



# THE JBSA JURIST

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## CHILD CUSTODY ACROSS STATE LINES

Americans are a mobile people who seldom stay in one state. This is even more so for members of the military. Child custody disputes between parents, which arise when there is a divorce or when unmarried biological parents want to have custody adjudicated in a court, are impacted by that very mobility. When parents and children live and have lived in one state, the courts of that state may take jurisdiction over any child custody matter without question. But it is common for a parent to live in a different state from the one in which the other parent and the child live. More than one state may have the power to adjudicate a dispute between them. If more than one state does exercise its power, the competing decisions simply confuse, rather than conclude the dispute.

There may also be the need to modify or enforce a child custody order. If the custodial parent moves with the child to another state, which state makes that modification? If the second state modifies the first child custody order from the first state, which order will be recognized and enforced? When there were no clear answers to these questions, parental kidnapping sometimes resulted. To prevent that from happening, the UCCJEA was enacted to determine which state has jurisdiction to hear child custody suits.

### **Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) Basics**

- **Home State Priority**—the home state of the child has priority in a child custody suit. Home state is the state in which a child lived with a parent/guardian for at least six consecutive months immediately before the start of a child-custody proceeding.
- **Significant Contacts**—when a child does not have a home state, jurisdiction may be established in a state by showing the child has significant connections, beyond mere presence, within the state.
- **Emergency Jurisdiction**—the UCCJEA provides for temporary emergency jurisdiction, that can ripen into continuing jurisdiction only if no other state with grounds for jurisdiction can be found or, if found, declines to take jurisdiction. The child's presence and its abandonment, mistreatment or abuse still trigger the taking of emergency jurisdiction, but threats to siblings or a parent also can trigger the taking of emergency jurisdiction. Because of the priority given to the home state of the child, the home state will most often be the state from which continuing jurisdiction is exercised.
- **Presence in a State**—a child's presence in a state is not necessary or sufficient to make a child-custody determination.
- **Modification**—modifications of an original child custody order are typically done by the original state issuing the order.

The laws governing child custody are uniform to prevent parental child abductions. They are also complicated. If you have questions, please speak to one of our legal assistance attorneys who may be able to help you through this process.

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*ADCs are experienced judge advocates outside the local chain of command to allow Airmen completely confidential legal advice for criminal and adverse matters.*

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