

By the Committee on Judiciary and Senator Campbell

308-1895-00

1 A bill to be entitled
2 An act relating to child custody jurisdiction
3 and enforcement; creating the "Uniform Child
4 Custody Jurisdiction and Enforcement Act";
5 providing purposes of act; providing
6 definitions; specifying proceedings not
7 governed by the act; providing application to
8 Indian tribes; providing international
9 application of the act; providing the effect of
10 a child custody determination; providing
11 priority for questions of jurisdiction under
12 the act; providing for notice to persons
13 outside the state; providing for appearance at
14 proceedings and limited immunity; providing for
15 communication between courts of this state and
16 courts of other states; providing for taking
17 testimony in another state; providing for
18 cooperation between courts and the preservation
19 of records; providing for initial child custody
20 jurisdiction; providing for exclusive,
21 continuing jurisdiction; providing for
22 jurisdiction to modify a child custody
23 determination; providing for temporary
24 emergency jurisdiction; providing for notice,
25 opportunity to be heard, and joinder; providing
26 procedures with respect to simultaneous
27 proceedings; providing for determination of an
28 inconvenient forum; providing procedures for a
29 decline of jurisdiction by reason of conduct;
30 specifying information to be submitted to the
31 court; providing for the appearance of the

1 parties and the child at proceedings; providing
2 definitions relating to enforcement; providing
3 for enforcement under the Hague Convention;
4 providing duty of the court to enforce child
5 custody determinations of a court of another
6 state; providing for temporary visitation;
7 providing for registration of out-of-state
8 child custody determinations; providing for
9 enforcement of registered determinations;
10 providing procedures with respect to
11 simultaneous proceedings; providing for
12 expedited enforcement of a child custody
13 determination; providing for service of
14 petition and order; providing for hearing and
15 order; providing for issuance of a warrant to
16 take physical custody of a child under certain
17 circumstances; providing for award of costs,
18 fees, and expenses to the prevailing party;
19 providing for recognition of enforcement orders
20 of a court of another state; providing for
21 appeals; providing for actions by the state
22 attorney; providing for actions by law
23 enforcement officers; providing for assessment
24 of costs and expenses incurred by the state
25 attorney and law enforcement officers;
26 providing for application and construction of
27 the act; providing severability; providing for
28 transition; amending ss. 39.502, 61.13, and
29 741.30, F.S.; conforming references and
30 cross-references; repealing ss. 61.1302,
31 61.1304, 61.1306, 61.1308, 61.131, 61.1312,

1 61.1314, 61.1316, 61.1318, 61.132, 61.1322,
2 61.1324, 61.1326, 61.1328, 61.133, 61.1332,
3 61.1334, 61.1336, 61.1338, 61.134, 61.1342,
4 61.1344, 61.1346, and 61.1348, F.S., relating
5 to the "Uniform Child Custody Jurisdiction
6 Act"; providing an effective date.

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8 Be It Enacted by the Legislature of the State of Florida:

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10 Section 1. Short title.--This act may be cited as the
11 "Uniform Child Custody Jurisdiction and Enforcement Act."

12 Section 2. Purposes of act; construction of
13 provisions.--The general purposes of this act are to:

14 (1) Avoid jurisdictional competition and conflict with
15 courts of other states in matters of child custody which have
16 in the past resulted in the shifting of children from state to
17 state with harmful effects on their well-being.

18 (2) Promote cooperation with the courts of other
19 states to the end that a custody decree is rendered in the
20 state which can best decide the case in the interest of the
21 child.

22 (3) Discourage the use of the interstate system for
23 continuing controversies over child custody.

24 (4) Deter abductions.

25 (5) Avoid relitigation of custody decisions of other
26 states in this state.

27 (6) Facilitate the enforcement of custody decrees of
28 other states.

29 (7) Promote and expand the exchange of information and
30 other forms of mutual assistance between the courts of this
31 state and those of other states concerned with the same child.

1 (8) Make uniform the law with respect to the subject
2 of this act among states enacting it.

3 Section 3. Definitions.--As used in this act, the
4 term:

5 (1) "Abandoned" means left without provision for
6 reasonable and necessary care or supervision.

7 (2) "Child" means an individual who has not attained
8 18 years of age.

9 (3) "Child custody determination" means a judgment,
10 decree, or other order of a court providing for the legal
11 custody, physical custody, or visitation with respect to a
12 child. The term includes a permanent, temporary, initial, and
13 modification order. The term does not include an order
14 relating to child support or other monetary obligation of an
15 individual.

16 (4) "Child custody proceeding" means a proceeding in
17 which legal custody, physical custody, or visitation with
18 respect to a child is an issue. The term includes a proceeding
19 for divorce, separation, neglect, abuse, dependency,
20 guardianship, paternity, termination of parental rights, and
21 protection from domestic violence, in which the issue may
22 appear. The term does not include a proceeding involving
23 juvenile delinquency, contractual emancipation, or enforcement
24 under sections 24 through 40.

25 (5) "Commencement" means the filing of the first
26 pleading in a proceeding.

27 (6) "Court" means an entity authorized under the law
28 of a state to establish, enforce, or modify a child custody
29 determination.

30 (7) "Home state" means the state in which a child
31 lived with a parent or a person acting as a parent for at

1 least 6 consecutive months immediately before the commencement
2 of a child custody proceeding. In the case of a child less
3 than 6 months of age, the term means the state in which the
4 child lived from birth with any of the persons mentioned. A
5 period of temporary absence of any of the mentioned persons is
6 part of the period.

7 (8) "Initial determination" means the first child
8 custody determination concerning a particular child.

9 (9) "Issuing court" means the court that makes a child
10 custody determination for which enforcement is sought under
11 this act.

12 (10) "Issuing state" means the state in which a child
13 custody determination is made.

14 (11) "Modification" means a child custody
15 determination that changes, replaces, supersedes, or is
16 otherwise made after a previous determination concerning the
17 same child, whether or not it is made by the court that made
18 the previous determination.

