





## Today's Topics

- 3 versions of UIFSA
  - What is the difference?
- New definitions
- Changes to modification
- The Hague – what is it and what does this mean for us?

## 3 Versions of UIFSA

- UIFSA 1996
  - One order per NCP & child
  - Determination of controlling order
  - CEJ
- UIFSA 2001
  - Requires telephonic testimony
  - Some changes to CEJ
  - Authorizes redirection of payment
- UIFSA 2008
  - Implements Hague Convention





## UIFSA 2008

- All states are now under the same version.
- Many states went from UIFSA 1996 to 2008.
- Not all states are totally ready for the changes.

**As always, there are many different policies and procedures around the country.**

## New Definitions



- Convention
- Foreign country
- State
- Foreign support order



## Changes to Modification/CEJ

### UIFSA 2001

- State can modify its own order, even if no party lives there, with consent of both parties.
- State can modify a foreign country's order if that country cannot modify.

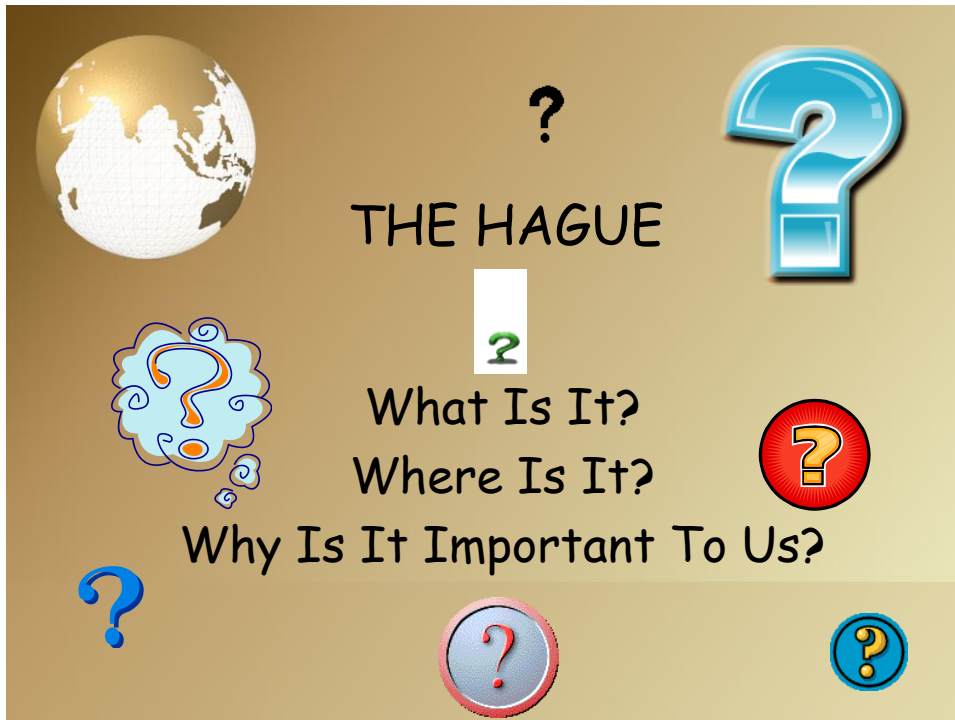
### UIFSA 2008

- State retains CEJ if one party lives in another U.S. state and the other party lives outside the U.S.

## What Is the Biggest Change?

Implements the Hague Convention  
on the International Recovery of  
Child Support and Other Forms of  
Family Maintenance.





## What Is The Hague? A City In The Netherlands



## The Peace Palace



### Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. Overview

- Does not solve all our problems with international cases.
- Procedures available for establishment, recognition and enforcement, and modification of decisions (orders).



**AKA "The Hague" or "The Convention"**



## New Concepts



- Central Authorities
- Country Profiles
- Applications (similar to Transmittal #1)
- International Forms
- Process for Recognition and Enforcement

## Additional Issues

- Costs
- Confidentiality
- Power of Attorney
- Translation of Documents
- Coordination with Other International Agreements



## Some New Terms

- Contracting State - a country that has signed and ratified the convention
- Competent Authority - whatever agency in a State has authority to take a certain action (i.e. a court or tribunal)
- State of origin - the State that issued an order

**New UIFSA  
definition of State  
vs. Hague  
Contracting State**



## More New Terms

- Creditor - the obligee
- Debtor - the obligor
- Requesting State - the State that initiates the action
- Requested State - the State that is responding to the action



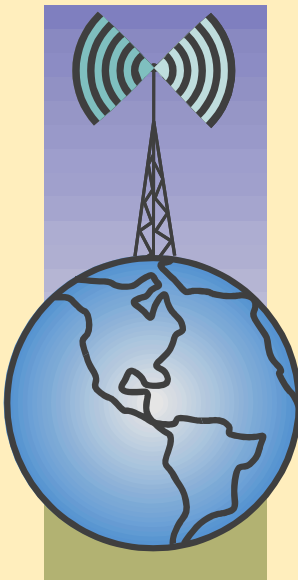


## Central Authorities

- Each State must designate **at least one** Central Authority (CA).
- CAs must cooperate with each other to achieve the purposes of the Convention.
- Seek, as far as possible, solutions to difficulties which arise in the application of the convention.



