father.

Since Mother got engaged things have gotten heated. Father filed a custody case in Colorado. A few days later, Mother filed a custody case in Kansas. Which court should have jurisdiction?



UCCJEA: The Basics: Which court has initial jurisdiction

- C.R.S. § 14-13-201 governs initial jurisdiction
 - What is the home state of the child?
 - We know the child's home state is the state in which a child lived with a parent or a person acting as a parent for at least one hundred eighty-two consecutive days immediately before the commencement of a child-custody proceeding. C.R.S. § 14-13-102(7)(a)
- C.R.S. § 14-13-206 governs simultaneous proceedings
 - Colorado shall examine the record and determine if there is another state that has jurisdiction, if so, then it should stay the proceeding and communicate with the other court. If the other court does not determine that Colorado is a more convenient forum, then Colorado shall dismiss the case.



UCCJEA: The Basics—Test Yourself


Mother and Father were married in 2010 in Kansas. In 2012, Child was born. In 2016 Mother filed for divorce in Kansas. Shortly after Mother filed, Father moved to Colorado. The Kansas court awarded primary custody to Mother having what amounted to school-year time with child and Father with summer time.

In January 2018, Mother moved to Texas. Father thinks the schools in Colorado are worse than those in Texas and wants child to attend school in Colorado. What should he file and where should he file?



UCCJEA—The Basics moving around once you have an order

- We know that Colorado can modify only if it has the ability to make an initial determination and the home state has lost or declined jurisdiction
- Does Colorado have the ability to make an initial determination?
 - No not the home state and another court would have jurisdiction substantially in conformity with the section
- Does Kansas have the ability to modify?
 - No it lost jurisdiction because no one lives there anymore and Texas would have jurisdiction



UCCJEA: Beyond the basics, things get Trickier

Mother and Father were married in 2010 in Kansas. In 2012, Child was born. In 2016 Mother filed for divorce in Kansas. Shortly after Mother filed, Father moved to Colorado. The Kansas court awarded primary custody to Mother having what amounted to Child having school-year time with Mother and summer time with Father.

In October 2019, Mother moved to Texas (i.e. Mother has only been in Texas for three months). Father thinks the schools in Colorado are better than those in Texas and wants child to attend school in Colorado. Where should he file?



UCCJEA: Beyond the Basics—Home State Analysis when things get tricky

- Since child has not been in Texas or in Colorado for 180 days, neither is the child's home state However,
- We know that Colorado can modify the Kansas order
 - Because it has jurisdiction to make an initial determination under section 14-13-201(1)(b) because no other state meets the provisions of paragraph (a) and child's Father has a significant connection with Colorado and there is substantial evidence in this state concerning the child (or at least we can argue)
 - the child, the child's parents, and any person acting as a parent do not presently reside in Kansas



UCCJEA: The Basics—Beyond the basics Home State Analysis

Mother and Father were married in 2010 in Kansas. In 2012, Child was born. In 2016 Mother filed for divorce in Kansas. Shortly after Mother filed, Father moved to Colorado. The Kansas court awarded primary custody to Mother having what amounted to school-year time with Mother and summer time with Father.

In 2018, Mother moved to Colorado. Mother works remotely and travels back to Kansas frequently for work. Child goes to school in Colorado. On January 2, 2020, Father files a motion to register the decree from Kansas along with a motion for Colorado to assume jurisdiction. Mother is served and immediately takes child to Kansas with her, where she files for a protection order on behalf of child, a temporary protection order is granted and a hearing is set. Prior to the hearing occurring, Colorado issues an order stating that the decree is registered and may be modified in Colorado.



UCCJEA: Beyond the Basics—Home State Analysis

- We know that Colorado can modify the Kansas order
 - Because it has jurisdiction to make an initial determination under section 14-13-201(1)(a) because both parents and the child have lived in Colorado for 180 days and
 - the child, the child's parents, and any person acting as a parent do not presently reside in Kansas
- But what about emergency jurisdiction and the protection order?
 - Could Kansas exercise emergency jurisdiction to protect child? C.R.S. 14-13-204
 - If it does, temporary, likely see Colorado as more convenient forum 14-13-207 (all the underlying facts happened in Colorado)



UCCJEA: Beyond the Basics—Even weirder situations

Husband and Wife were married in Kansas. Later, Husband finds out that Wife was not properly divorced before they got married. Husband files for an invalidity of marriage. During the case, Husband finds out Wife is pregnant and raised the issue of paternity of the child. Wife insists that she was not pregnant when the parties split up and that the baby is not Husband's. Husband and Wife enter into an agreement several months later that is adopted by the Kansas court. That order states that there were no children born of the invalid marriage and both parties had signed the document.

Wife gets a custody decree in Kentucky where she, the acknowledged Father and child live. Several years go by and child is now 5 years old.

Husband, in an ex parte hearing, gets a genetic testing order issued from the Kansas Court. Wife is served in Colorado with a petition to register the foreign order in Colorado for enforcement purposes while she is attending a bachelorette party for a friend. Neither she nor her friend reside in Colorado, but the wedding will be in Colorado as well.



UCCJEA: Beyond the Basics—Even weirder situations

- Challenge the registration under C.R.S. §14-13-305(4)
 - Initial order not valid
 - Case had been closed
 - Wife did not get notice
 - Kentucky has jurisdiction over the child not Kansas
- Challenge the forum
 - The child is in Kentucky
- Make a limited appearance



UCCJEA: Beyond the Basics—Even weirder situations

Mother and Father met while Father was on vacation in Georgia. They began dating with Mother visiting Father in Colorado and Father visiting Mother in Georgia. Three months later, Mother found out she was pregnant. She decided to move to Colorado in order to continue the relationship and to have Father be involved in raising child.

When child was 20 months, Father filed a custody action in Colorado. Three months later, the parties informed the court that they wished to reconcile and dismissed the case. The court instead stayed the proceeding for another three months and instructed the parties to file a status report on the 90th day.

When child was two, Father and Mother moved to Florida while Father attended a temporary work training program for two months. Father, Mother and Child were intending to move away from Florida to whatever state Father's work sent him. All parties agree they had no intent to remain in Florida.

6 weeks into the program, Mother left with child to Georgia. The parties had communications regarding custody arrangements. Two weeks after arriving in Kansas, Mother filed a custody action.

Two weeks and one day later, Father filed a motion to reopen the Colorado custody case. After filing, he moved back to Colorado.