

Bill No. CS for SB 1312

Amendment No. Barcode 670834

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Campbell moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Subsection (7) of section 39.502, Florida Statutes, is amended to read:

39.502 Notice, process, and service.--

(7) Service of the summons and service of pleadings, papers, and notices subsequent to the summons on persons outside this state must be made pursuant to s. 61.509 ~~s. 61.1312~~.

Section 2. For purposes of incorporating amendments to s. 61.13, F.S., subsection (2) of section 44.102, F.S., is re-enacted to read:

44.102 Court-ordered mediation.--

(2) A court, under rules adopted by the Supreme Court:

(a) Must, upon request of one party, refer to mediation any filed civil action for monetary damages, provided the requesting party is willing and able to pay the

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1 costs of the mediation or the costs can be equitably divided
2 between the parties, unless:

3 1. The action is a landlord and tenant dispute that
4 does not include a claim for personal injury.

5 2. The action is filed for the purpose of collecting a
6 debt.

7 3. The action is a claim of medical malpractice.

8 4. The action is governed by the Florida Small Claims
9 Rules.

10 5. The court determines that the action is proper for
11 referral to nonbinding arbitration under this chapter.

12 6. The parties have agreed to binding arbitration.

13 7. The parties have agreed to an expedited trial
14 pursuant to s. 45.075.

15 8. The parties have agreed to voluntary trial
16 resolution pursuant to s. 44.104.

17 (b) May refer to mediation all or any part of a filed
18 civil action for which mediation is not required under this
19 section.

20 (c) In circuits in which a family mediation program
21 has been established and upon a court finding of a dispute,
22 shall refer to mediation all or part of custody, visitation,
23 or other parental responsibility issues as defined in s.
24 61.13. Upon motion or request of a party, a court shall not
25 refer any case to mediation if it finds there has been a
26 history of domestic violence that would compromise the
27 mediation process.

28 (d) In circuits in which a dependency or in need of
29 services mediation program has been established, may refer to
30 mediation all or any portion of a matter relating to
31 dependency or to a child in need of services or a family in

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1 need of services.

2 Section 3. Paragraph (b) of subsection (2) of section
3 61.13, Florida Statutes, is amended, and paragraph (e) is
4 added to said subsection, to read:

5 61.13 Custody and support of children; visitation
6 rights; power of court in making orders.--

7 (2)

8 (b)1. The court shall determine all matters relating
9 to custody of each minor child of the parties in accordance
10 with the best interests of the child and in accordance with
11 the Uniform Child Custody Jurisdiction and Enforcement Act. It
12 is the public policy of this state to assure that each minor
13 child has frequent and continuing contact with both parents
14 after the parents separate or the marriage of the parties is
15 dissolved and to encourage parents to share the rights and
16 responsibilities, and joys, of childrearing. After considering
17 all relevant facts, the father of the child shall be given the
18 same consideration as the mother in determining the primary
19 residence of a child irrespective of the age or sex of the
20 child.

21 2. The court shall order that the parental
22 responsibility for a minor child be shared by both parents
23 unless the court finds that shared parental responsibility
24 would be detrimental to the child. Evidence that a parent has
25 been convicted of a felony of the third degree or higher
26 involving domestic violence, as defined in s. 741.28 and
27 chapter 775, or meets the criteria of s. 39.806(1)(d), creates
28 a rebuttable presumption of detriment to the child. If the
29 presumption is not rebutted, shared parental responsibility,
30 including visitation, residence of the child, and decisions
31 made regarding the child, may not be granted to the convicted

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1 parent. However, the convicted parent is not relieved of any
2 obligation to provide financial support. If the court
3 determines that shared parental responsibility would be
4 detrimental to the child, it may order sole parental
5 responsibility and make such arrangements for visitation as
6 will best protect the child or abused spouse from further
7 harm. Whether or not there is a conviction of any offense of
8 domestic violence or child abuse or the existence of an
9 injunction for protection against domestic violence, the court
10 shall consider evidence of domestic violence or child abuse as
11 evidence of detriment to the child.

12 a. In ordering shared parental responsibility, the
13 court may consider the expressed desires of the parents and
14 may grant to one party the ultimate responsibility over
15 specific aspects of the child's welfare or may divide those
16 responsibilities between the parties based on the best
17 interests of the child. Areas of responsibility may include
18 primary residence, education, medical and dental care, and any
19 other responsibilities that the court finds unique to a
20 particular family.

21 b. The court shall order "sole parental
22 responsibility, with or without visitation rights, to the
23 other parent when it is in the best interests of" the minor
24 child.

25 c. The court may award the grandparents visitation
26 rights with a minor child if it is in the child's best
27 interest. Grandparents have legal standing to seek judicial
28 enforcement of such an award. This section does not require
29 that grandparents be made parties or given notice of
30 dissolution pleadings or proceedings, nor do grandparents have
31 legal standing as "contestants" as defined in s. 61.1306. A

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1 court may not order that a child be kept within the state or
2 jurisdiction of the court solely for the purpose of permitting
3 visitation by the grandparents.

4 3. Access to records and information pertaining to a
5 minor child, including, but not limited to, medical, dental,
6 and school records, may not be denied to a parent because the
7 parent is not the child's primary residential parent. Full
8 rights under this subparagraph apply to either parent unless a
9 court order specifically revokes these rights, including any
10 restrictions on these rights as provided in a domestic
11 violence injunction. A parent having rights under this
12 subparagraph has the same rights upon request as to form,
13 substance, and manner of access as are available to the other
14 parent of a child, including, without limitation, the right to
15 in-person communication with medical, dental, and education
16 providers.

17 (e) When either parent materially violates a
18 visitation or custody order without proper cause or consent of
19 the other parent, in addition to any other remedies and
20 sanctions provided at law, the court may order the violating
21 party to post a bond or other security sufficient to provide
22 for economic damages to the other party for any future
23 violation. For purposes of this section, a material violation
24 of a visitation or custody order shall include failure of
25 either parent to provide care for a child during a time
26 designated in a court order for him or her to be responsible
27 for the child. However, when a party materially violates a
28 visitation or custody order by removing the child from this
29 state or country or by concealing the whereabouts of the
30 child, section 4. of this bill and not this subsection shall
31 apply.

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1 1. This subsection does not apply when a parent who is
2 the victim of any act of domestic violence or who has
3 reasonable cause to believe he or she is about to become the
4 victim of any act of domestic violence, as defined in s.
5 741.28, takes action contrary to a visitation or custody order
6 based upon a good faith belief that such action was necessary
7 to preserve the child from danger to his or her welfare.
8 However, in order to gain the exemption conferred in this
9 subparagraph, the party claiming the exemption must within 10
10 days of the violation file with the court that issued the
11 visitation or custody order an affidavit setting out the facts
12 which are the basis for claiming the exemption.

13 2. Upon a future material violation of any custody or
14 visitation order entered under this section, the court may
15 order the bond or other security forfeited in whole or in
16 part. The proceeds of any bond or other security posted
17 pursuant to this subsection may be used to reimburse the
18 nonviolating party for actual costs or damages, including
19 without limitation the costs to locate and return the child,
20 reasonable attorney's fees and costs, and lost wages or child
21 care expenses.

