

# **UNIFORM CHILD-CUSTODY JURISDICTION AND ENFORCEMENT ACT (WITH 2013 AMENDMENTS PERTAINING TO INTERNATIONAL PROCEEDINGS)\***

Drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

and by it

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By

NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

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**UNIFORM CHILD-CUSTODY JURISDICTION AND ENFORCEMENT ACT (WITH  
2013 AMENDMENTS PERTAINING TO INTERNATIONAL PROCEEDINGS)**

**[ARTICLE] 1**

**GENERAL PROVISIONS**

**SECTION 101. SHORT TITLE.** This [act] may be cited as the Uniform Child-Custody Jurisdiction and Enforcement Act (with 2013 Amendments Pertaining to International Proceedings).

**SECTION 102. DEFINITIONS.** In this ~~[Act]~~ [act]:

(1) “Abandoned” means left without provision for reasonable and necessary care or supervision.

~~(2)~~ (3) “Authority” means an entity authorized by a convention country to establish, enforce, or modify a decision to which [Article] 4 applies.

~~(2)~~ (3) “Child” means an individual who has not attained 18 years of age.

~~(3)~~ (4) “Child-custody determination” means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, or initial; order and a modification ~~order~~. The term does not include an order relating to child support or other monetary obligation of an individual.

~~(4)~~ (5) “Child-custody proceeding” means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under [Article] 3.

(5) (6) “Commencement” means the filing of the first pleading in a proceeding.

(7) “Convention” means the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children, concluded at The Hague on October 19, 1996.

(8) “Convention country” means a foreign country in which the Convention is in force with respect to the United States.

(6) (9) “Court” means an entity authorized by ~~under the law of a State~~ a state or nonconvention country to establish, enforce, or modify a child-custody determination.

(10) “Foreign country” means a country, including a political subdivision thereof, other than the United States.

(7) (11) “Home ~~State~~ state” means the ~~State~~ state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child-custody proceeding. ~~In the case of~~ If a child is less than six months of age, the term means the ~~State~~ state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the ~~mentioned~~ persons mentioned is part of the period.

(8) (12) “Initial determination” means the first child-custody determination concerning a particular child.

(9) (13) “Issuing court” means the court that makes a child-custody determination for which enforcement is sought under this ~~[Act]~~ [act].

(10) (14) “Issuing ~~State~~ state” means the ~~State~~ state in which a child-custody determination is made.

(11) (15) “Modification” means a child-custody determination or a decision to which

[Article] 4 applies, that changes, replaces, supersedes, or is otherwise made after a previous determination or decision concerning the same child, whether or not it is made by the court or authority that made the previous determination or decision.

(16) “Nonconvention country” means a foreign country in which the Convention is not in force with respect to the United States.

(17) “Parental responsibility” means the rights, powers, and obligations of a parent, guardian, or other person with similar responsibility in relation to a child.

~~(12)~~ (18) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, public corporation; or any other legal or commercial entity.

~~(13)~~ (19) “Person acting as a parent” means a person, other than a parent, who:

(A) has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately before the commencement of a child-custody proceeding; and

(B) has been awarded legal custody by a court or claims a right to legal custody under the law of this State state.

~~(14)~~ (20) “Physical custody” means the physical care and supervision of a child.

(21) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

~~(15)~~ (22) “State” means a State state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

~~[(16)~~ (23) “Tribe” means an Indian tribe or band or Alaskan Native village, ~~which is~~ recognized by federal law or formally acknowledged by a ~~State~~ state.]

~~(17)~~ (24) “Warrant” means ~~an a court~~ an a court order ~~issued by a court~~ authorizing a law\_ enforcement ~~officers~~ officer to take physical custody of a child.

**SECTION 103. PROCEEDINGS GOVERNED BY OTHER LAW.** This ~~[Act]~~ [act] does not govern an adoption proceeding or, except as otherwise provided in Section 416, a proceeding pertaining to the authorization of emergency medical care for a child.

**SECTION 104. APPLICATION TO INDIAN ~~TRIBES~~. TRIBE.**

(a) A child-custody proceeding that pertains to an Indian child as defined in the Indian Child Welfare Act, 25 U.S.C. § Section 1901 et seq., is not subject to this ~~[Act]~~ [act] to the extent ~~that it is~~ governed by the Indian Child Welfare Act.

[(b) A court of this ~~State~~ state shall treat a tribe as if it were a ~~State~~ state of the United States for the purpose of applying ~~[Articles]~~ 1 and this [article] and [Article] 2.]

[(c) A child-custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this ~~[Act]~~ [act] must be recognized and enforced under [Article] 3.]

**SECTION 105. INTERNATIONAL APPLICATION OF [ACT].**

(a) A court of this ~~State~~ state shall treat a ~~foreign~~ nonconvention country as if it were a ~~State~~ state of the United States for the purpose of applying ~~[Articles]~~ 1 and this [article] and [Article] 2.

(b) ~~Except as otherwise provided in subsection (c),~~ Recognition and enforcement of a child-custody determination made in a ~~foreign~~ nonconvention country ~~under factual circumstances in substantial conformity with the jurisdictional standards of this [Act]~~ must be

~~recognized and enforced under~~ is governed by [Article] 3.

(c) [Article] 4 governs a proceeding in a court of this state to which the Convention is applicable.

~~(c) A court of this state need not apply this [Act] if the child-custody law of a foreign country violates fundamental principles of human rights.~~

#### **SECTION 106. EFFECT OF CHILD-CUSTODY DETERMINATION.**

(a) A child-custody determination made by a court of this ~~State~~ state that had jurisdiction under this ~~[Act]~~ [act] binds ~~all persons who have~~ a person that:

(1) has:

(A) been served in accordance with the ~~laws~~ law of this ~~State~~ state; ~~or~~

(B) ~~has~~ been notified in accordance with Section 108; or

(C) ~~who have~~ submitted to the jurisdiction of the court; ~~;~~ and

(2) ~~who have~~ has been given an opportunity to be heard. ~~As to those persons, the~~

(b) ~~The~~ A determination under subsection (a) is conclusive as to all decided issues of law and fact except to the extent the determination is modified.

**SECTION 107. PRIORITY.** If a question of the existence or exercise of jurisdiction under this ~~[Act]~~ [act] is raised in a child-custody proceeding, ~~the question, upon~~ on request of a party, the question must be given priority on the calendar and handled expeditiously.

#### **SECTION 108. NOTICE TO PERSON OUTSIDE STATE.**

(a) Notice required for the exercise of jurisdiction ~~when a person is outside of this state~~ by a court of this state to a person outside this state may be given in a manner for service of process prescribed by the law of this ~~State~~ state ~~other than this [act]~~, or by the law of the ~~State~~ state in which the service is made. Notice must be given in a manner reasonably calculated to

give actual notice but may be by publication if other means are not effective.

(b) Proof of service may be made in the manner prescribed by the law of this ~~State~~ state ~~other than this [act]~~ or by the law of the ~~State~~ state in which the service is made.

(c) Notice is not required for the exercise of jurisdiction with respect to a person ~~who~~ that submits to the jurisdiction of ~~the~~ a court of this state.

#### **SECTION 109. APPEARANCE AND LIMITED IMMUNITY.**

(a) A party to a child-custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child-custody determination, is not subject to personal jurisdiction in this ~~State~~ state for another proceeding or purpose solely by reason of having participated, or ~~of~~ having been physically present for the purpose of participating, in the proceeding.

