

# Out Of State Custody Decisions In Minnesota

## **The Uniform Child Custody Jurisdiction and Enforcement Act**

With everyone being more mobile than they were 50 years ago and parents no longer necessarily living in the same area in which they grew up, families often end up in different states following a divorce. When there are



You Can't Leave Your Custody Order Behind!

child custody issues involved in the divorce, a situation can arise where a parent has a custody decision from a court in one state that he or she wants to enforce in another state. Or, one parent may want to commence new custody proceedings in one state, while the other parent feels the proceedings should be undertaken in a different state. To alleviate the potential complications that can occur in these types of situations, many states, including Minnesota, have enacted the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA).

Among other provisions, the UCCJEA requires courts in one state to enforce valid [child-custody](#) and [visitation](#) determinations made by a court in another state. The UCCJEA isn't a child custody law itself; it doesn't have any effect on whether a parent receives custody or visitation, nor does it affect any substantive rights of parents. It's merely an enforcement tool and a method for determining which state has jurisdiction over a custody proceeding.

Here's a primer on a few of the main issues that come up involving the UCCJEA:

### **Initial child custody determinations**

Under the UCCJEA, Minnesota courts can make an initial child custody determination if one of any four conditions are met. While the UCCJEA's aim (and general effect) is to simplify the court's determination of jurisdiction, these conditions are not particularly straightforward. They are:

- Minnesota is the home state of the child on the date of the commencement of the proceeding; or, Minnesota was the home state of the child within six months before the commencement of the proceeding, and, although the child is currently absent from the state, a parent or person acting as a parent continues to live in Minnesota.
- The child does not have another home state as defined above, or a court in the child's home state has determined that Minnesota would be a more appropriate location for custody proceedings AND
  - the child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this state other than mere physical presence; and

- substantial evidence is available in this state concerning the child's care, protection, training, and personal relationships.
- All other courts that could have jurisdiction under one of the above conditions have declined to exercise jurisdiction.
- No other state would have jurisdiction under the above conditions.

Got all that?! Remember, only one of the conditions has to be satisfied for a Minnesota court to have jurisdiction; you don't have to fulfill all four.

### **Modifying a prior custody determination**

Say you and your ex were married and divorced in California. You have a child custody determination that was made by a court in California which grants you physical custody of the kids. Your ex continues to reside in California, while you now live in Minnesota. You want to modify the divorce judgment's provisions regarding visitation. A

Minnesota court will only have jurisdiction over your case if:

- Minnesota would satisfy one of the first two conditions listed above for an initial child custody determination, AND
  - The California court determines that it no longer has exclusive, continuing jurisdiction or that Minnesota would be a more convenient forum, OR
  - Either a California or Minnesota court determines that neither the kids, neither of the parents, and no person acting as a parent presently resides in California.

In other words, these are not simple determinations. We'll look at the different aspects of the common UCCJEA issues in more detail in future posts.

As you can see, UCCJEA issues are not for the faint of heart! There are many, many lawyers who will not work on cases that involve these types of issues. So, don't assume all divorce lawyers know about this and are "experts" in the area, if this applies to you be sure to interview the lawyer to make sure they can help.

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*While I appreciate all of our readers (I really do!) a few things to know before you send me an email with a "quick legal question" I'm a Minnesota only lawyer. I can't give any advice about the laws in any other state except Minnesota. Also, while I am a believer that while clients need to know as much information as they can (that's why I do these blogs) I can't give advice to you via email and unless we sign a retainer agreement and pay the retainer as our malpractice carrier is very particular about giving out advice over email to non-clients.*