22 3. The court must consider the party's financial
23 resources prior to setting the bond amount under this section.
24 Under no circumstances may the court set a bond that is
25 unreasonable.

26 4. Any deficiency of bond or security shall not
27 absolve the violating party of responsibility to pay the full
28 amount of damages determined by the court.

29 5. Any remaining proceeds shall be held as further
30 security if deemed necessary by the court, and if further
31 security is not found to be necessary; applied to any child

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1 support arrears owed by the parent against whom the bond was
2 required, and if no arrears exists; all remaining proceeds
3 will be allocated by the court in the best interest of the
4 child.

5 6. At any time after the forfeiture of the bond or
6 other security, the party who posted the bond or other
7 security, or the court on its own motion may request that the
8 party provide documentation substantiating that the proceeds
9 received as a result of the forfeiture have been used solely
10 in accordance with this subsection. Any party using such
11 proceeds for purposes not in accordance with this section may
12 be found in contempt of court.

13 Section 4. (1) In a proceeding in which the court
14 enters an order of child custody or visitation, including in a
15 modification proceeding, upon the presentation of competent
16 substantial evidence that there is a risk that one party may
17 violate the court's order of visitation or custody by removing
18 a child from this state or country or by concealing the
19 whereabouts of a child, or upon stipulation of the parties,
20 the court may:

21 (a) Order that a parent may not remove the child from
22 this state without the notarized written permission of both
23 parents or further court order;

24 (b) Order that a parent may not remove the child from
25 this country without the notarized written permission of both
26 parents or further court order;

27 (c) Order that a parent may not take the child to a
28 country that has not ratified or acceded to the Hague
29 Convention on the Civil Aspects of International Child
30 Abduction unless the other parent agrees in writing that the
31 child may be taken to the country;

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1 (d) Require a parent to surrender the passport of the
2 child; or

3 (e) Require that party to post bond or other security.

4 (2) If the court enters an order of child custody or
5 visitation, including in a modification proceeding, that
6 includes a provision entered under paragraph (1)(b) or
7 paragraph (1)(c), a certified copy of the order should be sent
8 by the parent who requested the restriction to the Passport
9 Services Office of the U.S. Department of State requesting
10 that they not issue a passport to the child without their
11 signature or further court order.

12 (3) In assessing the need for a bond or other
13 security, the court may consider any reasonable factor bearing
14 upon the risk that a party may violate a visitation or custody
15 order by removing a child from this state or country or by
16 concealing the whereabouts of a child, including but not
17 limited to whether:

18 (a) A court has previously found that a party
19 previously removed a child from Florida or another state in
20 violation of a custody or visitation order, or whether a court
21 had found that a party has threatened to take a child out of
22 Florida or another state in violation of a custody or
23 visitation order;

24 (b) The party has strong family and community ties to
25 Florida or to other states or countries, including whether the
26 party or child is a citizen of another country;

27 (c) The party has strong financial reasons to remain
28 in Florida or to relocate to another state or country;

29 (d) The party has engaged in activities that suggest
30 plans to leave Florida, such as quitting employment; sale of a
31 residence or termination of a lease on a residence, without

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1 efforts to acquire an alternative residence in the state;
2 closing bank accounts or otherwise liquidating assets; or
3 applying for a passport;

4 (e) Either party has had a history of domestic
5 violence as either a victim or perpetrator, child abuse or
6 child neglect evidenced by criminal history, including but not
7 limited to, arrest, an injunction for protection against
8 domestic violence issued after notice and hearing under s.
9 741.30, medical records, affidavits, or any other relevant
10 information; or

11 (f) The party has a criminal record.

12 (4) The court must consider the party's financial
13 resources prior to setting the bond amount under this section.
14 Under no circumstances may the court set a bond that is
15 unreasonable.

16 (5) Any deficiency of bond or security shall not
17 absolve the violating party of responsibility to pay the full
18 amount of damages determined by the court.

19 (6) Upon presentation of competent substantial
20 evidence that the party who posted the bond or other security
21 has materially violated a court order of visitation or custody
22 by removing the child from this state or country or by
23 concealing the whereabouts of the child, the court may order
24 the bond or other security forfeited in whole or in part.

25 This section does not apply when a parent who is the victim of
26 any act of domestic violence or who has reasonable cause to
27 believe he or she is about to become the victim of any act of
28 domestic violence, as defined in s. 741.28, seeks shelter from
29 such acts or possible acts and takes with him or her, or
30 conceals, any child 17 years of age or younger. However, in
31 order to gain the exemption conferred in this subsection, the

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1 party claiming the exemption must comply with the requirements
 2 set out in s. 787.03(6)(b).

3 (7)(a) Upon an order of forfeiture, the proceeds of
 4 any bond or other security posted pursuant to this subsection
 5 may only be used to:

6 1. Reimburse the nonviolating party for actual costs
 7 or damages incurred in upholding the court's order of custody
 8 or visitation.

9 2. Locate and return the child to the residence as set
 10 forth in the visitation or custody order.

11 3. Reimburse reasonable fees and costs as determined
 12 by the court.

13 (b) Any remaining proceeds shall be held as further
 14 security if deemed necessary by the court, and if further
 15 security is not found to be necessary; applied to any child
 16 support arrears owed by the parent against whom the bond was
 17 required, and if no arrears exists; all remaining proceeds
 18 will be allocated by the court in the best interest of the
 19 child.

20 (8) At any time after the forfeiture of the bond or
 21 other security, the party who posted the bond or other
 22 security, or the court on its own motion may request that the
 23 party provide documentation substantiating that the proceeds
 24 received as a result of the forfeiture have been used solely
 25 in accordance with this subsection. Any party using such
 26 proceeds for purposes not in accordance with this section may
 27 be found in contempt of court.

28 Section 5. Sections 61.501 through 61.542, Florida
 29 Statutes, are created to read:

30 61.501 Short title.--This part may be cited as the
 31 "Uniform Child Custody Jurisdiction and Enforcement Act."

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1 61.502 Purposes of part; construction of
2 provisions.--The general purposes of this part are to:

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

7 (2) Promote cooperation with the courts of other
8 states to the end that a custody decree is rendered in the
9 state that can best decide the case in the interest of the
10 child.

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

13 (4) Deter abductions.

14 (5) Avoid relitigating the custody decisions of other
15 states in this state.

16 (6) Facilitate the enforcement of custody decrees of
17 other states.

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

21 (8) Make uniform the law with respect to the subject
22 of this part among the states enacting it.

23 61.503 Definitions.--As used in this part, the term:

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

26 (2) "Child" means an individual who has not attained
27 18 years of age.

28 (3) "Child custody determination" means a judgment,
29 decree, or other order of a court providing for the legal
30 custody, physical custody, residential care, or visitation
31 with respect to a child. The term includes a permanent,

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1 temporary, initial, and modification order. The term does not
2 include an order relating to child support or other monetary
3 obligation of an individual.