(b) A ~~person who~~ party is subject to personal jurisdiction in this ~~State~~ state on a basis other than physical presence is not immune under subsection (a) from service of process in this ~~State~~ state. A party present in this ~~State~~ state ~~who~~ which is subject to the jurisdiction of another ~~State~~ state is not immune under subsection (a) from service of process allowable under the law of that State state.

(c) The immunity ~~granted by~~ under subsection (a) does not extend to civil litigation based on ~~acts unrelated to the participation in a proceeding under this [Act]~~ an act committed by ~~an a~~ a party while present in this ~~State~~ state which is unrelated to the party's participation in a proceeding under this [act].

#### **SECTION 110. COMMUNICATION BETWEEN COURTS.**

(a) ~~A~~ In a proceeding under this [act], a court of this ~~State~~ state may communicate with a court in another ~~State~~ state concerning ~~a the~~ the proceeding. ~~arising under this [Act]~~.

(b) The court may allow the parties to participate ~~in the~~ a communication under this section. If ~~the parties are~~ a party is not able to participate in the communication, ~~they~~ the party must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

(c) Communication between courts ~~on schedules, calendars, court records, and similar matters~~ on a schedule, calendar, court record, or similar matter may occur without informing the parties under this section. A record need not be made of the communication.

(d) Except as otherwise provided in subsection (c), a record must be made of a communication under this section. The parties must be informed promptly of the communication and granted access to the record.

~~(e) For the purposes of this section, “record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.~~

#### **SECTION 111. TAKING TESTIMONY IN ANOTHER STATE.**

(a) In a proceeding under this [act], in addition to other procedures available to a party, a party ~~to a child-custody proceeding~~ may offer testimony of an individual ~~witnesses who are~~ located in another ~~State~~ state, including testimony of ~~the parties~~ a party ~~and the~~ or a child, by deposition or other means allowable in this ~~State~~ state for testimony taken in another ~~State~~ state. The court ~~on its own motion~~ may order that the testimony ~~of a person~~ be taken in another ~~State~~ state and may prescribe the manner in which and the terms ~~upon~~ on which the testimony is taken.

(b) ~~A~~ In a proceeding under this [act], a court of this ~~State~~ state may permit an individual residing in another ~~State~~ state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that ~~State~~ state. A court



of this ~~State~~ state shall cooperate with ~~courts~~ a court of ~~other~~ another ~~States~~ state in designating an appropriate location for the deposition or testimony.

(c) ~~Documentary~~ In a proceeding under this [act], documentary evidence transmitted from another ~~State~~ state to a the court of this ~~State~~ state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

## **SECTION 112. COOPERATION BETWEEN COURTS; PRESERVATION OF RECORDS.**

(a) ~~A~~ In a proceeding under this [act], a court of this ~~State~~ state may request the appropriate court of another ~~State~~ state to:

- (1) hold an evidentiary hearing;
- (2) order a person to produce or give evidence ~~pursuant to~~ under procedures of that ~~State~~ state;
- (3) order that an evaluation be made with respect to the custody of a the child involved in a ~~pending~~ the proceeding;
- (4) forward to the court of ~~this State~~ a certified copy of the transcript of the record of the hearing, the evidence ~~otherwise~~ presented, and any evaluation prepared in compliance with the request; and
- (5) order a party to a child-custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

(b) ~~Upon~~ In a proceeding under this [act], on request of a court of another ~~State~~ state, a court of this ~~State~~ state may hold a hearing or ~~enter~~ render an order described in subsection (a).

(c) Travel and other necessary and reasonable expenses incurred under subsections (a)

and (b) may be assessed against ~~the parties~~ a party according to the law of this ~~State~~ state ~~other than this [act]~~.

(d) ~~A~~ In a proceeding under this [act], the ~~court of this State~~ shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child-custody proceeding until the child attains 18 years of age. ~~Upon~~ On ~~appropriate~~ request by a court or law enforcement official of another ~~State~~ state, the court shall forward a certified copy of those records.

## **[ARTICLE] 2**

### **JURISDICTION**

#### **SECTION 201. INITIAL CHILD-CUSTODY JURISDICTION.**

(a) Except as otherwise provided in Section 204, a court of this ~~State~~ state has jurisdiction to make an initial child-custody determination only if:

(1) this ~~State~~ state is the home ~~State~~ state of the child on the date of the commencement of the proceeding, or was the home ~~State~~ state of the child within six months before the commencement of the proceeding and the child is absent from this ~~State~~ state but a parent or person acting as a parent continues to live in this ~~State~~ state;

(2) a court of another ~~State~~ state does not have jurisdiction under paragraph (1), or a court of the home ~~State~~ state of the child has declined to exercise jurisdiction on the ground that this ~~State~~ state is the more appropriate forum under Section 207 or 208, and:

(A) the child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this ~~State~~ state other than mere physical presence; and

(B) substantial evidence is available in this ~~State~~ state concerning the

child's care, protection, training, and personal relationships;

(3) all courts having jurisdiction under paragraph (1) or (2) have declined to exercise jurisdiction on the ground that a court of this ~~State~~ state is the more appropriate forum to determine the custody of the child under Section 207 or 208; or

(4) no court of any other ~~State~~ state would have jurisdiction under the criteria specified in paragraph (1), (2), or (3).

(b) Subsection (a) is the exclusive jurisdictional basis for making a child-custody determination by a court of this ~~State~~ state.

(c) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child-custody determination.

## **SECTION 202. EXCLUSIVE, CONTINUING JURISDICTION.**

(a) Except as otherwise provided in Section 204, a court of this ~~State which~~ state that has made a child-custody determination consistent with Section 201 or 203 has exclusive, continuing jurisdiction over the determination until:

(1) a court of this ~~State~~ state determines that neither the child, nor the child and one parent, nor the child and a person acting as a parent have a significant connection with this ~~State~~ state and that substantial evidence is no longer available in this ~~State~~ state concerning the child's care, protection, training, and personal relationships; or

(2) a court of this ~~State~~ state or a court of another ~~State~~ state determines that the child, the child's parents, and any person acting as a parent do not presently reside in this ~~State~~ state.

(b) A court of this ~~State which~~ state that has made a child-custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination

only if it has jurisdiction to make an initial determination under Section 201.

**SECTION 203. JURISDICTION TO MODIFY DETERMINATION.** Except as otherwise provided in Section 204, a court of this ~~State~~ state may not modify a child-custody determination made by a court of another ~~State~~ state unless a court of this ~~State~~ state has jurisdiction to make an initial determination under Section 201(a)(1) or (2) and:

(1) the court of the other ~~State~~ state determines it no longer has exclusive, continuing jurisdiction under Section 202 or that a court of this ~~State~~ state would be a more convenient forum under Section 207; or

(2) a court of this ~~State~~ state or a court of the other ~~State~~ state determines that the child, the child's parents, and any person acting as a parent do not presently reside in the other ~~State~~ state.

**SECTION 204. TEMPORARY EMERGENCY JURISDICTION.**

(a) A court of this ~~State~~ state has temporary emergency jurisdiction if ~~the~~ a child is present in this ~~State~~ state and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

(b) If there is no previous child-custody determination that is entitled to be enforced under this ~~[Act]~~ [act] and a child-custody proceeding has not been commenced in a court of a ~~State~~ state having jurisdiction under Sections 201 through 203, a child-custody determination made under this section remains in effect until an order is obtained from a court of a ~~State~~ state having jurisdiction under Sections 201 through 203. If a child-custody proceeding has not been or is not commenced in a court of a ~~State~~ state having jurisdiction under Sections 201 through

203, a child-custody determination made under this section becomes a final determination, if it so provides and this ~~State~~ state becomes the home ~~State~~ state of the child.