19 (12) "Person" means an individual, corporation,
20 business trust, estate, trust, partnership, limited liability
21 company, association, joint venture, or government;
22 governmental subdivision, agency, instrumentality, or public
23 corporation; or any other legal or commercial entity.

24 (13) "Person acting as a parent" means a person, other
25 than a parent, who:

26 (a) Has physical custody of the child or has had
27 physical custody for a period of 6 consecutive months,
28 including any temporary absence, within 1 year immediately
29 before the commencement of a child custody proceeding; and

30 (b) Has been awarded legal custody by a court or
31 claims a right to legal custody under the law of this state.

1 (14) "Physical custody" means the physical care and
2 supervision of a child.

3 (15) "State" means a state of the United States, the
4 District of Columbia, Puerto Rico, the United States Virgin
5 Islands, or any territory or insular possession subject to the
6 jurisdiction of the United States.

7 (16) "Tribe" means an Indian tribe, or band, or
8 Alaskan Native village which is recognized by federal law or
9 formally acknowledged by a state.

10 (17) "Warrant" means an order issued by a court
11 authorizing law enforcement officers to take physical custody
12 of a child.

13 Section 4. Proceedings governed by other law.--This
14 act does not govern an adoption proceeding or a proceeding
15 pertaining to the authorization of emergency medical care for
16 a child.

17 Section 5. Application to Indian tribes.--

18 (1) A child custody proceeding that pertains to an
19 Indian child as defined in the Indian Child Welfare Act, 25
20 U.S.C. s. 1901 et seq., is not subject to this act to the
21 extent that it is governed by the Indian Child Welfare Act.

22 (2) A court of this state shall treat a tribe as if it
23 were a state of the United States for purposes of applying
24 sections 1 through 23.

25 (3) A child custody determination made by a tribe
26 under factual circumstances in substantial conformity with the
27 jurisdictional standards of this act must be recognized and
28 enforced under sections 24 through 40.

29 Section 6. International application of act.--

1 (1) A court of this state shall treat a foreign
2 country as if it were a state of the United States for
3 purposes of applying sections 1 through 23.

4 (2) Except as otherwise provided in subsection (3), a
5 child custody determination made in a foreign country under
6 factual circumstances in substantial conformity with the
7 jurisdictional standards of this act must be recognized and
8 enforced under sections 24 through 40.

9 (3) A court of this state need not apply this act if
10 the child custody law of a foreign country violates
11 fundamental principles of human rights.

12 Section 7. Effect of child custody determination.--A
13 child custody determination made by a court of this state that
14 had jurisdiction under this act binds all persons who have
15 been served in accordance with the laws of this state or
16 notified in accordance with section 9 or who have submitted to
17 the jurisdiction of the court, and who have been given an
18 opportunity to be heard. As to those persons, the
19 determination is conclusive as to all decided issues of law
20 and fact except to the extent the determination is modified.

21 Section 8. Priority.--If a question of existence or
22 exercise of jurisdiction under this act is raised in a child
23 custody proceeding, the question, upon request of a party,
24 must be given priority on the calendar and handled
25 expeditiously.

26 Section 9. Notice to persons outside the state.--

27 (1) Notice required for the exercise of jurisdiction
28 when a person is outside this state may be given in a manner
29 prescribed by the laws of this state for the service of
30 process or by the laws of the state in which the service is
31 made. Notice must be given in a manner reasonably calculated

1 to give actual notice, but may be by publication if other
2 means are not effective.

3 (2) Proof of service may be made in the manner
4 prescribed by the law of this state or by the law of the state
5 in which the service is made.

6 (3) Notice is not required for the exercise of
7 jurisdiction with respect to a person who submits to the
8 jurisdiction of the court.

9 Section 10. Appearance and limited immunity.--

10 (1) A party to a child custody proceeding, including a
11 modification proceeding, or a petitioner or respondent in a
12 proceeding to enforce or register a child custody
13 determination, is not subject to personal jurisdiction in this
14 state for another proceeding or purpose solely by reason of
15 having participated, or of having been physically present for
16 the purpose of participating, in the proceeding.

17 (2) A person who is subject to personal jurisdiction
18 in this state on a basis other than physical presence is not
19 immune from service of process in this state. A party present
20 in this state who is subject to the jurisdiction of another
21 state is not immune from service of process allowable under
22 the laws of that state.

23 (3) The immunity granted by subsection (1) does not
24 extend to civil litigation based on acts unrelated to the
25 participation in a proceeding under this act committed by an
26 individual while present in this state.

27 Section 11. Communication between courts.--

28 (1) A court of this state may communicate with a court
29 in another state concerning a proceeding arising under this
30 act.

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1 (2) The court may allow the parties to participate in
2 the communication. If the parties are not able to participate
3 in the communication, they must be given the opportunity to
4 present facts and legal arguments before a decision on
5 jurisdiction is made.

6 (3) Communication between courts on schedules,
7 calendars, court records, and similar matters may occur
8 without informing the parties. A record need not be made of
9 the communication.

10 (4) Except as otherwise provided in subsection (3), a
11 record must be made of a communication under this section. The
12 parties must be informed promptly of the communication and
13 granted access to the record.

14 (5) For the purposes of this section, "record" means
15 information that is inscribed on a tangible medium or that is
16 stored in an electronic or other medium and is retrievable in
17 perceivable form.

18 Section 12. Taking testimony in another state.--

19 (1) In addition to other procedures available to a
20 party, a party to a child custody proceeding may offer
21 testimony of witnesses who are located in another state,
22 including testimony of the parties and the child, by
23 deposition or other means allowable in this state for
24 testimony taken in another state. The court on its own motion
25 may order that the testimony of a person be taken in another
26 state and may prescribe the manner in which and the terms upon
27 which the testimony is taken.

28 (2) A court of this state may permit an individual
29 residing in another state to be deposed or to testify by
30 telephone, audiovisual means, or other electronic means before
31 a designated court or at another location in that state. A

1 court of this state shall cooperate with courts of other
2 states in designating an appropriate location for the
3 deposition or testimony.