4 (4) "Child custody proceeding" means a proceeding in
5 which legal custody, physical custody, residential care or
6 visitation with respect to a child is an issue. The term
7 includes a proceeding for divorce, separation, neglect, abuse,
8 dependency, guardianship, paternity, termination of parental
9 rights, and protection from domestic violence, in which the
10 issue may appear. The term does not include a proceeding
11 involving juvenile delinquency, contractual emancipation, or
12 enforcement under ss. 61.524-61.540.

13 (5) "Commencement" means the filing of the first
14 pleading in a proceeding.

15 (6) "Court" means an entity authorized under the laws
16 of a state to establish, enforce, or modify a child custody
17 determination.

18 (7) "Home state" means the state in which a child
19 lived with a parent or a person acting as a parent for at
20 least 6 consecutive months immediately before the commencement
21 of a child custody proceeding. In the case of a child younger
22 than 6 months of age, the term means the state in which the
23 child lived from birth with any of the persons mentioned. A
24 period of temporary absence of any of the mentioned persons is
25 part of the period.

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

28 (9) "Issuing court" means the court that makes a child
29 custody determination for which enforcement is sought under
30 this part.

31 (10) "Issuing state" means the state in which a child

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1 custody determination is made.

2 (11) "Modification" means a child custody
3 determination that changes, replaces, supersedes, or is
4 otherwise made after a previous determination concerning the
5 same child, regardless of whether it is made by the court that
6 made the previous determination.

7 (12) "Person" means an individual, corporation,
8 business trust, estate, trust, partnership, limited liability
9 company, association, joint venture, or government;
10 governmental subdivision, agency, instrumentality, or public
11 corporation; or any other legal or commercial entity.

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

14 (a) Has physical custody of the child or has had
15 physical custody for a period of 6 consecutive months,
16 including any temporary absence, within 1 year immediately
17 before the commencement of a child custody proceeding; and

18 (b) Has been awarded a child-custody determination by
19 a court or claims a right to a child-custody determination
20 under the laws of this state.

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

23 (15) "State" means a state of the United States, the
24 District of Columbia, Puerto Rico, the United States Virgin
25 Islands, or any territory or insular possession subject to the
26 jurisdiction of the United States.

27 (16) "Tribe" means an Indian tribe, or band, or
28 Alaskan Native village that is recognized by federal law or
29 formally acknowledged by a state.

30 (17) "Warrant" means an order issued by a court
31 authorizing law enforcement officers to take physical custody

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1 of a child.

2 61.504 Proceedings governed by other law.--This part
3 does not govern a proceeding pertaining to the authorization
4 of emergency medical care for a child.

5 61.505 Application to Indian tribes.--

6 (1) A child custody proceeding that pertains to an
7 Indian child, as defined in the Indian Child Welfare Act, 25
8 U.S.C. s. 1901 et seq., is not subject to this part to the
9 extent that it is governed by the Indian Child Welfare Act.

10 (2) A court of this state shall treat a tribe as if it
11 were a state of the United States for purposes of applying ss.
12 61.501-61.523.

13 (3) A child custody determination made by a tribe
14 under factual circumstances in substantial conformity with the
15 jurisdictional standards of this part must be recognized and
16 enforced under ss. 61.524-61.540.

17 61.506 International application of part.--

18 (1) A court of this state shall treat a foreign
19 country as if it were a state of the United States for
20 purposes of applying ss. 61.501-61.523.

21 (2) Except as otherwise provided in subsection (3), a
22 child custody determination made in a foreign country under
23 factual circumstances in substantial conformity with the
24 jurisdictional standards of this part must be recognized and
25 enforced under ss. 61.524-61.540.

26 (3) A court of this state need not apply this part if
27 the child custody law of a foreign country violates
28 fundamental principles of human rights.

29 61.507 Effect of child custody determination.--A child
30 custody determination made by a court of this state which had
31 jurisdiction under this part binds all persons who have been

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1 served in accordance with the laws of this state or notified
2 in accordance with s. 61.509 or who have submitted to the
3 jurisdiction of the court, and who have been given an
4 opportunity to be heard. As to those persons, the
5 determination is conclusive as to all decided issues of law
6 and fact except to the extent the determination is modified.

7 61.508 Priority.--If a question of existence or
8 exercise of jurisdiction under this part is raised in a child
9 custody proceeding, the question, upon request of a party,
10 must be given priority on the calendar and handled
11 expeditiously.

12 61.509 Notice to persons outside the state.--

13 (1) Notice required for the exercise of jurisdiction
14 when a person is outside this state may be given in a manner
15 prescribed by the laws of the state in which the service is
16 made. Notice must be given in a manner reasonably calculated
17 to give actual notice, but may be made by publication if other
18 means are not effective.

19 (2) Proof of service may be made in the manner
20 prescribed by the laws of the state in which the service is
21 made.

22 (3) Notice is not required for the exercise of
23 jurisdiction with respect to a person who submits to the
24 jurisdiction of the court.

25 61.510 Appearance and limited immunity.--

26 (1) A party to a child custody proceeding, including a
27 modification proceeding, or a petitioner or respondent in a
28 proceeding to enforce or register a child custody
29 determination, is not subject to personal jurisdiction in this
30 state for another proceeding or purpose solely by reason of
31 having participated, or of having been physically present for

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1 the purpose of participating, in the proceeding.

2 (2) A person who is subject to personal jurisdiction
3 in this state on a basis other than physical presence is not
4 immune from service of process in this state. A party present
5 in this state who is subject to the jurisdiction of another
6 state is not immune from service of process allowable under
7 the laws of that state.

8 (3) The immunity granted by subsection (1) does not
9 extend to civil litigation based on an act unrelated to the
10 participation in a proceeding under this part which was
11 committed by an individual while present in this state.

12 61.511 Communication between courts.--

13 (1) A court of this state may communicate with a court
14 in another state concerning a proceeding arising under this
15 part.

16 (2) The court shall allow the parties to participate
17 in the communication. If the parties elect to participate in
18 the communication, they must be given the opportunity to
19 present facts and legal arguments before a decision on
20 jurisdiction is made.

21 (3) Communication between courts on schedules,
22 calendars, court records, and similar matters may occur
23 without informing the parties. A record need not be made of
24 the communication.

25 (4) Except as otherwise provided in subsection (3), a
26 record must be made of a communication under this section. The
27 parties must be informed promptly of the communication and
28 granted access to the record.

29 (5) For purposes of this section, the term "record"
30 means a form of information, including, but not limited to, an
31 electronic recording or transcription by a court reporter

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1 which creates a verbatim memorialization of any communication
2 between two or more individuals or entities.

3 61.512 Taking testimony in another state.--

4 (1) In addition to other procedures available to a
5 party, a party to a child custody proceeding may offer
6 testimony of witnesses who are located in another state,
7 including testimony of the parties and the child, by
8 deposition or other means available in this state for
9 testimony taken in another state. The court on its own motion
10 may order that the testimony of a person be taken in another
11 state and may prescribe the manner in which and the terms upon
12 which the testimony is taken.