(c) If ~~there is~~ a previous child-custody determination ~~that~~ is entitled to be enforced under this ~~[Act]~~ [act], or a child-custody proceeding has been commenced in a court of a ~~State~~ state having jurisdiction under Sections 201 through 203, any order issued by a court of this ~~State~~ state under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the ~~State~~ state having jurisdiction under Sections 201 through 203. The order issued in this ~~State~~ state remains in effect until an order is obtained from the other ~~State~~ state within the period specified or the period expires.

(d) A court of this ~~State which~~ state that has been asked to make a child-custody determination under this section, ~~upon~~ on being informed that a child-custody proceeding has been commenced in, or a child-custody determination has been made by, a court of a ~~State~~ state having jurisdiction under Sections 201 through 203, shall ~~immediately~~ communicate immediately with the other court. A court of this ~~State which~~ state that is exercising jurisdiction pursuant to Sections 201 through 203, ~~upon~~ on being informed that a child-custody proceeding has been commenced in, or a child-custody determination has been made by, a court of another ~~State~~ state under a statute similar to this section shall ~~immediately~~ communicate immediately with the court of that ~~State~~ state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

#### **SECTION 205. NOTICE; OPPORTUNITY TO BE HEARD; JOINDER.**

(a) Before a child-custody determination is made under this ~~[Act]~~ [act], notice and an opportunity to be heard in accordance with the standards of Section 108 must be given to ~~all~~ persons

(1) each person entitled to notice under the law of this ~~State~~ state as in a child-custody ~~proceedings~~ proceeding between residents of this ~~State~~, state;

(2) ~~any~~ a parent whose parental rights have not been ~~previously~~ terminated previously; and

(3) ~~any~~ a person having physical custody of the child.

(b) This ~~[Act]~~ [act] does not govern the enforceability of a child-custody determination made without notice or an opportunity to be heard.

(c) The obligation to join a party and the right to intervene as a party in a child-custody proceeding under this ~~[Act]~~ [act] are governed by the law of this ~~State~~ state as in a child-custody ~~proceedings~~ proceeding between residents of this ~~State~~ state.

#### **SECTION 206. SIMULTANEOUS PROCEEDINGS.**

(a) Except as otherwise provided in Section 204, a court of this ~~State~~ state may not exercise its jurisdiction under this [article] if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another ~~State~~ state having jurisdiction substantially in ~~conformity~~ accordance with this ~~[Act]~~ [article], unless the proceeding has been terminated or is stayed by the court of the other ~~State~~ state because a court of this ~~State~~ state is a more convenient forum under Section 207.

(b) Except as otherwise provided in Section 204, a court of this ~~State~~ state, before hearing a child-custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to Section 209. If the court determines that a child-custody proceeding has been commenced in a court in another ~~State~~ state having jurisdiction substantially in accordance with this ~~[Act]~~ [article], the court of this ~~State~~ state shall stay its proceeding and communicate with the court of the other ~~State~~ state. If the court of the ~~State~~ state having

jurisdiction substantially in accordance with this ~~[Act]~~ [article] does not determine that the court of this ~~State~~ state is a more appropriate forum, the court of this ~~State~~ state shall dismiss the proceeding.

(c) In a proceeding to modify a child-custody determination, a court of this ~~State~~ state shall determine whether a proceeding to enforce the determination has been commenced in another ~~State~~ state. If a proceeding to enforce a child-custody determination has been commenced in another ~~State~~ state, the court may:

- (1) stay the proceeding for modification pending the entry of an order of a court of the other ~~State~~ state enforcing, staying, denying, or dismissing the proceeding for enforcement;
- (2) enjoin the parties from continuing with the proceeding for enforcement; or
- (3) proceed with the modification under conditions it considers appropriate.

#### **SECTION 207. INCONVENIENT FORUM.**

(a) A court of this ~~State which~~ state that has jurisdiction under this ~~[Act]~~ [article] to make a child-custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another ~~State~~ state is a more appropriate forum. The issue of inconvenient forum may be raised ~~upon~~ on motion of a party, the court's own motion, or request of another court.

(b) Before determining under subsection (a) whether it is an inconvenient forum, a court of this ~~State~~ state shall consider whether it is appropriate for a court of another ~~State~~ state to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:

- (1) whether domestic violence has occurred and is likely to continue in the future and which ~~State could~~ state can best protect the parties and the child;

- (2) the length of time the child has resided outside this ~~State~~ state;
- (3) the distance between the court in this ~~State~~ state and the court in the ~~State~~ state that would assume jurisdiction;
- (4) the ~~relative~~ financial circumstances of the parties;
- (5) any agreement of the parties as to which ~~State~~ state should assume jurisdiction;
- (6) the nature and location of the evidence required to resolve the pending litigation, including testimony of the child;
- (7) the ability of the court of each ~~State~~ state to decide the issue expeditiously and the procedures necessary to present the evidence; and
- (8) the familiarity of the court of each ~~State~~ state with the facts and issues in the pending litigation.

(c) If a court of this ~~State~~ state determines under subsection (a) that it is an inconvenient forum and that a court of another ~~State~~ state is a more appropriate forum, it shall stay the proceedings upon condition that a child-custody proceeding be ~~promptly~~ commenced promptly in another designated ~~State~~ state and may impose any other condition the court considers just and proper.

(d) A court of this ~~State~~ state may decline to exercise its jurisdiction under this ~~[Act]~~ [article] if a child-custody determination is incidental to an action for [divorce] or another proceeding while still retaining jurisdiction over the [divorce] or other proceeding.

#### **SECTION 208. JURISDICTION DECLINED BY REASON OF CONDUCT.**

(a) Except as otherwise provided in Section 204 [or by ~~other~~ law of this ~~State~~ state ~~other than this [act]~~], if a court of this ~~State~~ state has jurisdiction under this ~~[Act]~~ [article] because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall



decline to exercise its jurisdiction unless:

(1) the parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;

(2) a court of the ~~State~~ state otherwise having jurisdiction under Sections 201 through 203 determines that this ~~State~~ state is a more appropriate forum under Section 207; or

(3) no court of any other ~~State~~ state would have jurisdiction under the criteria specified in Sections 201 through 203.

(b) If a court of this ~~State~~ state declines to exercise its jurisdiction pursuant to subsection (a), it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child-custody proceeding is commenced in a court having jurisdiction under Sections 201 through 203.

(c) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection (a), it shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from ~~whom~~ which fees are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs, or expenses against this ~~State~~ state unless authorized by law other than this ~~[Act]~~ [act].

#### **SECTION 209. INFORMATION TO BE SUBMITTED TO COURT.**

(a) [Subject to [local law providing for the confidentiality of procedures, addresses, and other identifying information], in] [In] a child-custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath, as to the child's present address or whereabouts, the places where the child has lived during the last

five years, and the ~~names and present addresses of the persons~~ name and present address of each person having physical custody with whom which the child has lived during that period. The pleading or affidavit must state whether the party:

(1) has participated as a party<sub>2</sub> or witness<sub>2</sub> or in any other capacity; in ~~any other~~ an other proceeding concerning the custody of or visitation with the child and, if so, identify the court, the case number, and the date of the ~~child-custody determination~~ proceeding, if any;

(2) knows of any proceeding that could affect the current proceeding, including ~~proceedings~~ a proceeding for enforcement and ~~a proceedings~~ a proceeding relating to domestic violence, ~~a protective orders~~ order, ~~a termination of parental rights, and or an adoptions~~ adoption and, if so, identify the court or authority, the case number, and the ~~nature~~ date of the proceeding; and

(3) knows the ~~names and addresses of any~~ name and address of any person not a party to the proceeding ~~who has~~ having physical custody of the child or ~~claims rights~~ claiming a right of legal custody or physical custody of, or visitation with, the child and, if so, the ~~names and addresses of those persons~~ name and address of the person.