4 (3) Documentary evidence transmitted from another
5 state to a court of this state by technological means that do
6 not produce an original writing may not be excluded from
7 evidence on an objection based on the means of transmission.

8 Section 13. Cooperation between courts; preservation
9 of records.--

10 (1) A court of this state may request the appropriate
11 court of another state to:

12 (a) Hold an evidentiary hearing;

13 (b) Order a person to produce or give evidence
14 pursuant to procedures of that state;

15 (c) Order that an evaluation be made with respect to
16 the custody of a child involved in a pending proceeding;

17 (d) Forward to the court of this state a certified
18 copy of the transcript of the record of the hearing, the
19 evidence otherwise presented, and any evaluation prepared in
20 compliance with the request; and

21 (e) Order a party to a child custody proceeding or any
22 person having physical custody of the child to appear in the
23 proceeding with or without the child.

24 (2) Upon request of a court of another state, a court
25 of this state may hold a hearing or enter an order described
26 in subsection (1).

27 (3) Travel and other necessary and reasonable expenses
28 incurred under subsections (1) and (2) may be assessed against
29 the parties according to the laws of this state.

30 (4) A court of this state shall preserve the
31 pleadings, orders, decrees, records of hearings, evaluations,

1 and other pertinent records with respect to a child custody
2 proceeding until the child attains 18 years of age. Upon
3 appropriate request by a court or law enforcement official of
4 another state, the court shall forward a certified copy of
5 these records.

6 Section 14. Initial child custody jurisdiction.--

7 (1) Except as otherwise provided in section 17, a
8 court of this state has jurisdiction to make an initial child
9 custody determination only if:

10 (a) This state is the home state of the child on the
11 date of the commencement of the proceeding, or was the home
12 state of the child within 6 months before the commencement of
13 the proceeding and the child is absent from this state but a
14 parent or person acting as a parent continues to live in this
15 state;

16 (b) A court of another state does not have
17 jurisdiction under paragraph (a), or a court of the home state
18 of the child has declined to exercise jurisdiction on the
19 ground that this state is the more appropriate forum under
20 section 20 or section 21, and:

21 1. The child and the child's parents, or the child and
22 at least one parent or a person acting as a parent, have a
23 significant connection with this state other than mere
24 physical presence; and

25 2. Substantial evidence is available in this state
26 concerning the child's care, protection, training, and
27 personal relationships;

28 (c) All courts having jurisdiction under paragraph (a)
29 or paragraph (b) have declined to exercise jurisdiction on the
30 ground that a court of this state is the more appropriate

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1 forum to determine the custody of the child under section 20
2 or section 21; or

3 (d) No court of any other state would have
4 jurisdiction under the criteria specified in paragraph (a),
5 paragraph (b), or paragraph (c).

6 (2) Subsection (1) is the exclusive jurisdictional
7 basis for making a child custody determination by a court of
8 this state.

9 (3) Physical presence of, or personal jurisdiction
10 over, a party or a child is not necessary or sufficient to
11 make a child custody determination.

12 Section 15. Exclusive, continuing jurisdiction.--

13 (1) Except as otherwise provided in section 17, a
14 court of this state which has made a child custody
15 determination consistent with section 14 or section 16 has
16 exclusive, continuing jurisdiction over the determination
17 until:

18 (a) A court of this state determines that the child,
19 the child's parents, and any person acting as a parent do not
20 have a significant connection with this state and that
21 substantial evidence is no longer available in this state
22 concerning the child's care, protection, training, and
23 personal relationships; or

24 (b) A court of this state or a court of another state
25 determines that the child, the child's parent, and any person
26 acting as a parent do not presently reside in this state.

27 (2) A court of this state that has made a child
28 custody determination and does not have exclusive, continuing
29 jurisdiction under this section may modify that determination
30 only if it has jurisdiction to make an initial determination
31 under section 14.

1 Section 16. Jurisdiction to modify
2 determination.--Except as otherwise provided in section 17, a
3 court of this state may not modify a child custody
4 determination made by a court of another state unless a court
5 of this state has jurisdiction to make an initial
6 determination under section 14(1)(a) or (b) and:

7 (1) The court of the other state determines it no
8 longer has exclusive, continuing jurisdiction under section 15
9 or that a court of this state would be a more convenient forum
10 under section 20; or

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

15 Section 17. Temporary emergency jurisdiction.--

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

22 (2) If there is no previous child custody
23 determination that is entitled to be enforced under this act,
24 and a child custody proceeding has not been commenced in a
25 court of a state having jurisdiction under sections 14 through
26 16, a child custody determination made under this section
27 remains in effect until an order is obtained from a court of a
28 state having jurisdiction under sections 14 through 16. If a
29 child custody proceeding has not been or is not commenced in a
30 court of a state having jurisdiction under sections 14 through
31 16, a child custody determination made under this section

1 becomes a final determination, if it so provides and this
2 state becomes the home state of the child.

3 (3) If there is a previous child custody determination
4 that is entitled to be enforced under this act, or a child
5 custody proceeding has been commenced in a court of a state
6 having jurisdiction under sections 14 through 16, any order
7 issued by a court of this state under this section must
8 specify in the order a period which the court considers
9 adequate to allow the person seeking an order to obtain an
10 order from the state having jurisdiction under sections 14
11 through 16. The order issued in this state remains in effect
12 until an order is obtained from the other state within the
13 period specified or the period expires.

14 (4) A court of this state which has been asked to make
15 a child custody determination under this section, upon being
16 informed that a child custody proceeding has been commenced
17 in, or a child custody determination has been made by, a court
18 of a state having jurisdiction under sections 14 through 16,
19 shall immediately communicate with the other court. A court of
20 this state which is exercising jurisdiction pursuant to
21 sections 14 through 16, upon being informed that a child
22 custody proceeding has been commenced in, or a child custody
23 determination has been made by, a court of another state under
24 a statute similar to this section shall immediately
25 communicate with the court of that state to resolve the
26 emergency, protect the safety of the parties and the child,
27 and determine a period for the duration of the temporary
28 order.