13 (2) Upon agreement of the parties, a court of this
14 state may permit an individual residing in another state to be
15 deposed or to testify by telephone, audiovisual means, or
16 other electronic means before a designated court or at another
17 location in that state. A court of this state shall cooperate
18 with courts of other states in designating an appropriate
19 location for the deposition or testimony.

20 (3) Documentary evidence transmitted from another
21 state to a court of this state by technological means that
22 does not produce an original writing may not be excluded from
23 evidence on an objection based on the means of transmission.

24 61.513 Cooperation between courts; preservation of
25 records.--

26 (1) A court of this state may request the appropriate
27 court of another state to:

28 (a) Hold an evidentiary hearing;

29 (b) Order a person to produce or give evidence
30 pursuant to the laws of that state;

31 (c) Order that an evaluation be made with respect to

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1 the custody of a child involved in a pending proceeding
2 pursuant to the laws of the state where the proceeding is
3 pending;

4 (d) Forward to the court of this state a certified
5 copy of the transcript of the record of the hearing, the
6 evidence otherwise presented, and any evaluation prepared in
7 compliance with the request; or

8 (e) Order a party to a child custody proceeding or any
9 person having physical custody of the child to appear in the
10 proceeding with or without the child.

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

14 (3) Travel and other necessary and reasonable expenses
15 incurred under subsections (1) and (2) may be assessed against
16 the parties according to the laws of this state if the court
17 has personal jurisdiction over the party against whom these
18 expenses are being assessed.

19 (4) A court of this state shall preserve the
20 pleadings, orders, decrees, records of hearings, evaluations,
21 and other pertinent records with respect to a child custody
22 proceeding until the child attains 18 years of age. Upon
23 appropriate request by a court or law enforcement official of
24 another state, the court shall forward a certified copy of
25 these records.

26 61.514 Initial child custody jurisdiction.--

27 (1) Except as otherwise provided in s. 61.517, a court
28 of this state has jurisdiction to make an initial child
29 custody determination only if:

30 (a) This state is the home state of the child on the
31 date of the commencement of the proceeding, or was the home

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1 state of the child within 6 months before the commencement of
2 the proceeding and the child is absent from this state but a
3 parent or person acting as a parent continues to live in this
4 state;

5 (b) A court of another state does not have
6 jurisdiction under paragraph (a), or a court of the home state
7 of the child has declined to exercise jurisdiction on the
8 grounds that this state is the more appropriate forum under s.
9 61.520 or s. 61.521, and:

10 1. The child and the child's parents, or the child and
11 at least one parent or a person acting as a parent, have a
12 significant connection with this state other than mere
13 physical presence; and

14 2. Substantial evidence is available in this state
15 concerning the child's care, protection, training, and
16 personal relationships;

17 (c) All courts having jurisdiction under paragraph (a)
18 or paragraph (b) have declined to exercise jurisdiction on the
19 grounds that a court of this state is the more appropriate
20 forum to determine the custody of the child under s. 61.520 or
21 s. 61.521; or

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

25 (2) Subsection (1) is the exclusive jurisdictional
26 basis for making a child custody determination by a court of
27 this state.

28 (3) Physical presence of, or personal jurisdiction
29 over, a party or a child is not necessary or sufficient to
30 make a child custody determination.

31 61.515 Exclusive, continuing jurisdiction.--

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1 (1) Except as otherwise provided in s. 61.517, a court
2 of this state which has made a child custody determination
3 consistent with s. 61.514 or s. 61.516 has exclusive,
4 continuing jurisdiction over the determination until:

5 (a) A court of this state determines that the child,
6 the child's parents, and any person acting as a parent does
7 not have a significant connection with this state and that
8 substantial evidence is no longer available in this state
9 concerning the child's care, protection, training, and
10 personal relationships; or

11 (b) A court of this state or a court of another state
12 determines that the child, the child's parent, and any person
13 acting as a parent does not presently reside in this state.

14 (2) A court of this state which has made a child
15 custody determination and does not have exclusive, continuing
16 jurisdiction under this section may modify that determination
17 only if it has jurisdiction to make an initial determination
18 under s. 61.514.

19 61.516 Jurisdiction to modify a determination.--Except
20 as otherwise provided in s. 61.517, a court of this state may
21 not modify a child custody determination made by a court of
22 another state unless a court of this state has jurisdiction to
23 make an initial determination under s. 61.514(1)(a) or s.
24 61.514(1)(b) and:

25 (1) The court of the other state determines it no
26 longer has exclusive, continuing jurisdiction under s. 61.515
27 or that a court of this state would be a more convenient forum
28 under s. 61.520; or

29 (2) A court of this state or a court of the other
30 state determines that the child, the child's parents, and any
31 person acting as a parent does not presently reside in the

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1 other state.

2 61.517 Temporary emergency jurisdiction.--

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

9 (2) If there is no previous child custody
10 determination that is entitled to be enforced under this part,
11 and a child custody proceeding has not been commenced in a
12 court of a state having jurisdiction under ss. 61.514-61.616,
13 a child custody determination made under this section remains
14 in effect until an order is obtained from a court of a state
15 having jurisdiction under ss. 61.514-61.516. If a child
16 custody proceeding has not been or is not commenced in a court
17 of a state having jurisdiction under ss. 61.514-61.516, a
18 child custody determination made under this section becomes a
19 final determination if it so provides and this state becomes
20 the home state of the child.

21 (3) If there is a previous child custody determination
22 that is entitled to be enforced under this part, or a child
23 custody proceeding has been commenced in a court of a state
24 having jurisdiction under ss. 61.514-61.516, any order issued
25 by a court of this state under this section must specify in
26 the order a period that the court considers adequate to allow
27 the person seeking an order to obtain an order from the state
28 having jurisdiction under ss. 61.514-61.516. The order issued
29 in this state remains in effect until an order is obtained
30 from the other state within the period specified or the period
31 expires.

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1 (4) A court of this state which has been asked to make
2 a child custody determination under this section, upon being
3 informed that a child custody proceeding has been commenced
4 in, or a child custody determination has been made by, a court
5 of a state having jurisdiction under ss. 61.514-61.516, shall
6 immediately communicate with the other court. A court of this
7 state which is exercising jurisdiction under ss.
8 61.514-61.516, upon being informed that a child custody
9 proceeding has been commenced in, or a child custody
10 determination has been made by, a court of another state under
11 a statute similar to this section shall immediately
12 communicate with the court of that state to resolve the
13 emergency, protect the safety of the parties and the child,
14 and determine a period for the duration of the temporary
15 order.

16 61.518 Notice; opportunity to be heard; joinder.--

17 (1) Before a child custody determination is made under
18 this part, notice and an opportunity to be heard in accordance
19 with the standards of s. 61.509 must be given to all persons
20 entitled to notice under the laws of this state as in child
21 custody proceedings between residents of this state, any
22 parent whose parental rights have not been previously
23 terminated, and any person acting as a parent.

24 (2) This part does not govern the enforceability of a
25 child custody determination made without notice or an
26 opportunity to be heard.

27 (3) The obligation to join a party and the right to
28 intervene as a party in a child custody proceeding under this
29 part are governed by the laws of this state as in child
30 custody proceedings between residents of this state.