(b) If the information required by subsection (a) is not furnished, the court, ~~upon~~ on motion of a party or its own motion, may stay the proceeding until the information is furnished.

(c) If the declaration as to any of the items described in subsection ~~(a)(1) through (3)~~ (a) is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the ~~parties~~ party under oath as to details of the information furnished and any other matters ~~matters~~ matter pertinent to the court's jurisdiction and the disposition of the case.

(d) ~~Each~~ A party has a continuing duty to inform the court of any proceeding ~~in this or~~

~~any other State~~ that could affect the current proceeding.

[(e) If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of identifying information, the information must be sealed and may not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, or liberty of the party or child and determines that the disclosure is in the interest of justice.]

#### **SECTION 210. APPEARANCE OF PARTIES AND CHILD.**

(a) In a child-custody proceeding in this ~~State~~ state, the court may order a party ~~to the proceeding who~~ that is in this ~~State~~ state to appear before the court in person with or without the child. The court may order ~~any~~ a person ~~who~~ that is in this ~~State~~ state and ~~who~~ has physical custody or control of the child to appear in person with the child.

(b) If a party to a child-custody proceeding whose presence is desired by the court is outside this ~~State~~ state, the court may order that a notice given pursuant to Section 108 include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party. (c) The court may enter ~~any orders~~ an order necessary to ensure the safety of the child and of any person ordered to appear under this section.

(d) If a party to a child-custody proceeding who is outside this ~~State~~ state is directed to appear under subsection (b) or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child.

#### **SECTION 211. FINDINGS AND CONCLUSIONS.**

(a) If requested by a party, a court of this state that makes or modifies a child-custody determination or orders or modifies a decision with regard to a child to which [Article] 4 applies shall include in the determination or decision the court's findings and conclusions on the following:

(1) the basis for the assumption of jurisdiction by the court;

(2) the manner in which notice and opportunity to be heard were given to each person entitled to notice of the proceeding;

(3) the opportunity for the child to be heard or the reasons why the child was not heard; and

(4) the country of the habitual residence of the child.

(b) A child-custody determination or a decision with regard to a child to which [Article] 4 applies may be supplemented at any time to include the findings and conclusions described in subsection (a) without the supplement being construed as a modification.

### **[ARTICLE] 3**

#### **ENFORCEMENT**

**SECTION 301. DEFINITIONS.** In this [article]:

(1) "Petitioner" means a person ~~who~~ that seeks enforcement of an order ~~for return of a child~~ under the Convention, the Hague Convention on the Civil Aspects of International Child Abduction, or a child-custody determination.

(2) "Respondent" means a person against ~~whom~~ which a proceeding has been commenced for enforcement of an order ~~for return of a child~~ under the Convention, the Hague Convention on the Civil Aspects of International Child Abduction, or a child-custody determination.

**SECTION 302. ENFORCEMENT UNDER HAGUE CONVENTIONS.** Under this [article], a court of this ~~State~~ state may enforce an order ~~for the return of the child~~ made under the Convention, or the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child-custody determination.

**SECTION 303. DUTY TO ENFORCE.**

(a) A court of this ~~State~~ state shall recognize and enforce a child-custody determination of a court of another ~~State~~ state if the latter court exercised jurisdiction in substantial conformity with this ~~[Act]~~ [act] or the determination was made under factual circumstances meeting the jurisdictional standards of this ~~[Act]~~ [act] and the determination has not been modified in accordance with this ~~[Act]~~ [act].

(b) A court of this ~~State~~ state may ~~utilize~~ use any remedy available under other law of this ~~State~~ state ~~other than this act~~ to enforce a child-custody determination made by a court of another ~~State~~ state. The remedies provided in this [article] are cumulative and do not affect the availability of other remedies to enforce a child-custody determination.

**SECTION 304. TEMPORARY VISITATION.**

(a) A court of this ~~State~~ which state ~~that~~ does not have jurisdiction to modify a child-custody determination; may issue a temporary order enforcing:

- (1) a visitation schedule made by a court of another ~~State~~ state; or
- (2) the visitation provisions of a child-custody determination of another ~~State~~ that state ~~which~~ does not provide for a specific visitation schedule.

(b) If a court of this ~~State~~ state makes an order under subsection (a)(2), it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in [Article] 2. The order remains in effect until an

order is obtained from the other court or the period expires.

### **SECTION 305. REGISTRATION OF CHILD-CUSTODY DETERMINATION.**

(a) A child-custody determination issued by a court of another ~~State~~ state may be registered in this ~~State~~ state, with or without a simultaneous request for enforcement, by sending to [the appropriate court] in this ~~State~~ state:

(1) a letter or other document requesting registration;

(2) two copies, including one certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and

(3) except as otherwise provided in Section 209, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child-custody determination sought to be registered.

(b) On receipt of the documents required by subsection (a), the registering court shall:

(1) cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form; and

(2) serve notice ~~upon~~ on the persons named pursuant to subsection ~~(a)(3)~~ (a) and provide them with an opportunity to contest the registration in accordance with this section.

(c) The notice required by subsection (b)(2) must state that:

(1) a registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this ~~State~~ state;

(2) a hearing to contest the validity of the registered determination must be requested ~~within~~ not later than 20 days after service of notice; and

(3) failure to contest the registration will result in confirmation of the child-

custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

(d) ~~A person seeking to~~ To contest the validity of a registered order, a person must request a hearing ~~within~~ not later than 20 days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:

(1) the issuing court did not have jurisdiction under ~~[Article] 2~~ this [act];

(2) the child-custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under ~~[Article] 2~~ this [act]; ~~or~~

(3) the person contesting registration was entitled to notice, but notice was not given in accordance with ~~the standards of~~ Section 108, in the proceedings before the court that issued the order for which registration is sought;

(4) the child has been placed in foster care, institutional care, or a similar relationship in this state and the court that ordered the placement did so without consultation and without transmitting a report giving the reasons for the placement and this state has not consented to the placement; or

(5) the order sought to be registered is from a nonconvention country whose child custody law violates fundamental principles of human rights.

(e) If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served must be notified of the confirmation.

(f) Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

### **SECTION 306. ENFORCEMENT OF REGISTERED DETERMINATION.**

(a) A court of this ~~State~~ state may grant any relief normally available under the law of this ~~State~~ state to enforce a registered child-custody determination made by a court of another ~~State~~ state.

(b) A court of this ~~State~~ state shall recognize and enforce, ~~but may not modify, except in accordance with [Article] 2 this [act],~~ a registered child-custody determination of another ~~State~~ state.

(c) A court of this state may modify a registered child-custody determination of another state only in accordance with this [act].

**SECTION 307. SIMULTANEOUS PROCEEDINGS.** If a proceeding for enforcement under this [article] is commenced in a court of this ~~State~~ state and the court determines that a proceeding to modify the determination is pending in a court of another ~~State~~ state having jurisdiction to modify the determination under ~~[Article] 2 this [act],~~ the enforcing court shall ~~immediately~~ communicate immediately with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

### **SECTION 308. EXPEDITED ENFORCEMENT OF CHILD-CUSTODY DETERMINATION.**

(a) A petition under this [article] must be verified. Certified copies of all orders sought to be enforced and of any order confirming registration must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(b) A petition for enforcement of a child-custody determination must state:

(1) whether the court that issued the determination identified the jurisdictional



basis it relied ~~upon~~ on in exercising jurisdiction and, if so, what the basis was;

(2) whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this ~~[Act]~~ [act] and, if so, identify the court, the case number, and the nature of the proceeding;

(3) whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court or authority, the case number, and the nature of the proceeding;

(4) the present physical address of the child and the respondent, if known;

(5) whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from [law enforcement officials] and, if so, the relief sought; and

(6) if the child-custody determination has been registered and confirmed under Section 305, the date and place of registration.

