

Registration of a Foreign Custody Order Pursuant to GS 50A-305 Does Not Register the Child Support Provisions in the Same Order

A child support order entered by a court in a jurisdiction other than North Carolina must be registered in North Carolina pursuant to the [Uniform Interstate Family Support Act, N.C. Gen. Stat. Chapter 52C \(“UIFSA”\)](#), before it can be enforced or modified in North Carolina. [G.S. 52C-6-609](#). A child custody order entered by a court in a jurisdiction other than North Carolina is not required to be registered before it can be modified or enforced in North Carolina, see blog post <https://civil.sog.unc.edu/does-a-foreign-custody-order-have-to-be-registered-before-our-court-can-enforce-it-or-modify-it/>, March 6, 2015, but the [Uniform Child Custody Jurisdiction Act, N.C. Gen. Stat. Chapter 50A \(the “UCCJEA”\)](#) does provide a registration process for a foreign custody order when a parent or other custodian wants assurance that North Carolina courts will recognize and enforce an out-of-state custody order. [G.S. 50A-305](#).

It is not uncommon for child custody and child support to be addressed in the same order. The [North Carolina Court of Appeals](#) recently held that registration of the child custody provisions in the order pursuant to [GS 50A-305](#) does not result in the registration of the support provisions in the same order. The court also held that unless the support order is registered, a North Carolina court is without subject matter jurisdiction to modify or enforce the support provisions of a foreign order.

[Sinclair v. Sinclair \(N.C. App., Dec. 5, 2023\)](#)

Shilpa and Gregory Sinclair entered into a Property Settlement Agreement in Virginia in 2019. The Agreement included both custody and child support provisions. The Agreement was incorporated into the divorce judgment entered by the Virginia court that same year. At the time of the court order, mother lived in Japan and father and children lived in Virginia.

Father and children moved to North Carolina in 2020. Mother filed notice of registration of foreign custody order pursuant to [GS 50A-305](#) in North Carolina in January 2021. Father did not object to the registration request and the order confirming the registration of the foreign custody order was entered in March 2021.

In May 2021, father filed a motion to modify child support in the North Carolina action wherein the custody order had been confirmed. Following a hearing where both parties appeared and no objection to jurisdiction was raised, the trial court modified child support after concluding there had been a substantial change in circumstances.

Mother appealed the modification order but did not raise any issue regarding the subject matter jurisdiction of the North Carolina court. Addressing the issue *sua sponte*, the court of appeals held that the North Carolina court was without jurisdiction to modify the Virginia order.

Registration

The [court of appeals](#) stated:

“The registration requirements for child custody orders and child support orders issued out-of-state are different. Compare [N.C. Gen. Stat. § 50A-305 \(2021\)](#) (“Registration of child-custody determination.”) with [N.C. Gen. Stat. § 52C-6-602 \(2021\)](#) (“Procedure to register order for enforcement.”) and [N.C. Gen. Stat. § 52C-6-609](#) (“Procedure to register child support order of another state for modification.”). This Court has recognized the differences in registration and modification jurisdiction for out-of-state child support orders, as governed by [UIFSA](#), and the registration and modification of child custody orders, as governed by the [Uniform Child Custody Jurisdiction and Enforcement Act \(“UCCJEA”\)](#). See, e.g., Halterman, 276 N.C. App. at 76, 855 S.E.2d at 818. (“For purposes of child custody, the focus is on the residence of the children, and personal jurisdiction over a parent is not required. For purposes of child support modification and enforcement, the focus is on the residence of the obligor” (citations omitted)).”

The court noted that the North Carolina Administrative Office of the Courts provides different forms for the registration of a foreign custody order, [AOC-CV-660](#), and the registration of a foreign support order, [AOC-CV-505](#), to reflect the differences in the process required for each. In this case, because the mother filed only a petition to register a foreign custody order, the child support provisions were not registered.

Modification Jurisdiction pursuant to [UIFSA](#)

While the failure of mother to register the support order was sufficient to deprive the trial court of jurisdiction, the court of appeals also held that North Carolina did not have modification jurisdiction pursuant to UIFSA even had the order been properly registered.

At the time father filed the motion to modify, father and children had moved to North Carolina and mother remained in Japan. Because Virginia lost continuing exclusive jurisdiction when father and children moved to North Carolina, and because both parents did not reside in NC at the time the motion to modify was filed, modification jurisdiction is determined by [G.S. 52C-6-611\(a\)](#). That section of UIFSA provides:

“[A] tribunal of this State may modify a child support order issued in another state which is registered in this State if, after notice and hearing, the tribunal finds that:

(1) the following requirements are met:

1. Neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing state;
2. A petitioner who is a nonresident of this State seeks modification; and

3. The respondent is subject to the personal jurisdiction of the tribunal of this State;

or

(2) This State is the residence of the child, or a party who is an individual, is subject to the personal jurisdiction of the tribunal of this State and all of the parties who are individuals have filed consents in a record in the issuing tribunal for a tribunal of this State to modify the support order and assume continuing, exclusive jurisdiction.”

As there was no evidence in the record that mother had consented in writing to modification jurisdiction in North Carolina and because the petitioner (the father) was a resident of North Carolina, the [court of appeals](#) held that North Carolina did not have modification jurisdiction pursuant to this statute. Absent the written and filed consent of mother, the modification request must be filed in Japan, the place of mother's residence. See blog post <https://civil.sog.unc.edu/child-custody-and-support-jurisdiction-to-modify/>, April 15, 2016, describing modification jurisdiction for child support, including what has been referred to as “the play-away rule” of UIFSA.