29 Section 18. Notice; opportunity to be heard;
30 joinder.--

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1 (1) Before a child custody determination is made under
2 this act, notice and an opportunity to be heard in accordance
3 with the standards of section 9 must be given to all persons
4 entitled to notice under the laws of this state as in child
5 custody proceedings between residents of this state, any
6 parent whose parental rights have not been previously
7 terminated, and any person having physical custody of the
8 child.

9 (2) This act does not govern the enforceability of a
10 child custody determination made without notice or an
11 opportunity to be heard.

12 (3) The obligation to join a party and the right to
13 intervene as a party in a child custody proceeding under this
14 act are governed by the laws of this state as in child custody
15 proceedings between residents of this state.

16 Section 19. Simultaneous proceedings.--

17 (1) Except as otherwise provided in section 17, a
18 court of this state may not exercise its jurisdiction under
19 sections 14 through 24 if, at the time of the commencement of
20 the proceeding, a proceeding concerning the custody of the
21 child had been commenced in a court of another state having
22 jurisdiction substantially in conformity with this act, unless
23 the proceeding has been terminated or is stayed by the court
24 of the other state because a court of this state is a more
25 convenient forum under section 20.

26 (2) Except as otherwise provided in section 17, a
27 court of this state, before hearing a child custody
28 proceeding, shall examine the court documents and other
29 information supplied by the parties pursuant to section 22. If
30 the court determines that a child custody proceeding was
31 previously commenced in a court in another state having

1 jurisdiction substantially in accordance with this act, the
2 court of this state shall stay its proceeding and communicate
3 with the court of the other state. If the court of the state
4 having jurisdiction substantially in accordance with this act
5 does not determine that the court of this state is a more
6 appropriate forum, the court of this state shall dismiss the
7 proceeding.

8 (3) In a proceeding to modify a child custody
9 determination, a court of this state shall determine whether a
10 proceeding to enforce the determination has been commenced in
11 another state. If a proceeding to enforce a child custody
12 determination has been commenced in another state, the court
13 may:

14 (a) Stay the proceeding for modification pending the
15 entry of an order of a court of the other state enforcing,
16 staying, denying, or dismissing the proceeding for
17 enforcement;

18 (b) Enjoin the parties from continuing with the
19 proceeding for enforcement; or

20 (c) Proceed with the modification under conditions it
21 considers appropriate.

22 Section 20. Inconvenient forum.--

23 (1) A court of this state which has jurisdiction under
24 this act to make a child custody determination may decline to
25 exercise its jurisdiction at any time if it determines that it
26 is an inconvenient forum under the circumstances and that a
27 court of another state is a more appropriate forum. The issue
28 of inconvenient forum may be raised upon motion of a party,
29 the court's own motion, or request of another court.

30 (2) Before determining whether it is an inconvenient
31 forum, a court of this state shall consider whether it is

1 appropriate for a court of another state to exercise
2 jurisdiction. For this purpose, the court shall allow the
3 parties to submit information and shall consider all relevant
4 factors, including:
5 (a) Whether domestic violence has occurred and is
6 likely to continue in the future and which state could best
7 protect the parties and the child;
8 (b) The length of time the child has resided outside
9 this state;
10 (c) The distance between the court in this state and
11 the court in the state that would assume jurisdiction;
12 (d) The relative financial circumstances of the
13 parties;
14 (e) Any agreement of the parties as to which state
15 should assume jurisdiction;
16 (f) The nature and location of the evidence required
17 to resolve the pending litigation, including testimony of the
18 child;
19 (g) The ability of the court of each state to decide
20 the issue expeditiously and the procedures necessary to
21 present the evidence; and
22 (h) The familiarity of the court of each state with
23 the facts and issues in the pending litigation.
24 (3) If a court of this state determines that it is an
25 inconvenient forum and that a court of another state is a more
26 appropriate forum, it shall stay the proceedings upon
27 condition that a child custody proceeding be promptly
28 commenced in another designated state and may impose any other
29 condition the court considers just and proper.
30 (4) A court of this state may decline to exercise its
31 jurisdiction under this act if a child custody determination

1 is incidental to an action for divorce or another proceeding
2 while still retaining jurisdiction over the divorce or other
3 proceeding.

4 Section 21. Jurisdiction declined by reason of
5 conduct.--

6 (1) Except as otherwise provided in section 17 or by
7 other law of this state, if a court of this state has
8 jurisdiction under this act because a person seeking to invoke
9 its jurisdiction has engaged in unjustifiable conduct, the
10 court shall decline to exercise its jurisdiction unless:

11 (a) The parents and all persons acting as parents have
12 acquiesced in the exercise of jurisdiction;

13 (b) A court of the state otherwise having jurisdiction
14 under sections 14 through 16 determines that this state is a
15 more appropriate forum under section 20; or

16 (c) No court of any other state would have
17 jurisdiction under the criteria specified in sections 14
18 through 16.

19 (2) If a court of this state declines to exercise its
20 jurisdiction pursuant to subsection (1), it may fashion an
21 appropriate remedy to ensure the safety of the child and
22 prevent a repetition of the unjustifiable conduct, including
23 staying the proceeding until a child custody proceeding is
24 commenced in a court having jurisdiction under sections 14
25 through 16.

26 (3) If a court dismisses a petition or stays a
27 proceeding because it declines to exercise its jurisdiction
28 pursuant to subsection (1), it shall assess against the party
29 seeking to invoke its jurisdiction necessary and reasonable
30 expenses, including costs, communication expenses, attorney's
31 fees, investigative fees, expenses for witnesses, travel

1 expenses, and child care during the course of the proceedings,
2 unless the party from whom fees are sought establishes that
3 the assessment would be clearly inappropriate. The court may
4 not assess fees, costs, or expenses against this state unless
5 authorized by law other than this act.

