

SEATTLE, WA, September 27, 2013 /24-7PressRelease/ -- **The Purpose of the UCCJEA**

All states have enacted the basic form of the UCCJEA. The National Conference of Commissioners on Uniform State Laws has stated: "There is growing public concern over the fact that thousands of children are shifted from state to state and from one family to another every year while their parents or other persons battle over their custody in the courts of several states... A young child may have been moved to another state repeatedly before the case goes to court. When a decree has been rendered awarding custody to one of the parties, this is by no means the end of the child's migrations. It is well known that those who lose a court battle over custody are often unwilling to accept the judgment of the court. They will remove the child in an unguarded moment or fail to return him after a visit and will seek their luck in a distant state where they hope to find - and often do find - a more sympathetic ear for their plea for custody."

The Home State of the Child Normally Prevails

If no [custody](#) order has been entered by any state, the "home state" of the child normally is the state which can exercise jurisdiction. Washington's RCW 26.27.201 (1) provides that "...a court of this state has jurisdiction to make an initial child custody determination only if: (a) This state is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state...." If Alaska was the "home state" of the child when the mother moves to Washington State, Washington lacks jurisdiction to enter a custody order. If her Petition for Dissolution is filed less than one month after she moved to Washington State, Alaska is the child's "home state" under the UCCJEA; Washington does not have jurisdiction to enter a [child custody order](#)

. The mother has to file her petition in Alaska.

Why is the "Home State" the Key to Child Custody Jurisdiction?

The public policy reason is clear. Any other ruling by the Court would encourage parents everywhere, in every state, to cast around for the most likely state to rule in their favor, abruptly move there, conceal their whereabouts for the necessary six months, and then file their proceeding. The Courts do not want to be a party to interstate manipulations to seek and obtain a more favorable forum.

In Re Hamilton: A Case Example

In the Washington case of *In re Marriage of Hamilton*, 120 Wn.App. 147 (Div. 3, 2004), the parties lived in Texas for several years until the mother moved to Washington State on 11/14/02. The wife filed her Petition for Dissolution in Washington State on 04/16/02, 5 months after moving to Washington State. The father filed his Petition for Dissolution in Texas on 06/10/02, more than 6 months after his wife had moved to Washington State. The Hamilton court concluded that Texas could not be the home state of the child, because the child "had not lived in Texas for six consecutive months before George [the father] commenced his action in Texas in June 2002.

A State Should Deny Jurisdiction to A Parent Who Engages in Unjustifiable Conduct

RCW 26.27.271 provides that "[I]f a court of this state has jurisdiction under this chapter because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction..." Black's Law Dictionary defines "conduct" to mean "personal behavior, whether by action or inaction; the manner in which a person behaves." (page 315) The word "unjust" is defined as "contrary to justice; not just." Black's Law Dictionary, 8th Edition, West 2001 The word "unjust" has also been defined as "not just or right; unfair; contrary to justice;...dishonest or unfaithful." Webster's New World Dictionary of the American Language (World Publishing Company 1972) at 1531. Examples might be kidnapping and concealing the whereabouts of the child; domestic violence; lying in sworn declarations; or violating an existing court order.

If There is No Home State, The Most Convenient Forum Prevails

If there is no home state for the child, and no one has engaged in unjustifiable conduct, the most convenient state should be able to exercise jurisdiction. What is most convenient depends on the circumstances, including the location of witnesses and documents, school and medical records, investigations by CPS, and "the familiarity of the court of each state with the facts and issues in the pending litigation." RCW 26.27.261(2)(h).

Conclusion

Interstate Child Custody Jurisdiction -- the UCCJEA

Written by Australian Business

This article is a summary of some of the most relevant considerations in deciding what state has jurisdiction to proceed with a child custody case. The best way to determine the solution to each case depends on its facts. If you are involved in a multi-state child custody case, make sure that your attorney has familiarity with the UCCJEA.