31 61.519 Simultaneous proceedings.--

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1 (1) Except as otherwise provided in s. 61.517, a court
2 of this state may not exercise its jurisdiction under ss.
3 61.514-61.524 if, at the time of the commencement of the
4 proceeding, a proceeding concerning the custody of the child
5 had been commenced in a court of another state having
6 jurisdiction substantially in conformity with this part,
7 unless the proceeding has been terminated or is stayed by the
8 court of the other state because a court of this state is a
9 more convenient forum under s. 61.520.

10 (2) Except as otherwise provided in s. 61.517, a court
11 of this state, before hearing a child custody proceeding,
12 shall examine the court documents and other information
13 supplied by the parties pursuant to s. 61.522. If the court
14 determines that a child custody proceeding was previously
15 commenced in a court in another state having jurisdiction
16 substantially in accordance with this part, the court of this
17 state shall stay its proceeding and communicate with the court
18 of the other state. If the court of the state having
19 jurisdiction substantially in accordance with this part does
20 not determine that the court of this state is a more
21 appropriate forum, the court of this state shall dismiss the
22 proceeding.

23 (3) In a proceeding to modify a child custody
24 determination, a court of this state shall determine whether a
25 proceeding to enforce the determination has been commenced in
26 another state. If a proceeding to enforce a child custody
27 determination has been commenced in another state, the court
28 may:

29 (a) Stay the proceeding for modification pending the
30 entry of an order of a court of the other state enforcing,
31 staying, denying, or dismissing the proceeding for

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1 enforcement;

2 (b) Enjoin the parties from continuing with the
3 proceeding for enforcement; or

4 (c) Proceed with the modification under conditions it
5 considers appropriate.

6 61.520 Inconvenient forum.--

7 (1) A court of this state which has jurisdiction under
8 this part to make a child custody determination may decline to
9 exercise its jurisdiction at any time if it determines that it
10 is an inconvenient forum under the circumstances and that a
11 court of another state is a more appropriate forum. The issue
12 of inconvenient forum may be raised upon motion of a party,
13 the court's own motion, or request of another court.

14 (2) Before determining whether it is an inconvenient
15 forum, a court of this state shall consider whether it is
16 appropriate for a court of another state to exercise
17 jurisdiction. For this purpose, the court shall allow the
18 parties to submit information and shall consider all relevant
19 factors, including:

20 (a) Whether domestic violence has occurred and is
21 likely to continue in the future and which state could best
22 protect the parties and the child;

23 (b) The length of time the child has resided outside
24 this state;

25 (c) The distance between the court in this state and
26 the court in the state that would assume jurisdiction;

27 (d) The relative financial circumstances of the
28 parties;

29 (e) Any agreement of the parties as to which state
30 should assume jurisdiction;

31 (f) The nature and location of the evidence required

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1 to resolve the pending litigation, including testimony of the
2 child;

3 (g) The ability of the court of each state to decide
4 the issue expeditiously and the procedures necessary to
5 present the evidence; and

6 (h) The familiarity of the court of each state with
7 the facts and issues in the pending litigation.

8 (3) If a court of this state determines that it is an
9 inconvenient forum and that a court of another state is a more
10 appropriate forum, it shall stay the proceedings upon
11 condition that a child custody proceeding be promptly
12 commenced in another designated state and may impose any other
13 condition the court considers just and proper.

14 (4) A court of this state may decline to exercise its
15 jurisdiction under this part if a child custody determination
16 is incidental to an action for divorce or another proceeding
17 while still retaining jurisdiction over the divorce or other
18 proceeding.

19 61.521 Jurisdiction declined by reason of conduct.--

20 (1) Except as otherwise provided in s. 61.517 or by
21 other law of this state, if a court of this state has
22 jurisdiction under this part because a person seeking to
23 invoke its jurisdiction has engaged in unjustifiable conduct,
24 the court shall decline to exercise its jurisdiction unless:

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

27 (b) A court of the state otherwise having jurisdiction
28 under ss. 61.514-61.516 determines that this state is a more
29 appropriate forum under s. 61.520; or

30 (c) No court of any other state would have
31 jurisdiction under the criteria specified in ss.

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1 61.514-61.516.

2 (2) If a court of this state declines to exercise its
3 jurisdiction under subsection (1), it may fashion an
4 appropriate remedy to ensure the safety of the child and
5 prevent a repetition of the unjustifiable conduct, including
6 staying the proceeding until a child custody proceeding is
7 commenced in a court having jurisdiction under ss.

8 61.514-61.516.

9 (3) If a court dismisses a petition or stays a
10 proceeding because it declines to exercise its jurisdiction
11 under subsection (1), it shall assess against the party
12 seeking to invoke its jurisdiction necessary and reasonable
13 expenses, including costs, communication expenses, attorney's
14 fees, investigative fees, expenses for witnesses, travel
15 expenses, and expenses for child care during the course of the
16 proceedings, unless the party from whom fees are sought
17 establishes that the assessment would be clearly
18 inappropriate. The court may not assess fees, costs, or
19 expenses against this state unless authorized by law other
20 than this part.

21 61.522 Information to be submitted to the court.--

22 (1) Subject to Florida law providing for the
23 confidentiality of procedures, addresses, and other
24 identifying information in a child custody proceeding, each
25 party, in its first pleading or in an attached affidavit,
26 shall give information, if reasonably ascertainable, under
27 oath as to the child's present address or whereabouts, the
28 places where the child has lived during the last 5 years, and
29 the names and present addresses of the persons with whom the
30 child has lived during that period. The pleading or affidavit
31 must state whether the party:

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1 (a) Has participated, as a party or witness or in any
2 other capacity, in any other proceeding concerning the custody
3 of or visitation with the child and, if so, identify the
4 court, the case number, and the date of the child custody
5 determination, if any;

6 (b) Knows of any proceeding that could affect the
7 current proceeding, including proceedings for enforcement and
8 proceedings relating to domestic violence, protective orders,
9 termination of parental rights, and adoptions and, if so,
10 identify the court, the case number, and the nature of the
11 proceeding; and

12 (c) Knows the names and addresses of any person not a
13 party to the proceeding who has physical custody of the child
14 or claims rights of legal custody or physical custody of, or
15 visitation with, the child and, if so, the names and addresses
16 of those persons.

17 (2) If the information required by subsection (1) is
18 not furnished, the court, upon motion of a party or its own
19 motion, may stay the proceeding until the information is
20 furnished.

21 (3) If the declaration as to any of the items
22 described in paragraphs (1)(a)-(c) is in the affirmative, the
23 declarant shall give additional information under oath as
24 required by the court. The court may examine the parties under
25 oath as to details of the information furnished and other
26 matters pertinent to the court's jurisdiction and the
27 disposition of the case.

28 (4) Each party has a continuing duty to inform the
29 court of any proceeding in this or any other state which could
30 affect the current proceeding.

31 61.523 Appearance of parties and child.--

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1 (1) In a child custody proceeding in this state, the
2 court may order a party to the proceeding who is in this state
3 to appear before the court in person with or without the
4 child. The court may order any person who is in this state and
5 who has physical custody or control of the child to appear in
6 person with the child.