6 Section 22. Information to be submitted to the
7 court.--

8 (1) Subject to state law providing for the
9 confidentiality of procedures, addresses, and other
10 identifying information in a child custody proceeding, each
11 party, in its first pleading or in an attached affidavit,
12 shall give information, if reasonably ascertainable, under
13 oath as to the child's present address or whereabouts, the
14 places where the child has lived during the last 5 years, and
15 the names and present addresses of the persons with whom the
16 child has lived during that period. The pleading or affidavit
17 must state whether the party:

18 (a) Has participated, as a party or witness or in any
19 other capacity, in any other proceeding concerning the custody
20 of or visitation with the child and, if so, identify the
21 court, the case number, and the date of the child custody
22 determination, if any;

23 (b) Knows of any proceeding that could affect the
24 current proceeding, including proceedings for enforcement and
25 proceedings relating to domestic violence, protective orders,
26 termination of parental rights, and adoptions and, if so,
27 identify the court, the case number, and the nature of the
28 proceeding; and

29 (c) Knows the names and addresses of any person not a
30 party to the proceeding who has physical custody of the child
31 or claims rights of legal custody or physical custody of, or

1 visitation with, the child and, if so, the names and addresses
2 of those persons.

3 (2) If the information required by subsection (1) is
4 not furnished, the court, upon motion of a party or its own
5 motion, may stay the proceeding until the information is
6 furnished.

7 (3) If the declaration as to any of the items
8 described in paragraphs (1)(a)-(c) is in the affirmative, the
9 declarant shall give additional information under oath as
10 required by the court. The court may examine the parties under
11 oath as to details of the information furnished and other
12 matters pertinent to the court's jurisdiction and the
13 disposition of the case.

14 (4) Each party has a continuing duty to inform the
15 court of any proceeding in this or any other state that could
16 affect the current proceeding.

17 Section 23. Appearance of parties and child.--

18 (1) In a child custody proceeding in this state, the
19 court may order a party to the proceeding who is in this state
20 to appear before the court in person with or without the
21 child. The court may order any person who is in this state and
22 who has physical custody or control of the child to appear in
23 person with the child.

24 (2) If a party to a child custody proceeding whose
25 presence is desired by the court is outside this state, the
26 court may order that a notice given pursuant to section 9
27 include a statement directing the party to appear in person
28 with or without the child and informing the party that failure
29 to appear may result in a decision adverse to the party.

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1 (3) The court may enter any orders necessary to ensure
2 the safety of the child and of any person ordered to appear
3 under this section.

4 (4) If a party to a child custody proceeding who is
5 outside this state is directed to appear under subsection (2)
6 or desires to appear in person before the court with or
7 without the child, the court may require another party to pay
8 reasonable and necessary travel and other expenses of the
9 party so appearing and of the child.

10 Section 24. Definitions.--As used in sections 24
11 through 40, the term:

12 (1) "Petitioner" means a person who seeks enforcement
13 of an order for return of a child under the Hague Convention
14 on the Civil Aspects of International Child Abduction or
15 enforcement of a child custody determination.

16 (2) "Respondent" means a person against whom a
17 proceeding has been commenced for enforcement of an order for
18 return of a child under the Hague Convention on the Civil
19 Aspects of International Child Abduction or enforcement of a
20 child custody determination.

21 Section 25. Enforcement under the Hague
22 Convention.--Under this act, a court of this state may enforce
23 an order for the return of a child made under the Hague
24 Convention on the Civil Aspects of International Child
25 Abduction as if it were a child custody determination.

26 Section 26. Duty to enforce.--

27 (1) A court of this state shall recognize and enforce
28 a child custody determination of a court of another state if
29 the latter court exercised jurisdiction in substantial
30 conformity with this act or the determination was made under
31 factual circumstances meeting the jurisdictional standards of

1 this act and the determination has not been modified in
2 accordance with this act.

3 (2) A court of this state may utilize any remedy
4 available under other law of this state to enforce a child
5 custody determination made by a court of another state. The
6 remedies provided by sections 24 through 40 are cumulative and
7 do not affect the availability of other remedies to enforce a
8 child custody determination.

9 Section 27. Temporary visitation.--

10 (1) A court of this state which does not have
11 jurisdiction to modify a child custody determination may issue
12 a temporary order enforcing:

13 (a) A visitation schedule made by a court of another
14 state; or

15 (b) The visitation provisions of a child custody
16 determination of another state that does not provide for a
17 specific visitation schedule.

18 (2) If a court of this state makes an order under
19 paragraph (1)(b), it shall specify in the order a period that
20 it considers adequate to allow the petitioner to obtain an
21 order from a court having jurisdiction under the criteria
22 specified in sections 14 through 23. The order remains in
23 effect until an order is obtained from the other court or the
24 period expires.

25 Section 28. Registration of child custody
26 determination.--

27 (1) A child custody determination issued by a court of
28 another state may be registered in this state, with or without
29 a simultaneous request for enforcement, by sending to the
30 appropriate court in this state:

31

1 (a) A letter or other document requesting
2 registration;

3 (b) Two copies, including one certified copy, of the
4 determination sought to be registered, and a statement under
5 penalty of perjury that to the best of the knowledge and
6 belief of the person seeking registration the order has not
7 been modified; and

8 (c) Except as otherwise provided in section 22, the
9 name and address of the person seeking registration and any
10 parent or person acting as a parent who has been awarded
11 custody or visitation in the child custody determination
12 sought to be registered.

13 (2) On receipt of the documents required by subsection
14 (1), the registering court shall:

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

18 (b) Serve notice upon the persons named pursuant to
19 paragraph (1)(c) and provide them with an opportunity to
20 contest the registration in accordance with this section.

21 (3) The notice required by paragraph (2)(b) must state
22 that:

23 (a) A registered determination is enforceable as of
24 the date of the registration in the same manner as a
25 determination issued by a court of this state;

26 (b) A hearing to contest the validity of the
27 registered determination must be requested within 20 days
28 after service of notice; and

29 (c) Failure to contest the registration will result in
30 confirmation of the child custody determination and preclude
31

1 further contest of that determination with respect to any
2 matter that could have been asserted.

