

MAINE FAMILY LAW ADVISORY COMMISSION**Report to Maine State Legislature
Joint Standing Committee on Judiciary**

The Maine Family Law Advisory Commission (FLAC) is submitting proposed legislation pursuant to Title 19-A, section 354, subsection 2, to amend a provision of the Uniform Child Custody Jurisdiction and Enforcement Act (“UCCJEA”). This brief report provides an overview of the proposed legislation with an explanation of FLAC’s determination that it is appropriate.

Background

In 1999, the Maine Legislature enacted P.L. 1999, c. 486, which adopted and codified the UCCJEA. *See* 19-A M.R.S. §§ 1731 et seq. This is an act, largely uniform among states, that seeks to address interstate movement of children who are subject to child custody determinations by ensuring that only one state at a time is enforcing and modifying court orders regarding custody and visitation of that child.

The UCCJEA is one of many “uniform acts,” first drafted by the National Conference of Commissioners on Uniform State Laws, also known as the Uniform Law Commission. This non-profit association drafts model acts for consideration by each State Legislature.

Uniformity promotes interstate consistency within the subject matter governed by a uniform act, and it should be preserved whenever appropriate. Individual states nonetheless retain the authority, by legislative action, to amend provisions of a codified uniform act. *See, e.g., Denbow v. Harris*, 583 A.2d 205, 207 (Me. 1990). FLAC has concluded that the proposed legislation is an appropriate exercise of that authority.

Registration of Child Custody Determinations in Maine

One section of the UCCJEA governs the registration in Maine courts of another state court’s child custody determination. 19-A M.R.S. § 1765. An individual may register the child custody determination of another state “with or without a simultaneous request for enforcement” of that judgment by filing it with a Maine court along with certain required documentation. 19-A M.R.S. § 1765(1)(A-C).

Although one of the requirements is that the filer provide the Maine court with “the name and address of [. . .] any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered,” that information is often inaccurate or insufficient for the clerks of court to meet their obligations under the statute. 19-A M.R.S. § 1765(1)(C). Specifically, the UCCJEA, as currently codified, places the burden on the Maine court to effectuate service on the non-registering parent “and provide them with an opportunity to contest the registration [. . .].” 19-A M.R.S. § 1765(2)(B).

The UCCJEA is silent on what efforts the Maine court must undertake to locate the non-registering parent and effectuate service. It likewise does not provide a path ahead when the contact information the registering parent provided is inaccurate or out-of-date. With the proposed legislation, FLAC seeks to eliminate what has become a backlog of cases in some

Maine courts of requests for registration of child custody determinations without notice to the non-registering parent.

Proposed Amendment

FLAC recommends amending 19-A M.R.S. § 1745(2)(B) to place the burden of serving the non-registering parent upon the parent seeking registration. From a practical perspective, that person will have more accurate and ever-evolving information about the whereabouts of and contact information for their co-parent. From a legal perspective, this will bring the process in line with service of most other family matter pleadings in Maine Courts. One other New England state has already effectuated a similar statutory amendment and placed the burden on the parent seeking registration. *See* Conn. Gen. Stat. Ann. § 46b-115w (West) (“Within five days after the registering court's receipt of the documents required by subsection (a) of this section, the petitioner shall notify the other persons named pursuant to subdivision (3) of subsection (a) of this section of the registration of the documents by certified mail, return receipt requested at their respective last-known addresses or by personal service, and provide them with an opportunity to contest the registration in accordance with this section.”)

Conclusion

FLAC supports the proposed amendment to UCCJEA as a method of providing efficient and effective notice of requests to register child custody determinations in Maine. A representative of FLAC will attend any work sessions on the proposed amendment to provide further information and answer any questions.

Thank you for your consideration of this proposed legislation.

Dated: November 28, 2023

Respectfully submitted:
Maine Family Law Advisory Commission

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