

**In the Matter of the MARRIAGE OF Stanley COOLE, Appellee,  
and  
Steffi COOLE, Appellee,  
and  
SECRETARY OF THE KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES,  
Assignee/Appellant.  
No. 89,827.  
Court of Appeals of Kansas  
April 2, 2004**

**Editorial Note:**

This case does not have precedential value under Kansas supreme court rule 7.04 (f) and may only be cited as persuasive authority on a material issue not addressed by a published Kansas appellate court decision.

Appeal from Saline District Court; Jerome P. Hellmer, judge. Opinion filed April 2, 2004. Reversed and remanded with instructions.

Randy M. Barker, of Kansas Department of Social and Rehabilitation Services, for appellant.

Before RULON, C.J., ELLIOTT and MALONE, JJ.

MEMORANDUM OPINION

PER CURIAM.

No appearances by appellees.

The Secretary of the Kansas Department of Social and Rehabilitation Services (SRS) appeals the district court's judgment finding jurisdiction to modify a child support order (increase requested by Steffi Coole) under the Uniform Child Custody Jurisdiction Act (UCCJA), K.S.A. 38-1301 *et seq.*, and denying SRS's motion to set aside the order modifying child custody.

As the parties are well acquainted with the underlying factual circumstances of this dispute, our discussion of the facts will be limited to those necessary for a clear understanding of the issues.

*Standing*

Because Steffi Coole assigned her rights to child support to SRS, we agree with SRS that K.S.A. 39-754(f) provides SRS with standing to contest the district court's subject matter jurisdiction to enter an order modifying Stanley Coole's child support obligation.

*Application of UCCJA*

The district court found the court possessed jurisdiction to modify the child support order under the UCCJA. However, the Kansas Legislature repealed the UCCJA as of July 1, 2000, in favor of the adoption of the UCCJEA, K.S.A. 38-1336 *et seq.* See L.2000, ch. 171, secs. 31-72 and 84; *McNabb v. McNabb*, 31 Kan.App.2d 398, 403, 65 P.3d 1068 (2003).

As the district courts in Kansas obtain jurisdiction only through express grants of power by the Kansas Legislature, the district court here could not properly rely upon the UCCJA for jurisdiction in 2001 when Steffi Coole filed her motion to modify the child support order. See *Gentzel v. Williams*, 25 Kan.App.2d 552, 554, 965 P.2d 855 (1998) (citing Kan. Const. art. 3, § 6).

Moreover, SRS contends both the UCCJA and its successor, the UCCJEA, deal exclusively with jurisdiction over child *custody* determinations, not child*support* determinations, so if the district court had relied upon the UCCJEA for jurisdiction, the court erred. Jurisdiction over child support determinations are governed by the Uniform Interstate Family Support Act (**UIFSA**), K.S.A. 23-9,101 *et seq.*, as adopted by Kansas. See *McNabb*, 31 Kan.App.2d at 403, 65 P.3d 1068.

*Uniform Interstate Family Support Act (UIFSA)*

According to Section 205 of **UIFSA**, K.S.A.2003 Supp. 23-9,205 and Tex. Family Code Ann. § 159.205 (West 2002), a court within the state issuing the original support order continues to have jurisdiction to modify the support determination only so long as the tribunal state "remains the residence of the obligor, the individual obligee or the child for whose benefit the support order is issued" or "until all of the parties who are individuals have filed written consents with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction."

Here, the district court in Bell County, Texas, originally issued the child support order, and Kansas has not obtained continuing and exclusive jurisdiction by the parties' written consent filed in Texas under K.S.A.2003 Supp. 23-9,205(a)(2). Consequently, although Texas may have lost continuing and exclusive jurisdiction, Kansas does not automatically obtain such jurisdiction upon the filing of a motion for modification. *Gentzel*, 25 Kan.App.2d at 558, 965 P.2d 855.

In order to **enforce** or modify the original support determination, Kansas must register the order under K.S.A. 23-9,602. In 1994, the Texas order was acknowledged in Kansas under the Uniform Reciprocal Enforcement of Support Act (URESA), K.S.A. 23-451 *et seq.*, which was not repealed until 1995. See *Gentzel*, 25 Kan.App.2d at 555, 965 P.2d 855. The motion to modify the child support order was not filed until 2001, long after the adoption of **UIFSA**. As such, before seeking a modification of the Texas order, Steffi Coole had to comply with the filing requirements for registering the Texas order in Kansas.

Moreover, even if the acknowledgment of the Texas order filed under URESA had satisfied the statutory conditions for registration under **UIFSA**, registration of the foreign order alone is insufficient to provide a court of this state with jurisdiction to modify that order. K.S.A.2003 Supp. 23-9,611 provides, in pertinent part:

"(a) After a child support order issued in another state has been registered in this state, the responding tribunal of this state may modify that order only if K.S.A. 23-9,613 and amendments thereto does not apply and after notice and hearing it finds that:

"(1) The following requirements are met:

(A) The child, the individual obligee and the obligor do not reside in the issuing state;

(B) a petitioner who is a nonresident of this state seeks modification; and

(C) the respondent is subject to the personal jurisdiction of the tribunal of this state; or

(2) 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 written consents in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction over the order."

See *Gentzel*, 25 Kan.App.2d at 558, 965 P.2d 855.

While none of the parties remain living in Texas, the issuing state, Steffi Coole is a resident of this state, and nothing within the record indicates a basis by which the Saline County District Court could properly exercise personal jurisdiction over Stanley Coole, at least with respect to the child born in Texas. See K.S.A. 23-9,201. Consequently, the district court in Saline County cannot properly exercise jurisdiction to modify the existing child support order unless Stanley Coole files a petition for modification in Saline County.

" '[§ 611(a)(1) or K.S.A. 23-9,611(a)(1) ] contemplates that the issuing state has lost continuing, exclusive jurisdiction, or that the obligee may seek modification in the obligor's state of residence. This restriction

attempts to achieve a rough justice between the parties in the majority of cases by preventing a litigant from choosing to seek modification in a local court to the marked disadvantage of the other party." ' *Gentzel*, 25 Kan.App.2d at 558, 965 P.2d 855 (quoting Sampson and Kurtz, *UIFSA: An Interstate Support Act for the 21st Century*, 27 Fam. Law Qtrly. 85, 163 [1993] ).

We conclude the district court possessed no jurisdiction to modify the Texas child support order. The order granting Steffi Coole's request for modification was void. See *In re Marriage of Myers*, 30 Kan.App.2d 1223, 1231, 56 P.3d 1286 (2002).

Reversed and remanded with instructions to vacate the order modifying child support.