3 (4) A person seeking to contest the validity of a
4 registered order must request a hearing within 20 days after
5 service of the notice. At that hearing, the court shall
6 confirm the registered order unless the person contesting
7 registration establishes that:

8 (a) The issuing court did not have jurisdiction under
9 sections 14 through 23;

10 (b) The child custody determination sought to be
11 registered has been vacated, stayed, or modified by a court
12 having jurisdiction to do so under sections 14 through 23; or

13 (c) The person contesting registration was entitled to
14 notice, but notice was not given in accordance with the
15 standards of section 9 in the proceedings before the court
16 that issued the order for which registration is sought.

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

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

26 Section 29. Enforcement of registered determination.--

27 (1) A court of this state may grant any relief
28 normally available under the laws of this state to enforce a
29 registered child custody determination made by a court of
30 another state.

31

1 (2) A court of this state shall recognize and enforce,
2 but may not modify, except in accordance with sections 14
3 through 23, a registered child custody determination of
4 another state.

5 Section 30. Simultaneous proceedings.--If a proceeding
6 for enforcement under sections 24 through 40 is commenced in a
7 court of this state and the court determines that a proceeding
8 to modify the determination is pending in a court of another
9 state having jurisdiction to modify the determination under
10 sections 14 through 23, the enforcing court shall immediately
11 communicate with the modifying court. The proceeding for
12 enforcement continues unless the enforcing court, after
13 consultation with the modifying court, stays or dismisses the
14 proceeding.

15 Section 31. Expedited enforcement of child custody
16 determination.--

17 (1) A petition under sections 24 through 40 must be
18 verified. Certified copies of all orders sought to be enforced
19 and of any order confirming registration must be attached to
20 the petition. A copy of a certified copy of an order may be
21 attached instead of the original.

22 (2) A petition for enforcement of a child custody
23 determination must state:

24 (a) Whether the court that issued the determination
25 identified the jurisdictional basis it relied upon in
26 exercising jurisdiction and, if so, what the basis was;

27 (b) Whether the determination for which enforcement is
28 sought has been vacated, stayed, or modified by a court whose
29 decision must be enforced under this act and, if so, identify
30 the court, the case number, and the nature of the proceeding;
31

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

6 (d) The present physical address of the child and the
7 respondent, if known;

8 (e) Whether relief in addition to the immediate
9 physical custody of the child and attorney's fees is sought,
10 including a request for assistance from law enforcement
11 officers and, if so, the relief sought; and

12 (f) If the child custody determination has been
13 registered and confirmed under section 28, the date and place
14 of registration.

15 (3) Upon the filing of a petition, the court shall
16 issue an order directing the respondent to appear in person
17 with or without the child at a hearing and may enter any order
18 necessary to ensure the safety of the parties and the child.
19 The hearing must be held on the next judicial day after
20 service of the order unless that date is impossible. In that
21 event, the court shall hold the hearing on the first judicial
22 day possible. The court may extend the date of the hearing at
23 the request of the petitioner.

24 (4) An order issued under subsection (3) must state
25 the time and place of the hearing and advise the respondent
26 that at the hearing the court will order that the petitioner
27 may take immediate physical custody of the child and the
28 payment of fees, costs, and expenses under section 35, and may
29 schedule a hearing to determine whether further relief is
30 appropriate, unless the respondent appears and establishes
31 that:

1 (a) The child custody determination has not been
2 registered and confirmed under section 28 and that:

3 1. The issuing court did not have jurisdiction under
4 sections 14 through 23;

5 2. The child custody determination for which
6 enforcement is sought has been vacated, stayed, or modified by
7 a court of a state having jurisdiction to do so under sections
8 14 through 23; or

9 3. The respondent was entitled to notice, but notice
10 was not given in accordance with the standards of section 9 in
11 the proceedings before the court that issued the order for
12 which enforcement is sought; or

13 (b) The child custody determination for which
14 enforcement is sought was registered and confirmed under
15 section 28, but has been vacated, stayed, or modified by a
16 court of a state having jurisdiction to do so under sections
17 14 through 23.

18 Section 32. Service of petition and order.--Except as
19 otherwise provided in section 34, the petition and order must
20 be served by any method authorized by the laws of this state
21 upon the respondent and any person who has physical custody of
22 the child.

23 Section 33. Hearing and order.--

24 (1) Unless the court enters a temporary emergency
25 order pursuant to section 17, upon a finding that a petitioner
26 is entitled to immediate physical custody of the child, the
27 court shall order that the petitioner may take immediate
28 physical custody of the child unless the respondent
29 establishes that:

30 (a) The child custody determination has not been
31 registered and confirmed under section 28 and that:

1 1. The issuing court did not have jurisdiction under
2 sections 14 through 23;

3 2. The child custody determination for which
4 enforcement is sought has been vacated, stayed, or modified by
5 a court of a state having jurisdiction to do so under sections
6 14 through 23; or

7 3. The respondent was entitled to notice, but notice
8 was not given in accordance with the standards of section 9 in
9 the proceedings before the court that issued the order for
10 which enforcement is sought; or

11 (b) The child custody determination for which
12 enforcement is sought was registered and confirmed under
13 section 28, but has been vacated, stayed, or modified by a
14 court of a state having jurisdiction to do so under sections
15 14 through 23.

16 (2) The court shall award the fees, costs, and
17 expenses authorized under section 35 and may grant additional
18 relief, including a request for the assistance of law
19 enforcement officers, and set a further hearing to determine
20 whether additional relief is appropriate.

21 (3) If a party called to testify refuses to answer on
22 the ground that the testimony may be self-incriminating, the
23 court may draw an adverse inference from the refusal.

24 (4) A privilege against disclosure of communications
25 between spouses and a defense of immunity based on the
26 relationship of husband and wife or parent and child may not
27 be invoked in a proceeding under sections 24 through 40.

28 Section 34. Warrant to take physical custody of
29 child.--

30 (1) Upon the filing of a petition seeking enforcement
31 of a child custody determination, the petitioner may file a

1 verified application for the issuance of a warrant to take
2 physical custody of the child if the child is likely to
3 imminently suffer serious physical harm or removal from this
4 state.