(c) ~~Upon~~ On the filing of a petition; under this section, the court shall ~~issue an order directing~~ the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The hearing must be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

(d) An order issued under subsection (c) must state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and ~~the~~ order payment of fees, costs, and expenses under

Section 312, and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

(1) the child-custody determination has not been registered and confirmed under Section 305 and that:

(A) the issuing court did not have jurisdiction under ~~[Article] 2~~ this [act];

(B) the child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under ~~[Article] 2~~ this [act]; ~~or~~

(C) the respondent was entitled to notice, ~~but notice was not given in accordance with Section 108~~, in the ~~proceedings~~ proceeding before the court that issued the order for which enforcement is sought, but notice was not given in accordance with the standards of Section 108;

(D) the child has been placed in foster care, institutional care, or a similar relationship in this state and the court or that ordered the placement did so without consultation and without transmitting a report giving the reasons for the placement and this state has not consented to the placement; or

(E) the order sought to be enforced is from a nonconvention country whose child custody law violates fundamental principles of human rights; or

(2) the child-custody determination for which enforcement is sought was registered and confirmed under Section 304, but has been vacated, stayed, or modified by a court of a ~~State~~ state having jurisdiction to do so under ~~[Article] 2~~ this [act].

**SECTION 309. SERVICE OF PETITION AND ORDER.** Except as otherwise provided in Section 311, the petition and order must be served, by any method authorized [by the

law of this ~~State~~ state other than this [act]], upon on the respondent and any person ~~who~~ that has physical custody of the child.

### **SECTION 310. HEARING AND ORDER.**

(a) Unless the court issues a temporary ~~emergency~~ order ~~pursuant to~~ under Section 204 or 416, ~~upon~~ on a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

(1) the child-custody determination has not been registered and confirmed under Section 305 and that:

(A) the issuing court did not have jurisdiction under ~~[Article] 2~~ this [act];

(B) the child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a ~~State~~ state having jurisdiction to do so under ~~[Article] 2~~ this [act]; ~~or~~

(C) the respondent was entitled to notice, ~~but notice was not given in accordance with the standards of Section 108~~, in the ~~proceedings~~ proceeding before the court that issued the order for which enforcement is sought, but notice was not given in accordance with the standards of Section 108;

(D) the child has been placed in foster care, institutional care, or a similar relationship in this state and the court or authority that ordered the placement did so without consultation and without transmitting a report giving the reasons for the placement and this state has not consented to the placement; or

(E) the order sought to be enforced is from a nonconvention country whose child custody law violates fundamental principles of human rights; or

(2) the child-custody determination for which enforcement is sought was registered and confirmed under Section 305 but has been vacated, stayed, or modified by a court of a ~~State~~ state having jurisdiction to do so under ~~[Article] 2~~ this [act].

(b) The court shall award the fees, costs, and expenses authorized under Section 312 and may grant additional relief, including a request for the assistance of [law enforcement officials], and set a further hearing to determine whether additional relief is appropriate.

(c) If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal. (d) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under this ~~[article]~~ [act].

#### **SECTION 311. WARRANT TO TAKE PHYSICAL CUSTODY OF CHILD.**

(a) ~~Upon~~ On the filing of a petition seeking enforcement of a child-custody determination the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is immediately likely to suffer serious physical harm or be removed from this ~~State~~ state.

(b) If the court, upon the testimony of the petitioner or other witness, finds that the child is ~~imminently~~ immediately likely to suffer serious physical harm or be removed from this ~~State~~ state, it may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by Section 308(b).

(c) A warrant to take physical custody of a child must:

(1) recite the facts ~~upon~~ on which a conclusion of ~~imminent~~ immediate serious physical harm or removal from the jurisdiction is based;

(2) direct a law-enforcement ~~officers~~ officer to take physical custody of the child immediately; and

(3) provide for the placement of the child pending final relief.

(d) The respondent must be served with the petition, warrant, and order immediately after the child is taken into physical custody.

(e) A warrant to take physical custody of a child is enforceable throughout this ~~State~~ state. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, it may authorize a law-enforcement ~~officers~~ officer to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize a law-enforcement ~~officers~~ officer to make a forcible entry at any hour.

(f) The court may impose conditions ~~upon~~ on placement of a child to ensure the appearance of the child and the child's custodian.

## **SECTION 312. COSTS, FEES, AND EXPENSES.**

(a) The court shall award the prevailing party, including a ~~State~~ state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from ~~whom~~ which fees or expenses are sought establishes that the award would be clearly inappropriate.

(b) The court may not assess fees, costs, or expenses against a ~~State~~ state unless authorized by law other than this ~~[Act]~~ [act].

**SECTION 313. RECOGNITION AND ENFORCEMENT.** A court of this ~~State~~ state shall accord full faith and credit to an order issued by another ~~State and~~ state which is consistent with this ~~[Act]~~ [act] ~~which and~~ enforces a child-custody determination by a court of another ~~State~~ state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under ~~[Article]~~ 2 this [act].

**SECTION 314. APPEALS.** An appeal may be taken from a final order in a proceeding under this [article] in accordance with [expedited appellate procedures in other civil cases]. Unless the court ~~enters~~ renders a temporary order under Section 204 or 416, the enforcing court may not stay an order enforcing a child-custody determination pending appeal.

**SECTION 315. ROLE OF [PROSECUTOR OR PUBLIC OFFICIAL].**

(a) In a case arising under this ~~[Act]~~ [act] or involving the Hague Convention on the Civil Aspects of International Child Abduction, the [prosecutor or other appropriate public official] may take any lawful action, including resort to a proceeding under this [article] or any other available civil proceeding to locate a child, obtain the return of a child, or enforce a child-custody determination if there is:

- (1) an existing child-custody determination;
- (2) a request to do so from a court in a pending child-custody proceeding;
- (3) a reasonable belief that a criminal statute has been violated; or
- (4) a reasonable belief that the child has been wrongfully removed or retained in

violation of the Hague Convention on the Civil Aspects of International Child Abduction.

(b) A [prosecutor or appropriate public official] acting under this section acts on behalf of the court and may not represent ~~any~~ a party.

**SECTION 316. ROLE OF [LAW ENFORCEMENT].** At the request of a [prosecutor

or other appropriate public official] acting under Section 315, a [law enforcement officer] may take any lawful action reasonably necessary to locate a child or a party and assist [a prosecutor or appropriate public official] with ~~responsibilities~~ a responsibility under Section 315.

**SECTION 317. COSTS AND EXPENSES.** If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the [prosecutor or other appropriate public official] and [law enforcement officers] under Section 315 or 316.

