

Does a foreign custody order have to be registered before our court can enforce or modify it?

I hear this question frequently. Despite much effort, I have yet to find a case or a statute indicating that a custody order from another state must be registered before it can be enforced or modified. Of course, an action must be initiated to invoke the jurisdiction of our courts; something that can be done with a complaint, service of process and the normal rules of civil procedure. It is clear from [UIFSA, Chapter 52C](#), that support orders from other states must be registered before a North Carolina court can enforce or modify the support order and UIFSA provides a clear statutory procedure for registration. There is no similar statutory requirement for child custody orders.

Optional Registration Process

The [UCCJEA, Chapter 50A](#), contains an optional registration procedure that serves a very limited but important purpose. According to the Official Comment to [GS 50A-305](#), the registration process for child custody orders allows a parent to send a custody order to North Carolina before sending the child that is the subject of the custody order to North Carolina. During the registration process, all defenses to enforcement of the order must be raised. Once the order is confirmed, a parent can send a child to the state without concern that the order will not be enforced if the parent in this state refuses to return the child. The confirmation process takes place outside of the context of an enforcement or modification proceeding. The AOC has adopted forms to help with the process. [See AOC Forms CV-660 through 664](#).

Optional Expedited Enforcement Process

[GS 50A-308](#) provides an expedited procedure for enforcement of a custody order from another state. There also are AOC forms available for this process. [See AOC Forms CV 665 through 668](#). It is not the exclusive method for enforcing foreign orders, [G.S. 50A-303\(b\)](#), so a party may choose to file a separate enforcement proceeding. A hearing on a petition for expedited enforcement must take place on the next judicial day following service of process. There is no requirement in that statute that an order be registered before a party can use the expedited enforcement process, and such a requirement would defeat the expedited nature of the enforcement process, as registration requires 20 days' notice.

Modification

Neither the UCCJEA nor Chapter 50 requires that a custody order be registered before modification. There is no statutory procedure for registration, other than the one contained in Part 3 of the UCCJEA discussed above. [GS 50A-202](#) and [203](#) determine when North Carolina courts have modification jurisdiction, and [GS 50-13.7](#) allows the court to modify a custody order from another state as long as North Carolina has jurisdiction pursuant to Chapter 50A and the party seeking modification can show a substantial change in circumstances.

All we need is a complaint

As in all other civil proceedings, a party can invoke the jurisdiction of the court simply by filing a complaint alleging the cause of action; in this case, either enforcement or modification of the custody order. If a defendant has a defense to enforcement or modification based on the validity of

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the order, that defense can be raised in an Answer. Why add another layer or another process?
Let me know what you think.