5 (2) If the court, upon the testimony of the petitioner
6 or other witness, finds that the child is likely to imminently
7 suffer serious physical harm or removal from this state, it
8 may issue a warrant to take physical custody of the child. The
9 petition must be heard on the next judicial day after the
10 warrant is executed unless that date is impossible. In that
11 event, the court shall hold the hearing on the first judicial
12 day possible. The application for the warrant must include the
13 statements required by section 31(2).

14 (3) A warrant to take physical custody of a child
15 must:

16 (a) Recite the facts upon which a conclusion of
17 imminent serious physical harm or removal from the
18 jurisdiction is based;

19 (b) Direct law enforcement officers to take physical
20 custody of the child immediately; and

21 (c) Provide for the placement of the child pending
22 final relief.

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

26 (5) A warrant to take physical custody of a child is
27 enforceable throughout this state. If the court finds on the
28 basis of the testimony of the petitioner or other witness that
29 a less intrusive remedy is not effective, it may authorize law
30 enforcement officers to enter private property to take
31 physical custody of the child. If required by exigent

1 circumstances of the case, the court may authorize law
2 enforcement officers to make a forcible entry at any hour.

3 (6) The court may impose conditions upon placement of
4 a child to ensure the appearance of the child and the child's
5 custodian.

6 Section 35. Costs, fees, and expenses.--

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

15 (2) The court may not assess fees, costs, or expenses
16 against a state unless authorized by law other than this act.

17 Section 36. Recognition and enforcement.--A court of
18 this state shall accord full faith and credit to an order
19 issued by another state and consistent with this act which
20 enforces a child custody determination by a court of another
21 state unless the order has been vacated, stayed, or modified
22 by a court having jurisdiction to do so under sections 14
23 through 23.

24 Section 37. Appeals.--An appeal may be taken from a
25 final order in a proceeding under sections 24 through 40 in
26 accordance with expedited appellate procedures in other civil
27 cases. Unless the court enters a temporary emergency order
28 under section 17, the enforcing court may not stay an order
29 enforcing a child custody determination pending appeal.

30 Section 38. Role of state attorney.--

31

1 (1) In a case arising under this act or involving the
2 Hague Convention on the Civil Aspects of International Child
3 Abduction, the state attorney may take any lawful action,
4 including resort to a proceeding under sections 24 through 40
5 or any other available civil proceeding, to locate a child,
6 obtain the return of a child, or enforce a child custody
7 determination, if there is:

8 (a) An existing child custody determination;

9 (b) A request to do so from a court in a pending child
10 custody proceeding;

11 (c) A reasonable belief that a criminal statute has
12 been violated; or

13 (d) A reasonable belief that the child has been
14 wrongfully removed or retained in violation of the Hague
15 Convention on the Civil Aspects of International Child
16 Abduction.

17 (2) A state attorney acting under this section acts on
18 behalf of the court and may not represent any party.

19 Section 39. Role of law enforcement officers.--At the
20 request of a state attorney acting under section 38, a law
21 enforcement officer may take any lawful action reasonably
22 necessary to locate a child or a party and assist a state
23 attorney with responsibilities under section 38.

24 Section 40. Costs and expenses.--If the respondent is
25 not the prevailing party, the court may assess against the
26 respondent all direct expenses and costs incurred by the state
27 attorney and law enforcement officers under section 38 or
28 section 39.

29 Section 41. Application and construction.--In applying
30 and construing this act, consideration must be given to the
31

1 need to promote uniformity of the law with respect to its
2 subject matter among states that enact it.

3 Section 42. Severability clause.--If any provision of
4 this act or its application to any person or circumstance is
5 held invalid, the invalidity does not affect other provisions
6 or applications of this act which can be given effect without
7 the invalid provision or application, and to this end the
8 provisions of this act are severable.

9 Section 43. Transitional provision.--A motion or other
10 request for relief made in a child custody proceeding or to
11 enforce a child custody determination which was commenced
12 before the effective date of this act is governed by the law
13 in effect at the time the motion or other request was made.

14 Section 44. Subsection (7) of section 39.502, Florida
15 Statutes, is amended to read:

16 39.502 Notice, process, and service.--

17 (7) Service of the summons and service of pleadings,
18 papers, and notices subsequent to the summons on persons
19 outside this state must be made pursuant to section 9 of the
20 Uniform Child Custody Jurisdiction and Enforcement Act ~~s.~~
21 ~~61.1312.~~

22 Section 45. Paragraph (b) of subsection (2) of section
23 61.13, Florida Statutes, is amended to read:

24 61.13 Custody and support of children; visitation
25 rights; power of court in making orders.--

26 (2)

27 (b)1. The court shall determine all matters relating
28 to custody of each minor child of the parties in accordance
29 with the best interests of the child and in accordance with
30 the Uniform Child Custody Jurisdiction and Enforcement Act. It
31 is the public policy of this state to assure that each minor

1 child has frequent and continuing contact with both parents
2 after the parents separate or the marriage of the parties is
3 dissolved and to encourage parents to share the rights and
4 responsibilities, and joys, of childrearing. After considering
5 all relevant facts, the father of the child shall be given the
6 same consideration as the mother in determining the primary
7 residence of a child irrespective of the age or sex of the
8 child.

9 2. The court shall order that the parental
10 responsibility for a minor child be shared by both parents
11 unless the court finds that shared parental responsibility
12 would be detrimental to the child. Evidence that a parent has
13 been convicted of a felony of the third degree or higher
14 involving domestic violence, as defined in s. 741.28 and
15 chapter 775, or meets the criteria of s. 39.806(1)(d), creates
16 a rebuttable presumption of detriment to the child. If the
17 presumption is not rebutted, shared parental responsibility,
18 including visitation, residence of the child, and decisions
19 made regarding the child, may not be granted to the convicted
20 parent. However, the convicted parent is not relieved of any
21 obligation to provide financial support. If the court
22 determines that shared parental responsibility would be
23 detrimental to the child, it may order sole parental
24 responsibility and make such arrangements for visitation as
25 will best protect the child or abused spouse from further
26 harm. Whether or not there is a conviction of any offense of
27 domestic violence or child abuse or the existence of an
28 injunction for protection against domestic violence, the court
29 shall consider evidence of domestic violence or child abuse as
30 evidence of detriment to the child.