## Central Authority Duties



Transmit and receive applications under the Convention.

Initiate or facilitate proceedings related to applications.

## Central Authority Duties

Take all appropriate measures, including:

- Provide or facilitate the provision of legal assistance
- Help locate debtor or creditor
- Encourage amicable solutions
- Facilitate enforcement
- Facilitate transfer of payments



## Central Authority Duties

Appropriate measures, continued:

- Facilitate obtaining of evidence and service of documents
- Provide assistance in establishing parentage
- Initiate or facilitate institution of measures to secure the outcome of a pending application



## Country Profile

- Focuses on information or services required by the Convention
- Provides an on-line, standardized way to access information
- Comes up for each State in their own language
- Reduces costs of translations - uses check boxes, where possible
- Makes case processing simpler



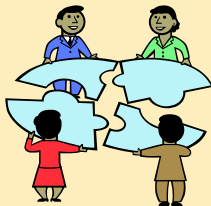
## The Creditor (Obligee) May Apply For:

- Recognition and enforcement of an order
- Establishment of an order, including establishment of paternity
- Establishment of an order where recognition and enforcement of an order is not possible or is refused
- Modification of a decision made in the requested State
- Modification of a decision made in a State other than the requested State



## The Debtor (Obligor) May Apply For:

- Recognition of a decision or an equivalent procedure leading to the suspension or limiting the enforcement of a previous decision in the requested State
- Modification of a decision made in the requested State
- Modification of a decision made in a State other than the requested State



## Applications to Establish or Modify an Order

- Assistance must be provided to establish an order and paternity, if needed.
- All services to the **creditor** must be provided cost-free.
- Free legal assistance must be provided to the creditor (all the way through appeal).
- Cost free services are **not** provided to the **debtor**.
- Modification rules are similar to CEJ and UIFSA.



## Recognition and Enforcement

### Basis for recognition (Mandatory)

- Respondent was a resident of the order-issuing State.
- Respondent submitted to the jurisdiction of the order-issuing State.
- Child was a resident of the order-issuing State, provided that the respondent lived with the child in that State or provided support for the child there.



## Recognition and Enforcement

### Recognition subject to reservation:

- Creditor was a resident of the order-issuing State.
- Decision was made by authority exercising jurisdiction on a matter of personal status or parental responsibility (i.e. divorce) without personal jurisdiction.



## Registration Process

Similar to current U.S. procedure, except:

- The order is sent to the court to register or deny.
  - The parties cannot object at that point.
- Enforcement begins.
- Both parties are notified of registration or denial.
- Parties have 30 days to challenge the registration.

Registration



## Required Documents For Registration

- Complete text of the order
- Documents stating:
  - That the decision is enforceable in the State of origin
  - That the respondent had proper notice and opportunity to be heard or to challenge the decision
  - The amount of arrears and the date of the calculation





## Enforcement Measures



- States are required to make available effective enforcement measures.
- Options might include:
  - Wage withholding
  - Garnishment
  - Deductions from social security payments
  - Lien on or forced sale of property
  - Tax refund withholding
  - License denial or suspension

## Forms

- Goal is to adopt electronic, multi-lingual forms.
- The use of the forms will significantly reduce translation costs.
- Mandatory forms
  - Transmittal Form
  - Acknowledgment Form



## Confidentiality and NDI

### Protection of personal data

Personal data gathered or transmitted shall be used only for the purposes for which it was gathered or transmitted.



### Non-disclosure of information

NDI must be honored/granted if a party's health, safety, or liberty could be jeopardized.



## When Will This Apply to Colorado?

- All U.S. states have now implemented UIFSA 2008.
- Next step - the President deposits our ratification with the Hague.
- After a 3-month waiting period, the U.S. will be a contracting State.

## Why Is the Convention Important To Us?

- World-wide reciprocity
- Uniformity / efficiency
- Improved cooperation
- A voice in developing world-wide child support standards for the next half-century
- Higher standard of child support services world-wide



## Communication With Other Countries



- Communication is very formal.
- Request, don't demand.
- Be patient.
- Realize other countries may not have a program as developed as ours.

**We want to work carefully with these new partners to foster good will and cooperation.**

## Where to Get More Information

The Hague Conference on Private International Law website:

<http://www/hcch.net>

The OCSE website:

<http://www.act.hhs.gov/programs/css>