#### [ARTICLE] 4

#### PROCEEDINGS UNDER CONVENTION

**SECTION 401. DEFINITION.** In this article “measure of protection” means a decision made by an authority or a court with regard to a child. The term:

(a) includes:

(1) the attribution, exercise, termination, delegation, or restriction of parental responsibility;

(2) a right of custody, including:

(A) a right relating to the care of the child; and

(B) determining the place of residence of the child;

(3) a right of access or visitation, including the right to take the child for a limited period to a place other than the habitual residence of the child;

(4) guardianship of the child and any similar relationship;

(5) the designation and function of a person that has charge of the child, represents the child or assists the child;

(6) governmental supervision of a person that has charge of the child; and

(7) placement of the child in foster care, institutional care, or a similar relationship; and

(b) does not include:

- (1) establishment or contest of a parent-child relationship;
- (2) adoption, including preparatory measures, or annulment or revocation of an adoption;
- (3) the name of the child;
- (4) emancipation of the child;
- (5) a support or maintenance obligation;
- (6) a trust or succession;
- (7) a public benefit, including social security;
- (8) a general governmental decision with regard to education or health;
- (9) a measure resulting from an offense committed by the child;
- (10) a right of asylum and immigration; or
- (11) property of the child.

#### **SECTION 402. APPLICATION OF ARTICLE.**

(a) Except as otherwise provided in Sections 416, 421, and 422, this [article] applies exclusively to a proceeding in a court of this state:

(1) which involves recognition and enforcement of a measure of protection ordered by an authority in a convention country; or

(2) in which:

(A) a party to the proceeding has a significant connection to a convention country; or



(B) a child who is the subject of the proceeding has a significant connection to a convention country.

(b) If a provision of this [article] is inconsistent with [Articles] 1 through 3, this [article] controls.

### **SECTION 403. EFFECT OF MEASURE OF PROTECTION.**

(a) A measure of protection ordered by a court of this state that had jurisdiction under this [article] binds a person that:

(1) has:

(A) been served in accordance with law of this state other than this [act];

(B) been notified in accordance with Section 405; or

(C) submitted to the jurisdiction of the court; and

(2) has been given an opportunity to be heard.

(b) A measure of protection that binds a person under subsection (a) is conclusive as to all decided issues of law and fact.

**SECTION 404. PRIORITY.** If a question of the existence or exercise of jurisdiction under this [article] is raised in a proceeding, on request of a party the question must be given priority on the calendar and handled expeditiously.

### **SECTION 405. NOTICE TO PERSON OUTSIDE STATE.**

(a) Notice required for the exercise of jurisdiction by a court of this state to a person outside this state may be given in a manner for service of process prescribed by law of this state other than this [act] or the convention country in which the service is made. Notice must be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

(b) Proof of service may be made in the manner prescribed by law of this state other than this [act] or the convention country in which service is made.

(c) Notice is not required for the exercise of jurisdiction with respect to a person that submits to the jurisdiction of a court of this state.

#### **SECTION 406. APPEARANCE AND LIMITED IMMUNITY.**

(a) A party to a proceeding under this [article], including a modification proceeding, or a petitioner or respondent to a proceeding to enforce or register a measure of protection, is not subject to personal jurisdiction in this state for another proceeding or purpose solely by reason of having participated, or having been physically present for the purpose of participating, in the proceeding.

(b) A party subject to personal jurisdiction in this state on a basis other than physical presence is not immune under subsection (a) from service of process in this state. A party present in this state which is subject to the jurisdiction of another state or convention country is not immune under subsection (a) from service of process allowable under the law of that state or convention country.

(c) Immunity under subsection (a) does not extend to civil litigation based on an act committed by a party while present in this state which is unrelated to the party's participation in a proceeding under this [article].

#### **SECTION 407. COMMUNICATION BETWEEN COURT AND AUTHORITY.**

(a) In a proceeding under this [article], a court of this state may communicate with an authority in a convention country concerning the proceeding.

(b) A court may allow the parties to participate in a communication under this section. If a party is not able to participate in the communication, the party must be given the opportunity to

present facts and legal arguments before a decision on jurisdiction is made.

(c) Communication between the court and an authority on a schedule, calendar, court record, or similar matter may occur without informing the parties under this section. A record need not be made of the communication.

(d) Except as otherwise provided in subsection (c), a record must be made of a communication under this section. The parties must be informed promptly of the communication and granted access to the record.

#### **SECTION 408. TAKING TESTIMONY IN CONVENTION COUNTRY.**

(a) In addition to other procedures available to a party, a party to a proceeding in a court of this state under this [article] may offer testimony of an individual located in a convention country, including testimony of a party or child, by deposition or other means allowable in this state for testimony taken in another state or foreign country. The court may order that testimony be taken in a convention country and may prescribe the manner in which and the terms on which the testimony is taken.

(b) In a proceeding under this [article], a court of this state may permit an individual residing in a convention country to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated authority or at another location in that country. A court of this state shall cooperate with an authority of a convention country in designating an appropriate location for the deposition or testimony.

(c) In a proceeding under this [article], documentary evidence transmitted from a convention country to the court of this state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

**SECTION 409. COOPERATION BETWEEN COURT AND AUTHORITY;**

**PRESERVATION OF RECORDS.**

(a) In a proceeding under this [article], a court of this state may request the appropriate authority of a convention country to:

(1) hold an evidentiary hearing;

(2) order a person to produce or give evidence under procedures of that country;

(3) order that an evaluation be made with respect to the child involved in the proceeding;

(4) forward to the court a certified copy of the transcript of the record of the hearing, the evidence presented, and any evaluation prepared in compliance with the request; and

(5) order a party to a measure of protection proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

(b) In a proceeding under this [article], on request of an authority of a convention country a court of this state may hold a hearing or render an order described in subsection (a).

(c) Travel and other necessary and reasonable expenses incurred under subsections (a) and (b) may be assessed against a party according to law of this state other than this [act].

(d) In a proceeding under this [article], the court shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a measure of protection until the child attains 18 years of age. On request by an authority or law enforcement official of a convention country, the court shall forward a certified copy of those records.

**SECTION 410. HABITUAL RESIDENCE.** In a proceeding under this [article], a court of this state shall consider all relevant factors in determining the habitual residence of a child, which may include:

- (1) whether the child has a home state in the United States;
- (2) the extent of the child's ties to a particular country, including the child's social interactions, education, family relationships, peer relationships, and language;
- (3) the age and maturity of the child;
- (4) whether the presence of the child in a country is time limited or open ended;
- (5) the circumstances under which the child is in a country; and
- (6) the intent of each person with parental responsibility for the child in determining the habitual residence of the child.

**SECTION 411. JURISDICTION TO ORDER OR MODIFY MEASURE OF PROTECTION.**

(a) Except as otherwise provided in Section 416, a court of this state has jurisdiction to order or modify a measure of protection only if:

(1) the court has jurisdiction under Section 201 and the United States is the habitual residence of a child;

(2) the child is present in this state and:

(A) the habitual residence of the child cannot be determined;

(B) the child is a refugee; or

(C) the child is internationally displaced due to disturbances in the country of the habitual residence of the child; or

(3) an authority with jurisdiction substantially in accord with paragraph (1) or (2) requests the court to assume jurisdiction and the court agrees.

(b) If requested by a party, the court shall make findings and conclusions of the jurisdictional facts.

## **SECTION 412. SIMULTANEOUS PROCEEDINGS.**

(a) Except as otherwise provided in Section 416, a court of this state may not exercise its jurisdiction under Section 411, 413, or 414, if the court determines that when the proceeding commenced, a request for a similar measure of protection was made before an authority having jurisdiction and that request is still under consideration, unless the authority declines to exercise its jurisdiction in favor of the court.

(b) If a court of this state that has jurisdiction under Section 411, 413, or 414 determines that a proceeding has been commenced later in a convention country having jurisdiction concerning a similar measure of protection, the court may decline to exercise jurisdiction.