31

1 a. In ordering shared parental responsibility, the
2 court may consider the expressed desires of the parents and
3 may grant to one party the ultimate responsibility over
4 specific aspects of the child's welfare or may divide those
5 responsibilities between the parties based on the best
6 interests of the child. Areas of responsibility may include
7 primary residence, education, medical and dental care, and any
8 other responsibilities that the court finds unique to a
9 particular family.

10 b. The court shall order "sole parental
11 responsibility, with or without visitation rights, to the
12 other parent when it is in the best interests of" the minor
13 child.

14 c. The court may award the grandparents visitation
15 rights with a minor child if it is in the child's best
16 interest. Grandparents have legal standing to seek judicial
17 enforcement of such an award. This section does not require
18 that grandparents be made parties or given notice of
19 dissolution pleadings or proceedings, ~~nor do grandparents have~~
20 ~~legal standing as "contestants" as defined in s. 61.1306.~~ A
21 court may not order that a child be kept within the state or
22 jurisdiction of the court solely for the purpose of permitting
23 visitation by the grandparents.

24 3. Access to records and information pertaining to a
25 minor child, including, but not limited to, medical, dental,
26 and school records, may not be denied to a parent because the
27 parent is not the child's primary residential parent.

28 Section 46. Paragraph (d) of subsection (3),
29 subsection (4), and paragraph (a) of subsection (7) of section
30 741.30, Florida Statutes, are amended to read:

31

1 741.30 Domestic violence; injunction; powers and
2 duties of court and clerk; petition; notice and hearing;
3 temporary injunction; issuance of injunction; statewide
4 verification system; enforcement.--

5 (3)

6 (d) If the sworn petition seeks to determine issues of
7 custody or visitation with regard to the minor child or
8 children of the parties, the sworn petition shall be
9 accompanied by or shall incorporate the allegations required
10 by section 22 ~~s. 61.132~~ of the Uniform Child Custody
11 Jurisdiction and Enforcement Act.

12 (4) Upon the filing of the petition, the court shall
13 set a hearing to be held at the earliest possible time. The
14 respondent shall be personally served with a copy of the
15 petition, financial affidavit, uniform child custody
16 jurisdiction and enforcement act affidavit, if any, notice of
17 hearing, and temporary injunction, if any, prior to the
18 hearing.

19 (7)(a)1. The clerk of the court shall furnish a copy
20 of the petition, financial affidavit, uniform child custody
21 jurisdiction and enforcement act affidavit, if any, notice of
22 hearing, and temporary injunction, if any, to the sheriff or a
23 law enforcement agency of the county where the respondent
24 resides or can be found, who shall serve it upon the
25 respondent as soon thereafter as possible on any day of the
26 week and at any time of the day or night. The clerk of the
27 court shall be responsible for furnishing to the sheriff such
28 information on the respondent's physical description and
29 location as is required by the department to comply with the
30 verification procedures set forth in this section.

31 Notwithstanding any other provision of law to the contrary,

1 the chief judge of each circuit, in consultation with the
2 appropriate sheriff, may authorize a law enforcement agency
3 within the jurisdiction to effect service. A law enforcement
4 agency serving injunctions pursuant to this section shall use
5 service and verification procedures consistent with those of
6 the sheriff.

7 2. When an injunction is issued, if the petitioner
8 requests the assistance of a law enforcement agency, the court
9 may order that an officer from the appropriate law enforcement
10 agency accompany the petitioner and assist in placing the
11 petitioner in possession of the dwelling or residence, or
12 otherwise assist in the execution or service of the
13 injunction. A law enforcement officer shall accept a copy of
14 an injunction for protection against domestic violence,
15 certified by the clerk of the court, from the petitioner and
16 immediately serve it upon a respondent who has been located
17 but not yet served.

18 3. All orders issued, changed, continued, extended, or
19 vacated subsequent to the original service of documents
20 enumerated under subparagraph 1., shall be certified by the
21 clerk of the court and delivered to the parties at the time of
22 the entry of the order. The parties may acknowledge receipt
23 of such order in writing on the face of the original order.
24 In the event a party fails or refuses to acknowledge the
25 receipt of a certified copy of an order, the clerk shall note
26 on the original order that service was effected. If delivery
27 at the hearing is not possible, the clerk shall mail certified
28 copies of the order to the parties at the last known address
29 of each party. Service by mail is complete upon mailing.
30 When an order is served pursuant to this subsection, the clerk
31 shall prepare a written certification to be placed in the

1 court file specifying the time, date, and method of service
2 and shall notify the sheriff.

3

4 If the respondent has been served previously with the
5 temporary injunction and has failed to appear at the initial
6 hearing on the temporary injunction, any subsequent petition
7 for injunction seeking an extension of time may be served on
8 the respondent by the clerk of the court by certified mail in
9 lieu of personal service by a law enforcement officer.

10 Section 47. Sections 61.1302, 61.1304, 61.1306,
11 61.1308, 61.131, 61.1312, 61.1314, 61.1316, 61.1318, 61.132,
12 61.1322, 61.1324, 61.1326, 61.1328, 61.133, 61.1332, 61.1334,
13 61.1336, 61.1338, 61.134, 61.1342, 61.1344, 61.1346, and
14 61.1348, Florida Statutes, are repealed.

15 Section 48. This act shall take effect October 1,
16 2000.

17

18 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
19 COMMITTEE SUBSTITUTE FOR
20 SB 1942

21 Provides a list of purposes for the Uniform Child Custody
22 Jurisdiction and Enforcement Act.

23 Makes a technical change by replacing the phrase "local law"
24 with "state law."

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