

Modification of a Foreign Support Order Checklist

One of the primary purposes of the Uniform Interstate Family Support Act (UIFSA), [MCL 552.2101 et seq.](#), is to provide a means for modifying support orders across state lines and foreign countries subject to the Convention.¹ [MCL 552.2305\(2\)\(a\)](#); [MCL 552.2704\(2\)\(c\)](#). If a child-support order was issued in another state or foreign country, a Michigan court may, in certain circumstances, modify the foreign support order. See [MCL 552.2611](#); [MCL 552.2613](#). **If a spousal-support order was issued in another state or foreign country and the state/foreign country retained continuing, exclusive jurisdiction over the order, a Michigan court may NOT modify the spousal-support order.** [MCL 552.2211\(2\)](#).

A petitioner seeking to modify another state or foreign country's support order under the UIFSA² *must* register the support order in Michigan simultaneously with the petition for modification *or* before seeking modification.^{3, 4} See [MCL 552.2609](#); [MCL 552.2706\(1\)](#).

A Michigan court may NOT modify a registered support order IF the issuing tribunal⁵ had jurisdiction. [MCL 552.2603\(3\)](#).

¹ For purposes of the UIFSA, *Convention* is "the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, concluded at The Hague on November 23, 2007." [MCL 552.2102\(c\)](#).

² A petitioner filing a petition seeking modification of a support order under the UIFSA that involves an obligee/recipient of payment, obligor/payer, or a child residing outside of the United States is NOT entitled to assistance from the Friend of the Court (FOC). [MCL 552.2701\(d\)](#); [MCL 552.2705\(4\)](#).

³ If a petitioner is seeking registration and modification of a foreign support order that does NOT fall under the Convention, the petitioner *may* register that order in Michigan under [MCL 552.2601-MCL 552.2608](#). [MCL 552.2616\(2\)](#). [MCL 552.2102\(c\)](#) defines Convention as "the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, concluded at The Hague on November 23, 2007."

⁴ For a checklist on the registration of a support order under the UIFSA, see the Michigan Judicial Institute's [Registration of Foreign Support Order for Purposes of Modification Checklist](#).

⁵ For purposes of the UIFSA, *tribunal* is "a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders to determine parentage of a child." [MCL 552.2102\(cc\)](#).

On receipt of a petition to modify a support order, inquire and determine the following:

- ☐ If INAPPROPRIATE tribunal,⁶ forward the petition to an appropriate tribunal and notify the petitioner where and when the pleading was sent. See [MCL 552.2301\(1\)](#); [MCL 552.2306](#).
- ☐ If APPROPRIATE tribunal, ensure the petitioner was notified of the date and location of the petition/comparable pleading filing. See [MCL 552.2301\(1\)](#); [MCL 552.2305\(1\)](#).
- ☐ If the obligor/payer FAILS to appear for the modification proceedings (after proper notice) the tribunal MAY issue a bench warrant. See [MCL 552.2305\(2\)\(i\)](#). *Note, however, a nonresident party need not be physically present for the modification of the support order.* [MCL 552.2316\(1\)](#).
- ☐ Determine whether the support order was issued in Michigan, another state, or a foreign country.
 - ☐ If the child-support order WAS issued in Michigan, refer to the Michigan Judicial Institute's [Modification of an Intrastate Support Order Checklist](#).
- ☐ If the child-support order was issued in a *foreign country*, determine whether there is jurisdiction to modify the foreign support order:
 - ☐ YES if the *non-Convention foreign country* lacks or refuses to exercise jurisdiction to modify its child-support order according to its laws, and the parties are subject to the personal jurisdiction of the tribunal of this state because the parties filed consent on the record in the issuing non-Convention foreign country for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction or the petitioner resides in Michigan or the issuing non-Convention foreign country. [MCL 552.2615\(1\)](#).
 - ☐ NO if the obligee/recipient of payment remains a resident of the *Convention foreign country* where the support order was issued UNLESS:
 - ☐ the obligee/recipient of payment submits to the jurisdiction of this state (expressly or by defending the merits of the case without objecting to the jurisdiction at the first available opportunity); OR

⁶ For purposes of the UIFSA, *tribunal* is "a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders to determine parentage of a child." [MCL 552.2102\(cc\)](#).