7 (2) If a party to a child custody proceeding whose
8 presence is desired by the court is outside this state, the
9 court may order that a notice given pursuant to s. 61.509
10 include a statement directing the party to appear in person
11 with or without the child and informing the party that failure
12 to appear may result in a decision adverse to the party.

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

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

22 61.524 Definitions.--As used in ss. 61.524-61.540, the
23 term:

24 (1) "Petitioner" means a person who seeks enforcement
25 of an order for return of a child under the Hague Convention
26 on the Civil Aspects of International Child Abduction or
27 enforcement of a child custody determination.

28 (2) "Respondent" means a person against whom a
29 proceeding has been commenced for enforcement of an order for
30 return of a child under the Hague Convention on the Civil
31 Aspects of International Child Abduction or enforcement of a

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1 child custody determination.

2 61.525 Enforcement under the Hague Convention.--Under
3 this part, a court of this state may enforce an order for the
4 return of a child made under the Hague Convention on the Civil
5 Aspects of International Child Abduction as if it were a child
6 custody determination.

7 61.526 Duty to enforce.--

8 (1) A court of this state shall recognize and enforce
9 a child custody determination of a court of another state if
10 the latter court exercised jurisdiction in substantial
11 conformity with this part or the determination was made under
12 factual circumstances meeting the jurisdictional standards of
13 this part and the determination has not been modified in
14 accordance with this part.

15 (2) A court of this state may use any remedy available
16 under other laws of this state to enforce a child custody
17 determination made by a court of another state. The remedies
18 provided by ss. 61.524-61.540 are cumulative and do not affect
19 the availability of other remedies to enforce a child custody
20 determination.

21 61.527 Temporary visitation.--

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

25 (a) A visitation schedule made by a court of another
26 state; or

27 (b) The visitation provisions of a child custody
28 determination of another state which does not provide for a
29 specific visitation schedule.

30 (2) If a court of this state makes an order under
31 paragraph (1)(b), it shall specify in the order a period that

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1 it considers adequate to allow the petitioner to obtain an
2 order from a court having jurisdiction under the criteria
3 specified in ss. 61.514-61.523. The order remains in effect
4 until an order is obtained from the other court or the period
5 expires.

6 61.528 Registration of child custody determination.--

7 (1) A child custody determination issued by a court of
8 another state may be registered in this state, with or without
9 a simultaneous request for enforcement, by sending to the
10 circuit court of the county where the petitioner or respondent
11 resides or where a simultaneous request for enforcement is
12 sought:

13 (a) A letter or other document requesting
14 registration;

15 (b) Two copies, including one certified copy, of the
16 determination sought to be registered and a statement under
17 penalty of perjury that, to the best of the knowledge and
18 belief of the person seeking registration, the order has not
19 been modified; and

20 (c) Except as otherwise provided in s. 61.522, the
21 name and address of the person seeking registration and any
22 parent or person acting as a parent who has been awarded
23 custody or visitation in the child custody determination
24 sought to be registered.

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

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

30 (b) Serve notice upon the persons named pursuant to
31 paragraph (1)(c) and provide them with an opportunity to

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1 contest the registration in accordance with this section.

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

4 (a) A registered determination is enforceable as of
5 the date of the registration in the same manner as a
6 determination issued by a court of this state;

7 (b) A hearing to contest the validity of the
8 registered determination must be requested within 20 days
9 after service of notice; and

10 (c) Failure to contest the registration will result in
11 confirmation of the child custody determination and preclude
12 further contest of that determination with respect to any
13 matter that could have been asserted.

14 (4) A person seeking to contest the validity of a
15 registered order must request a hearing within 20 days after
16 service of the notice. At that hearing, the court shall
17 confirm the registered order unless the person contesting
18 registration establishes that:

19 (a) The issuing court did not have jurisdiction under
20 ss. 61.514-61.523;

21 (b) The child custody determination sought to be
22 registered has been vacated, stayed, or modified by a court
23 having jurisdiction to do so under ss. 61.514-61.523; or

24 (c) The person contesting registration was entitled to
25 notice, but notice was not given in accordance with the
26 standards of s. 61.509 in the proceedings before the court
27 that issued the order for which registration is sought.

28 (5) If a timely request for a hearing to contest the
29 validity of the registration is not made, the registration is
30 confirmed as a matter of law and the person requesting
31 registration and all persons served must be notified of the

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1 confirmation.

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

6 61.529 Enforcement of registered determination.--

7 (1) A court of this state may grant any relief
8 normally available under the laws of this state to enforce a
9 registered child custody determination made by a court of
10 another state.

11 (2) A court of this state shall recognize and enforce
12 but may not modify, except in accordance with ss.
13 61.514-61.523, a registered child custody determination of
14 another state.

15 61.530 Simultaneous proceedings.--If a proceeding for
16 enforcement under ss. 61.524-61.540 is commenced in a court of
17 this state and the court determines that a proceeding to
18 modify the determination is pending in a court of another
19 state having jurisdiction to modify the determination under
20 ss. 61.514-61.523, the enforcing court shall immediately
21 communicate with the modifying court. The proceeding for
22 enforcement continues unless the enforcing court, after
23 consultation with the modifying court, stays or dismisses the
24 proceeding.

25 61.531 Expedited enforcement of child custody
26 determination.--

27 (1) A petition under ss. 61.524-61.540 must be
28 verified. Certified copies of all orders sought to be enforced
29 and of any order confirming registration must be attached to
30 the petition. A copy of a certified copy of an order may be
31 attached instead of the original.

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

3 (a) Whether the court that issued the determination
4 identified the jurisdictional basis it relied upon in
5 exercising jurisdiction and, if so, specify the basis;

6 (b) Whether the determination for which enforcement is
7 sought has been vacated, stayed, or modified by a court whose
8 decision must be enforced under this part and, if so, identify
9 the court, the case number, and the nature of the proceeding;

10 (c) Whether any proceeding has been commenced that
11 could affect the current proceeding, including proceedings
12 relating to domestic violence, protective orders, termination
13 of parental rights, and adoptions and, if so, identify the
14 court, the case number, and the nature of the proceeding;

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

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

21 (f) If the child custody determination has been
22 registered and confirmed under s. 61.528, the date and place
23 of registration.

24 (3) Upon the filing of a petition, the court shall
25 issue an order directing the respondent to appear in person
26 with or without the child at a hearing and may enter any order
27 necessary to ensure the safety of the parties and the child.
28 The hearing must be held on the next judicial day after
29 service of the order unless that date is impossible. In that
30 event, the court shall hold the hearing on the first judicial
31 day possible. The court may extend the date of the hearing at

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1 the request of the petitioner.