## **SECTION 413. WRONGFUL REMOVAL OR RETENTION OF CHILD; JURISDICTION.**

(a) This section applies to a right of custody that arises:

(1) by operation of law;

(2) under an agreement having legal effect under the law of the country of the habitual residence of the child immediately before removal or retention of the child; or

(3) from a judicial or administrative decision.

(b) Removal or retention of a child is wrongful if:

(1) it is in breach of a right of custody of a person, either jointly or solely, under the law of the country of the habitual residence of the child immediately before the removal or retention; and

(2) at the time of removal or retention, the right of custody was exercised, either jointly or solely, or would have been exercised but for the removal or retention.

(c) A court that has jurisdiction under Section 411(a)(1) continues to have jurisdiction

after a wrongful removal or retention of a child until the child acquires a new habitual residence  
and:

(1) each person with a right of custody has acquiesced in the removal or retention;

or

(2) the child resides in the country of the new habitual residence for at least one  
year after the time that every person with a right of custody knew or should have known of the  
whereabouts of the child, and

(A) no request for the return of the child is pending before an authority of  
the country of the new habitual residence or in a court of this state; and

(B) the child is settled in the new environment.

(d) Except as otherwise provided in Section 416, a court of this state does not have  
jurisdiction over a child whose habitual residence in this state is the result of a wrongful removal  
or retention unless:

(1) each person with a right of custody has acquiesced in the removal or retention;

(2) the child resides in this state for at least one year after the time that every  
person with a right of custody knew or should have known of the whereabouts of the child, and

(A) no request for the return of the child is pending in a court of this state  
or before an authority of the country of the former habitual residence of the child; and

(B) the child is settled in the new environment; or

(3) the court assumes jurisdiction under Section 415.

#### **SECTION 414. DECLINING JURISDICTION.**

(a) If a court of this state that has jurisdiction under Section 411(a)(1) or (2) determines

that an authority in a convention country is in a better position to assess the best interest of a child, the court may:

(1) request that the authority assume jurisdiction over all or part of the case; or

(2) stay the proceeding to allow a party to request that the authority assume jurisdiction.

(b) If under subsection (a), the authority of the convention country agrees to assume jurisdiction, the court may decline to exercise jurisdiction.

(c) A court of this state may communicate under Section 407 with the authority in a convention country concerning a request that it assume jurisdiction under subsection (a).

(d) Before determining under subsection (a) whether an authority in a convention country is in a better position to determine the best interest of a child, the court shall allow each party to submit information and shall consider all relevant factors, including:

(1) whether domestic violence has occurred and is likely to continue and which country can best protect the parties and the child;

(2) the time the child has resided outside the United States;

(3) the distance between the court and the authority which would assume jurisdiction;

(4) the financial circumstances of the parties;

(5) any agreement of the parties as to which country should assume jurisdiction;

(6) the nature and location of evidence required to resolve any issue in the case, including testimony of the child;

(7) the ability of the court and the authority to obtain evidence and decide the case expeditiously;



(8) the procedures available in this state and the convention country necessary to present evidence;

(9) the familiarity of the court and the authority with the facts and issues in the proceeding; and

(10) whether a defense to the return of the child was sustained under the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

(e) A request under subsection (a) may be made only to an authority:

(1) in a convention country of which the child is a national;

(2) that has jurisdiction over the [divorce] or annulment of marriage of the parents of the child; or

(3) in a convention country that has a significant connection to the child.

(f) A declination of jurisdiction under this section is not permanent.

#### **SECTION 415. REQUESTING JURISDICTION.**

(a) A court of this state may request, or invite the parties to request, the appropriate authority of the convention country of the habitual residence of a child to decline jurisdiction over a measure of protection in favor of the court if:

(1) the child is a national of the United States;

(2) a [divorce] or annulment of marriage proceeding concerning the parents of the child is pending in this state; or

(3) this state has a significant connection to the child.

(b) The court may communicate under Section 407 with the authority concerning a request under subsection (a).

(c) A court of this state may not assume jurisdiction following a request under subsection

(a) until the authority declines jurisdiction in favor of the court.

(d) An assumption of jurisdiction under this section is not permanent.

#### **SECTION 416. TEMPORARY URGENT JURISDICTION.**

(a) A court of this state has jurisdiction to order a temporary measure of protection for a child present in this state in an urgent situation, including when the child:

(1) has been abandoned;

(2) may be immediately removed from the state; or

(3) it is necessary to protect the child because the child or a sibling or parent of the child is subjected to or threatened with mistreatment or abuse.

(b) A measure of protection ordered under subsection (a) regarding a child habitually resident in a convention country expires when the court orders an end to the measure or an authority with jurisdiction has taken measures required by the situation.

(c) A measure of protection ordered under subsection (a) regarding a child habitually resident in a nonconvention country expires when the court orders an end to the measure or a measure ordered by the nonconvention country is registered in this state under Section 305.

#### **SECTION 417. NOTICE; OPPORTUNITY TO BE HEARD; JOINDER.**

(a) Before a measure of protection is ordered by a court of this state under this [article], notice and an opportunity to be heard must be given to:

(1) each person entitled to notice under the law of this state in a child-custody proceeding between residents of this state;

(2) a parent whose parental rights have not been terminated; and

(3) a person having physical custody of the child.

(b) The obligation to join a party and the right to intervene as a party in a proceeding

under this [article] are governed by the law of this state in a child-custody proceeding between residents of this state.

**SECTION 418. INFORMATION TO BE SUBMITTED TO COURT.**

(a) [Subject to [local law providing for the confidentiality of procedures, addresses, and other identifying information], in] [In] a measure of protection proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath, as to the child's present address or whereabouts, the places where the child has lived during the last five years, and the name and present address of each person with which the child has lived during that period. The pleading or affidavit must state whether the party:

(1) has participated as a party or witness, or in any other capacity, in another proceeding concerning a measure of protection for the child and, if so, identify the court or authority, the case number, and the date of the proceeding;

(2) knows of any proceeding that could affect the current proceeding, including a proceeding for enforcement and a proceeding relating to domestic violence, a protective order, a termination of parental rights, or an adoption and, if so, identify the court or authority, the case number, and the date of the proceeding; and

(3) knows the name and address of any person not a party to the proceeding having physical custody of the child or claiming a right of legal custody or physical custody of, or visitation with, the child and, if so, the name and address of the person.

(b) If the information required by subsection (a) is not furnished, the court, on motion of a party or on its own motion, may stay the proceeding until the information is furnished.

(c) If a pleading or affidavit states any information under subsection (a) affirmatively, the declarant shall give additional information under oath as required by the court. The court may

examine the party under oath as to details of the information furnished and any other matter pertinent to the court's jurisdiction and the disposition of the case.

(d) A party to a measure of protection proceeding has a continuing duty to inform the court of any proceeding that could affect the current proceeding.

[(e) If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of identifying information, the information must be sealed and may not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, or liberty of the party or child and determines that the disclosure is in the interest of justice.]

#### **SECTION 419. APPEARANCE OF PARTIES AND CHILD.**

(a) In a measure of protection proceeding in this state, the court may order a party that is in this state to appear before the court in person with or without the child. The court may order a person that is in this state and has physical custody or control of the child to appear in person with the child.

(b) If a party to a measure of protection proceeding whose presence is desired by the court is outside this state, the court may order that a notice given pursuant to Section 405 include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party.

(c) The court may enter an order necessary to ensure the safety of the child and a person ordered to appear under this section.