- ☐ the foreign tribunal lacks or refuses to exercise jurisdiction to modify its support order or issue a new support order. [MCL 552.2711\(1\)](#).
- ☐ If this court HAS jurisdiction to modify a *foreign Convention support order*, but is NOT modifying the order because it is not recognized in Michigan,⁷ the court CANNOT dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new Convention support order. [MCL 552.2708\(3\)\(a\)](#); [MCL 552.2711\(2\)](#).
- ☐ If request for modification of support order lists foreign currency, CONVERT amount stated in the foreign currency to the equivalent amount in dollars under the applicable official market exchange rate as publicly reported. [MCL 552.2305\(6\)](#).
- ☐ If the child-support order was issued in *another state*, determine whether there is jurisdiction to modify the foreign support order:
 - ☐ YES if the obligor/payer and the obligee/recipient of payment reside in Michigan AND the child does not reside in the state that issued the child-support order. [MCL 552.2613\(1\)](#).
 - ☐ This court HAS jurisdiction to modify the foreign support order⁸ in a proceeding to register that order. [MCL 552.2613\(1\)](#).
 - ☐ If this court exercises jurisdiction to modify the foreign support order under [MCL 552.2613\(1\)](#), the court MUST apply the procedural and substantive law of Michigan. [MCL 552.2613\(2\)](#). *The UIFSA provisions in article 3, 4, 5, 7, and 8 do NOT apply.* [MCL 552.2613\(2\)](#).
 - ☐ YES if the obligor/payer, obligee/recipient of payment, and the child do NOT reside in the issuing state, the petitioner does NOT reside in Michigan, AND the respondent is subject to the *personal jurisdiction* of the tribunal of this state. [MCL 552.2611\(1\)\(a\)](#).

⁷ For a complete list of the reasons a tribunal may refuse to recognize a foreign Convention support order, see [MCL 552.2708](#).

⁸ If a proceeding is raised under the UIFSA and only *one* tribunal has issued a child-support order, the order of that tribunal controls and must be recognized. [MCL 552.2207\(1\)](#). However, if two or more child-support orders are issued and a proceeding is raised under the UIFSA OR a party makes a request, the court must determine which order controls and must be recognized. [MCL 552.2207\(2\)-\(3\)](#). [MCL 552.2102\(cc\)](#) defines tribunal as “a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders to determine parentage of a child.” For a checklist on a determination of controlling order, see the Michigan Judicial Institute’s [Request to Determine Controlling Order Checklist](#).

- ☐ YES if the child resides in Michigan or a party is subject to the *personal jurisdiction* of the tribunal of this state, and all of the parties filed consent on the record in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction. [MCL 552.2611\(b\)](#).
- ☐ *Personal jurisdiction* exists by finding that one or more of the following apply:
 - ☐ the individual was personally served with notice in Michigan.
 - ☐ the individual submitted to Michigan jurisdiction by consent on record, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction.
 - ☐ the individual resided with the child in Michigan.
 - ☐ the individual resided in Michigan and provided prenatal expenses or support for the child.
 - ☐ the child resides in Michigan as a result of the acts or directives of the individual.
 - ☐ the individual engaged in sexual intercourse in Michigan and the child may have been conceived by that act of intercourse.
 - ☐ the individual asserted parentage of a child in the central paternity registry maintained in this state by the Department of Health and Human Services (DHHS).
 - ☐ there exists another basis consistent with the Michigan and United States constitutions for the exercise of personal jurisdiction. [MCL 552.2201\(1\)](#); [MCL 552.2611\(1\)](#).
- ☐ If this court HAS jurisdiction, determine that a petition for modification of a foreign support order was filed that includes:
 - ☐ the name, residential address, and social security number of the recipient of payment/obligee.
 - ☐ the name, residential address, and social security number of the payer/obligor (where known).

- ☐ name, sex, residential address, social security number, and date of birth of each child for whose benefit support is sought (where known).
- ☐ copy of foreign support order (unless petition was filed at time of registration).⁹
- ☐ information providing assistance in locating or identifying the respondent (where available).
- ☐ grounds for modification. [MCL 552.2301\(1\)](#); [MCL 552.2311\(1\)](#); [MCL 552.2609](#).
- ☐ If a party alleges in the pleading/sworn statement that a party's or child's health, safety, or liberty is at risk by the disclosure of identifying information, seal and do not disclose the information to the other party or the public. [MCL 552.2301\(1\)](#); [MCL 552.2312](#).
 - ☐ If after a hearing in which the party's or child's health, safety, and liberty were considered and it is determined that the disclosure is in the interest of justice, the court may order disclosure of the identifying information. [MCL 552.2301\(1\)](#); [MCL 552.2312](#).
- ☐ MAY communicate with a tribunal outside Michigan in a record, or by telephone, electronic mail, or other means, to obtain information concerning the laws, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding. [MCL 552.2301\(1\)](#); [MCL 552.2317](#).
- ☐ MAY request a tribunal outside Michigan to assist in obtaining discovery. [MCL 552.2301\(1\)](#); [MCL 552.2318](#).
- ☐ MUST admit into evidence (where applicable):
 - ☐ an affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference by any of them, that would not be excluded under the hearsay rule if given in person if given under penalty of perjury by a party or witness residing outside of Michigan. [MCL 552.2301\(1\)](#); [MCL 552.2316\(2\)](#).
 - ☐ a copy of the record of child-support payments certified as a true copy of the original by the custodian of record forwarded to the court as evidence of facts asserted in it and to show whether payments were made. [MCL 552.2301\(1\)](#); [MCL 552.2316\(3\)](#).