2 (4) An order issued under subsection (3) must state
3 the time and place of the hearing and advise the respondent
4 that at the hearing the court will order that the petitioner
5 may take immediate physical custody of the child and the
6 payment of fees, costs, and expenses under s. 61.535 and may
7 schedule a hearing to determine whether further relief is
8 appropriate, unless the respondent appears and establishes
9 that:

10 (a) The child custody determination has not been
11 registered and confirmed under s. 61.528 and that:

12 1. The issuing court did not have jurisdiction under
13 ss. 61.514-61.523;

14 2. The child custody determination for which
15 enforcement is sought has been vacated, stayed, or modified by
16 a court of a state having jurisdiction to do so under ss.
17 61.514-61.523; or

18 3. The respondent was entitled to notice, but notice
19 was not given in accordance with the standards of s. 61.509 in
20 the proceedings before the court that issued the order for
21 which enforcement is sought; or

22 (b) The child custody determination for which
23 enforcement is sought was registered and confirmed under s.
24 61.528, but has been vacated, stayed, or modified by a court
25 of a state having jurisdiction to do so under ss.
26 61.514-61.523.

27 61.532 Service of petition and order.--Except as
28 otherwise provided in s. 61.534, the petition and order must
29 be served by any method authorized by the laws of this state
30 upon the respondent and any person who has physical custody of
31 the child.

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1 61.533 Hearing and order.--
2 (1) Unless the court enters a temporary emergency
3 order under s. 61.517, upon a finding that a petitioner is
4 entitled to immediate physical custody of the child, the court
5 shall order that the petitioner may take immediate physical
6 custody of the child unless the respondent establishes that:
7 (a) The child custody determination has not been
8 registered and confirmed under s. 61.528 and that:
9 1. The issuing court did not have jurisdiction under
10 ss. 61.514-61.523;
11 2. The child custody determination for which
12 enforcement is sought has been vacated, stayed, or modified by
13 a court of a state having jurisdiction to do so under ss.
14 61.514-61.523; or
15 3. The respondent was entitled to notice, but notice
16 was not given in accordance with the standards of s. 61.509 in
17 the proceedings before the court that issued the order for
18 which enforcement is sought; or
19 (b) The child custody determination for which
20 enforcement is sought was registered and confirmed under s.
21 61.528, but has been vacated, stayed, or modified by a court
22 of a state having jurisdiction to do so under ss.
23 61.514-61.523.
24 (2) The court shall award the fees, costs, and
25 expenses authorized under s. 61.535 and may grant additional
26 relief, including a request for the assistance of law
27 enforcement officers, and set a further hearing to determine
28 whether additional relief is appropriate.
29 (3) If a party called to testify refuses to answer on
30 the ground that the testimony may be self-incriminating, the
31 court may draw an adverse inference from the refusal.

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1 (4) A privilege against disclosure of communications
2 between spouses and a defense of immunity based on the
3 relationship of husband and wife or parent and child may not
4 be invoked in a proceeding under ss. 61.524-61.540.

5 61.534 Warrant to take physical custody of child.--

6 (1) Upon the filing of a petition seeking enforcement
7 of a child custody determination, the petitioner may file a
8 verified application for the issuance of a warrant to take
9 physical custody of the child if the child is likely to
10 imminently suffer serious physical harm or removal from this
11 state.

12 (2) If the court, upon the testimony of the petitioner
13 or other witness, finds that the child is likely to imminently
14 suffer serious physical harm or removal from this state, it
15 may issue a warrant to take physical custody of the child. The
16 petition must be heard on the next judicial day after the
17 warrant is executed unless that date is impossible. In that
18 event, the court shall hold the hearing on the first judicial
19 day possible. The application for the warrant must include the
20 statements required by s. 61.531(2).

21 (3) A warrant to take physical custody of a child
22 must:

23 (a) Recite the facts upon which a conclusion of
24 imminent serious physical harm or removal from the
25 jurisdiction is based;

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

28 (c) Provide for the placement of the child pending
29 final relief.

30 (4) The respondent must be served with the petition,
31 warrant, and order immediately after the child is taken into

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1 physical custody.

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

10 (6) The court may impose conditions upon placement of
11 a child to ensure the appearance of the child and the child's
12 custodian.

13 61.535 Costs, fees, and expenses.--

14 (1) So long as the court has personal jurisdiction
15 over the party against whom the expenses are being assessed,
16 the court shall award the prevailing party, including a state,
17 necessary and reasonable expenses incurred by or on behalf of
18 the party, including costs, communication expenses, attorney's
19 fees, investigative fees, expenses for witnesses, travel
20 expenses, and expenses for child care during the course of the
21 proceedings, unless the party from whom fees or expenses are
22 sought establishes that the award would be clearly
23 inappropriate.

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

26 61.536 Recognition and enforcement.--A court of this
27 state shall accord full faith and credit to an order issued by
28 another state and consistent with this part which enforces a
29 child custody determination by a court of another state unless
30 the order has been vacated, stayed, or modified by a court
31 having jurisdiction to do so under ss. 61.514-61.523.

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1 61.537 Appeals.--An appeal may be taken from a final
2 order in a proceeding under ss. 61.524-61.540 in accordance
3 with expedited appellate procedures in other civil cases.
4 Unless the court enters a temporary emergency order under s.
5 61.517, the enforcing court may not stay an order enforcing a
6 child custody determination pending appeal.

7 61.538 Role of state attorney.--

8 (1) In a case arising under this part or involving the
9 Hague Convention on the Civil Aspects of International Child
10 Abduction, the state attorney may take any lawful action,
11 including resort to a proceeding under ss. 61.524-61.540 or
12 any other available civil proceeding, to locate a child,
13 obtain the return of a child, or enforce a child custody
14 determination, if there is:

15 (a) An existing child custody determination;

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

18 (c) A reasonable belief that a criminal statute has
19 been violated; or

20 (d) A reasonable belief that the child has been
21 wrongfully removed or retained in violation of the Hague
22 Convention on the Civil Aspects of International Child
23 Abduction.

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

26 61.539 Role of law enforcement officers.--At the
27 request of a state attorney acting under s. 61.538, a law
28 enforcement officer may take any lawful action reasonably
29 necessary to locate a child or a party and assist a state
30 attorney with responsibilities under s. 61.538.

31 61.540 Costs and expenses.--The court may assess

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1 against the nonprevailing party all direct expenses and costs
2 incurred by the state attorney and law enforcement officers
3 under s. 61.538 or s. 61.539 so long as the court has personal
4 jurisdiction over the nonprevailing party.

5 61.541 Application and construction.--In applying and
6 construing this part, consideration must be given to the need
7 to promote uniformity of the law with respect to its subject
8 matter among states that enact it.

9 61.542 Transitional provision.--A motion or other
10 request for relief made in a child custody proceeding or to
11 enforce a child custody determination that was commenced
12 before the effective date of this part is governed by the law
13 in effect at the time the motion or other request was made.

14 Section 6. Paragraph (d) of subsection (3), subsection
15 (4), and paragraph (a) of subsection (7) of section 741.30,
16 Florida Statutes, are amended to read:

17 741.30 Domestic violence; injunction; powers and
18 duties of court and clerk; petition; notice and hearing;
19 temporary injunction; issuance of injunction; statewide
20 verification system; enforcement.--

21 (3)

22 (d) If the sworn petition seeks to determine issues of
23 custody or visitation with regard to the minor child or
24 children of the parties, the sworn petition shall be
25 accompanied by or shall incorporate the allegations required
26 by s. 61.522 ~~s. 61.132~~ of the Uniform Child Custody
27 Jurisdiction and Enforcement Act.