(d) If a party to a measure of protection proceeding who is outside this state is directed to appear under subsection (b) or desires to appear personally before the court with or without the

child, the court may require another party to pay reasonable and necessary travel or other expenses of the party appearing and of the child.

**SECTION 420. DURATION OF MEASURE OF PROTECTION.** Except as otherwise provided in Section 416(b) and (c), the following rules apply:

(1) A measure of protection ordered by a court of this state with jurisdiction under Section 411, 413, or 414 remains in force, even if a change of circumstances has eliminated the jurisdictional basis of the measure, until terminated, modified, or replaced by a measure of a court of this state or an authority of a convention country with jurisdiction.

(2) A measure of protection ordered by an authority of a convention country with jurisdiction remains in force even if a change of circumstances has eliminated the jurisdictional basis of the measure, until terminated, modified, or replaced by a measure of a court of this state or an authority with jurisdiction.

**SECTION 421. CONFLICT OF LAWS; IN GENERAL.**

(a) In this section, “law” means the law in a state or foreign country other than its conflict of laws rules.

(b) Except as otherwise provided in this section and Section 422, a court of this state shall apply the law of this state in a proceeding under this [article].

(c) In an exceptional circumstance to protect a child, a court of this state in a proceeding under this [article] may apply or take into consideration the law of another country that has a significant connection to the child.

(d) If this state becomes the habitual residence of a child, the law of this state governs the application in this state of a measure of protection taken in the convention country of the former habitual residence of the child.

(e) Except as provided in Section 422(c), in a proceeding under this [act], the law of the habitual residence of a child governs the exercise of parental responsibility. If the habitual residence of the child changes, the law of the new habitual residence applies.

(f) A court of this state may decline to apply the law designated by this section only if the court finds, after taking into account the best interest of the child, the law is manifestly contrary to the public policy of this state.

**SECTION 422. CONFLICT OF LAWS RULES REGARDING PARENTAL RESPONSIBILITY.**

(a) Except as otherwise provided in subsection (b), in this section, “law” means the law in force in a state or foreign country other than its conflict of laws rules.

(b) If the law made applicable by this section is the law of a nonconvention country and the conflict of laws rules of the nonconvention country would apply the law of another nonconvention country, the law of the other nonconvention country is applicable. If the other nonconvention country would not apply its own law, the law applicable is determined under subsection (c).

(c) In a proceeding under this [article], the following rules apply:

(1) Attribution or extinction of parental responsibility by operation of law, without the intervention of an authority, is governed by the law of the country of the habitual residence of the child.

(2) Attribution or extinction of parental responsibility by agreement or a unilateral act, without the intervention of an authority, is governed by the law of the country of the habitual residence of the child at the time the agreement or act takes effect.

(3) Attribution of parental responsibility under the law of the country of the

habitual residence of the child continues even if the child acquires a new habitual residence.

(4) If the child acquires a new habitual residence, the law of the new habitual residence determines the attribution of parental responsibility by operation of law to an individual who at the time of the acquisition of the new habitual residence did not have parental responsibility.

(d) Parental responsibility established under subsection (c) may be terminated or modified by a measure of protection ordered in accordance with this [article].

(e) A court of this state may refuse to apply the law designated by this section only if the court finds, after taking into account the best interest of the child, the law is manifestly contrary to the public policy of this state.

**SECTION 423. DUTY TO RECOGNIZE AND ENFORCE MEASURE OF PROTECTION ORDERED IN CONVENTION COUNTRY.** Except as otherwise provided in paragraph (3), the following rules apply:

(1) A court of this state shall recognize and enforce a measure of protection ordered by an authority in a convention country if:

(A) the convention country exercised jurisdiction in substantial conformity with this [article] or the measure of protection was ordered under factual circumstances meeting the jurisdictional standards of this [article]; and

(B) the measure has not been modified in accordance with this [article].

(2) If a child's habitual residence is not in the convention country, the recognition required by paragraph (1) applies to a measure of protection ordered by an authority in a convention country that had jurisdiction over the [divorce] or annulment of the marriage of the parents of the child if:

(A) the law of the convention country so provides;

(B) the habitual residence of one parent is in the country;

(C) at least one parent had parental responsibility when the proceedings for [divorce] or annulment commenced; and

(D) the jurisdiction of the authority that decided the [divorce] or annulment was agreed to by the parents or any other person with parental responsibility.

(3) A court of this state may decline to recognize a measure of protection ordered by an authority of a convention country only if:

(A) the convention country was not the habitual residence of the child and did not otherwise have jurisdiction under Section 411(a)(2), 413, or 414;

(B) except in an urgent situation, the issuing authority did not allow the respondent an opportunity to be heard;

(C) the measure is incompatible with a later measure taken by an authority of a convention country with jurisdiction or by an authority of a nonconvention country of the child's habitual residence;

(D) the court finds, after taking into account the best interest of the child, the measure is manifestly contrary to the public policy of this state;

(E) except in an urgent situation, the issuing authority did not provide the child an opportunity to be heard in violation of fundamental principles of procedure of this state; or

(F) the child has been placed in foster care, institutional care, or a similar relationship in this state and the authority that ordered the placement did so without consultation and without transmitting a report giving the reasons for the placement and this state has not consented to the placement.



**SECTION 424. REGISTRATION, RECOGNITION, AND ENFORCEMENT OF MEASURE OF PROTECTION OF CONVENTION COUNTRY.**

(a) A measure of protection ordered by an authority of a convention country may be registered in this state under Section 305.

(b) A measure of protection ordered by an authority of a convention country may be recognized and enforced under Sections 308 through 312.

(c) Registration, recognition, and enforcement of a measure of protection ordered by a an authority of a convention country may be declined only under Section 423(3).

(d) A court of this state is bound by the findings of fact on which the authority of a convention country based its jurisdiction.

(e) A court of this state may use any remedy available to the court to enforce a measure of protection ordered by an authority of a convention country. The remedies in this [act] are cumulative and do not affect the availability of other remedies to enforce a measure of protection.

**SECTION 425. COOPERATION WITH CONVENTION COUNTRY.** Before placing a child in foster care, institutional care, or a similar situation in a convention country, a court of this state shall:

(1) consult with the appropriate authority of the convention country;

(2) transmit a report to the authority giving reasons for the placement; and

(3) obtain consent to the placement by the authority.

**SECTION 426. SUITABILITY TO EXERCISE [VISITATION].**

(a) A parent may request the court to stay a proceeding in which the parent is seeking to obtain or maintain [visitation] if the parent has asked an authority of a convention country with which the parent has a significant connection to make a finding on the suitability of the parent to

exercise visitation.

(b) If the authority made a finding on the suitability of the parent to exercise [visitation], the court shall consider the finding in making a decision on [visitation].

## **[ARTICLE] 45**

### **MISCELLANEOUS PROVISIONS**

#### **SECTION ~~401~~ 501. UNIFORMITY OF APPLICATION AND CONSTRUCTION.**

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**SECTION 502. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.** This [act] modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

**SECTION ~~405~~ 503. TRANSITIONAL PROVISION.** A motion or other request for relief made in a child-custody proceeding or to enforce a child-custody determination which was commenced before the [effective date of this [act]] is governed by the law in effect at the time the motion or other request was made.

**[SECTION ~~402~~ 504. SEVERABILITY.** If any provision of this [act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [act] which can be given effect without the invalid provision or application, and to this end the provisions of this [act] are severable.]

***Legislative Note:** Include this section only if this state lacks a general severability statute or a decision by the highest court of this state stating a general rule of severability.*

**SECTION ~~403~~ 505. EFFECTIVE DATE.** This [act] takes effect ....