⁹ See the Michigan Judicial Institute's [Registration of Foreign Support Order for Purposes of Modification Checklist](#).

- ☐ copies of bills for testing for parentage of a child, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary. [MCL 552.2301\(1\)](#); [MCL 552.2316\(4\)](#).
- ☐ May NOT exclude documentary evidence transmitted from outside Michigan by telephone, telecopier, or other electronic means that do not provide an original record from evidence on an objection based on the means of transmission. [MCL 552.2301\(1\)](#); [MCL 552.2316\(5\)](#).
- ☐ MUST permit a party or witness residing outside of Michigan to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means at a designated location. [MCL 552.2301\(1\)](#); [MCL 552.2316\(6\)](#).
- ☐ MAY draw an adverse inference from a party's refusal to answer when called to testify on the ground the testimony may be self-incriminating. [MCL 552.2301\(1\)](#); [MCL 552.2316\(7\)](#).
- ☐ Privilege against disclosure of communications between spouses OR defense of immunity based on the relationship between spouses or parent and child do NOT apply. [MCL 552.2301\(1\)](#); [MCL 552.2316\(8\)](#); [MCL 552.2316\(9\)](#).
- ☐ May NOT modify any aspect of a child-support order that may not be modified under the law of the issuing state (including the duration of the support obligation). [MCL 552.2611\(3\)](#).
 - ☐ If two or more tribunals have issued child-support orders for the same obligor/payer and child, the order that controls and must be so recognized under [MCL 552.2207](#) establishes the aspects of the support order that are nonmodifiable.¹⁰
- ☐ Modification of a registered child-support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state, and the order may be enforced and satisfied in the same manner. [MCL 552.2611\(2\)](#).
- ☐ MAY modify a foreign child-support order, [MCL 552.2305\(2\)\(a\)](#), and:

¹⁰ For a checklist on a determination of controlling order, see the Michigan Judicial Institute's [Request to Determine Controlling Order Checklist](#).

- ☐ order income withholding (if not already ordered). [MCL 552.2305\(2\)\(c\)](#).
- ☐ determine the amount of any arrearages and specify a method of payment. [MCL 552.2305\(2\)\(d\)](#).
- ☐ set aside property for satisfaction of the support order. [MCL 552.2305\(2\)\(f\)](#).
- ☐ place liens and order execution on the obligor's/payer's property. [MCL 552.2305\(2\)\(g\)](#).
- ☐ order the obligor/payer to keep the court informed of his/her current residential address, electronic-mail address, telephone number, employer, address of employment, and telephone number at the place of employment. [MCL 552.2305\(2\)\(d\)](#).
- ☐ order the obligor/payer to seek appropriate employment by specified methods. [MCL 552.2305\(2\)\(j\)](#).
- ☐ award reasonable attorney fees, filing fees, other fees and costs, and necessary travel and other reasonable expenses incurred against the payer.¹¹ [MCL 552.2305\(2\)\(k\)](#); [MCL 552.2313\(2\)](#).
- ☐ grant any other available remedy the court deems fit. [MCL 552.2305\(2\)\(l\)](#).
- ☐ Ensure the law of the state issuing the controlling order governs the duration of the obligation of support. [MCL 552.2611\(4\)](#).
- ☐ The obligor's/payer's fulfillment of the duty of support established by the controlling order precludes imposition of a further obligation of support by this court. [MCL 552.2611\(4\)](#).

Certified copy of order. Within 30 days after issuance of a modified child-support order, the party obtaining the modification MUST file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. [MCL 552.2614](#).

A party who obtains a modified child-support order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. [MCL 552.2614](#). Note, however, the failure

¹¹ Payment of support owed has priority over fees, costs, and expenses. [MCL 552.2313\(2\)](#).

to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction. *Id.*

Retention of jurisdiction. After a Michigan court modifies a foreign support order issued in another state, the Michigan court retains continuing, exclusive jurisdiction. [MCL 552.2611\(5\)](#).

Notwithstanding [MCL 552.2611\(1\)-\(5\)](#) and [MCL 552.2201\(1\)](#), a tribunal of this state retains jurisdiction to modify an order issued by another state if both of the following apply:

☐ one party resides in another state.

☐ the other party resides outside the United States. [MCL 552.2611\(6\)](#).

Assessment of fees, costs, or expenses. The court **MUST** order the payment of costs and reasonable attorney fees if it determines that a hearing was requested primarily for delay. [MCL 552.2313\(3\)](#). A hearing is presumed requested for delay if a registered support order is confirmed or enforced without change. *Id.*

For court forms related to domestic relations actions, see the One Court of Justice [website](#).

For additional domestic relations resources, see the Friend of the Court Bureau [website](#).