28 (4) Upon the filing of the petition, the court shall
29 set a hearing to be held at the earliest possible time. The
30 respondent shall be personally served with a copy of the
31 petition, financial affidavit, uniform child custody

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1 jurisdiction and enforcement act affidavit, if any, notice of
2 hearing, and temporary injunction, if any, prior to the
3 hearing.

4 (7)(a)1. The clerk of the court shall furnish a copy
5 of the petition, financial affidavit, uniform child custody
6 jurisdiction and enforcement act affidavit, if any, notice of
7 hearing, and temporary injunction, if any, to the sheriff or a
8 law enforcement agency of the county where the respondent
9 resides or can be found, who shall serve it upon the
10 respondent as soon thereafter as possible on any day of the
11 week and at any time of the day or night. The clerk of the
12 court shall be responsible for furnishing to the sheriff such
13 information on the respondent's physical description and
14 location as is required by the department to comply with the
15 verification procedures set forth in this section.
16 Notwithstanding any other provision of law to the contrary,
17 the chief judge of each circuit, in consultation with the
18 appropriate sheriff, may authorize a law enforcement agency
19 within the jurisdiction to effect service. A law enforcement
20 agency serving injunctions pursuant to this section shall use
21 service and verification procedures consistent with those of
22 the sheriff.

23 2. When an injunction is issued, if the petitioner
24 requests the assistance of a law enforcement agency, the court
25 may order that an officer from the appropriate law enforcement
26 agency accompany the petitioner and assist in placing the
27 petitioner in possession of the dwelling or residence, or
28 otherwise assist in the execution or service of the
29 injunction. A law enforcement officer shall accept a copy of
30 an injunction for protection against domestic violence,
31 certified by the clerk of the court, from the petitioner and

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1 immediately serve it upon a respondent who has been located
2 but not yet served.

3 3. All orders issued, changed, continued, extended, or
4 vacated subsequent to the original service of documents
5 enumerated under subparagraph 1., shall be certified by the
6 clerk of the court and delivered to the parties at the time of
7 the entry of the order. The parties may acknowledge receipt
8 of such order in writing on the face of the original order.
9 In the event a party fails or refuses to acknowledge the
10 receipt of a certified copy of an order, the clerk shall note
11 on the original order that service was effected. If delivery
12 at the hearing is not possible, the clerk shall mail certified
13 copies of the order to the parties at the last known address
14 of each party. Service by mail is complete upon mailing.
15 When an order is served pursuant to this subsection, the clerk
16 shall prepare a written certification to be placed in the
17 court file specifying the time, date, and method of service
18 and shall notify the sheriff.

19

20 If the respondent has been served previously with the
21 temporary injunction and has failed to appear at the initial
22 hearing on the temporary injunction, any subsequent petition
23 for injunction seeking an extension of time may be served on
24 the respondent by the clerk of the court by certified mail in
25 lieu of personal service by a law enforcement officer.

26 Section 7. Sections 61.1302, 61.1304, 61.1306,
27 61.1308, 61.131, 61.1312, 61.1314, 61.1316, 61.1318, 61.132,
28 61.1322, 61.1324, 61.1326, 61.1328, 61.133, 61.1332, 61.1334,
29 61.1336, 61.1338, 61.134, 61.1342, 61.1344, 61.1346, and
30 61.1348, Florida Statutes, are repealed.

31 Section 8. This act shall take effect October 1, 2002.

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 Delete everything before the enacting clause

4

5 and insert:

6 A bill to be entitled

7 An act relating to child custody jurisdiction
8 and enforcement; amending s. 39.502, F.S.;
9 conforming references and cross references;
10 re-enacting s. 44.102, F.S.; to incorporate an
11 amendment to s. 61.13, F.S.; amending s. 61.13,
12 F.S.; conforming a reference; providing for the
13 posting of a bond with respect to certain
14 orders of child custody or visitation;
15 providing criteria for the court to use in
16 assessing the need for a bond; providing for
17 forfeiture of the bond under certain
18 circumstances; providing for the posting of a
19 bond with respect to certain orders of child
20 custody or visitation; providing criteria for
21 the court to use in assessing the need for a
22 bond; providing for forfeiture of the bond
23 under certain circumstances; creating sections
24 61.501 through 61.542, F.S., cited as the
25 "Uniform Child Custody Jurisdiction and
26 Enforcement Act"; providing purposes; providing
27 definitions; specifying proceedings not
28 governed by the act; providing application to
29 Indian tribes; providing international
30 application of the act; providing the effect of
31 a child custody determination; providing

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1 priority for questions jurisdiction under the
2 act; providing for notice to persons outside
3 the state; providing for appearance at
4 proceedings and limited immunity; providing for
5 communication between courts of this state and
6 courts of other states; providing for taking
7 testimony in another state; providing for
8 cooperation between courts and the preservation
9 of records; providing for initial child custody
10 jurisdiction; providing for exclusive,
11 continuing jurisdiction; providing for
12 jurisdiction to modify a child custody
13 determination; providing for temporary
14 emergency jurisdiction; providing for notice,
15 opportunity to be heard, and joinder; providing
16 procedures with respect to simultaneous
17 proceedings; providing for determination of an
18 inconvenient forum; providing procedures for a
19 court to decline jurisdiction by reason of
20 conduct; specifying information to be submitted
21 to the court; providing for the appearance of
22 the parties and the child at proceedings;
23 providing definitions relating to enforcement;
24 providing for enforcement under the Hague
25 Convention; providing duty of the court to
26 enforce child custody determinations of a court
27 of another state; providing for temporary
28 visitation; providing for registration of
29 out-of-state child custody determinations;
30 providing for enforcement of registered
31 determinations; providing procedures with

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1 respect to simultaneous proceedings; providing
2 for expedited enforcement of a child custody
3 determination; providing for service of
4 petition and order; providing for hearing and
5 order; providing for issuance of a warrant to
6 take physical custody of a child under certain
7 circumstances; providing for award of costs,
8 fees, and expenses to the prevailing party;
9 providing for recognition of enforcement orders
10 of a court of another state; providing for
11 appeals; providing for actions by the state
12 attorney; providing for actions by law
13 enforcement officers; providing for assessment
14 of costs and expenses incurred by the state
15 attorney and law enforcement officers;
16 providing for application and construction of
17 the act; providing for transition; amending s.
18 741.30, F.S.; conforming references and cross
19 references; repealing ss. 61.1302, 61.1304,
20 61.1306, 61.1308, 61.131, 61.1312, 61.1314,
21 61.1316, 61.1318, 61.132, 61.1322, 61.1324,
22 61.1326, 61.1328, 61.133, 61.1332, 61.1334,
23 61.1336, 61.1338, 61.134, 61.1342, 61.1344,
24 61.1346, and 61.1348, F.S., relating to the
25 "Uniform Child Custody Jurisdiction Act";
26 providing an effective date.

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31