

By the Committee on Judiciary; and Senator Campbell

308-2217-02

1 A bill to be entitled
2 An act relating to child custody jurisdiction
3 and enforcement; creating part IV of ch. 61,
4 F.S., entitled the "Uniform Child Custody
5 Jurisdiction and Enforcement Act"; providing
6 purposes; providing definitions; specifying
7 proceedings not governed by the act; providing
8 application to Indian tribes; providing
9 international application of the act; providing
10 the effect of a child custody determination;
11 providing priority for questions jurisdiction
12 under 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 court to decline jurisdiction by reason of
30 conduct; specifying information to be submitted
31 to the court; providing for the appearance of

1 the parties and the child at proceedings;
2 providing definitions relating to enforcement;
3 providing for enforcement under the Hague
4 Convention; providing duty of the court to
5 enforce child custody determinations of a court
6 of another state; providing for temporary
7 visitation; providing for registration of
8 out-of-state child custody determinations;
9 providing for enforcement of registered
10 determinations; providing procedures with
11 respect to simultaneous proceedings; providing
12 for 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 s. 61.13, F.S.; conforming
29 a reference; providing for the posting of a
30 bond with respect to certain orders of child
31 custody or visitation; providing criteria for

1 the court to use in assessing the need for a
2 bond; providing for forfeiture of the bond
3 under certain circumstances; providing for the
4 posting of a bond with respect to certain
5 orders of child custody or visitation;
6 providing criteria for the court to use in
7 assessing the need for a bond; providing for
8 forfeiture of the bond under certain
9 circumstances; amending ss. 39.502 and 741.30,
10 F.S.; conforming references and cross
11 references; repealing ss. 61.1302, 61.1304,
12 61.1306, 61.1308, 61.131, 61.1312, 61.1314,
13 61.1316, 61.1318, 61.132, 61.1322, 61.1324,
14 61.1326, 61.1328, 61.133, 61.1332, 61.1334,
15 61.1336, 61.1338, 61.134, 61.1342, 61.1344,
16 61.1346, and 61.1348, F.S., relating to the
17 "Uniform Child Custody Jurisdiction Act";
18 reenacting s. 44.102, F.S., to incorporate an
19 amendment to s. 61.13, F.S.; providing an
20 effective date.

21

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

23

24 Section 1. Part IV of chapter 61, Florida Statutes,
25 consisting of sections 61.501, 61.502, 61.503, 61.504, 61.505,
26 61.506, 61.507, 61.508, 61.509, 61.510, 61.511, 61.512,
27 61.513, 61.514, 61.515, 61.516, 61.517, 61.518, 61.519,
28 61.520, 61.521, 61.522, 61.523, 61.524, 61.525, 61.526,
29 61.527, 61.528, 61.529, 61.530, 61.531, 61.532, 61.533,
30 61.534, 61.535, 61.536, 61.537, 61.538, 61.539, 61.540,
31 61.541, and 61.542, Florida Statutes, is created to read:

1 61.501 Short title.--This part may be cited as the
2 "Uniform Child Custody Jurisdiction and Enforcement Act."

3 61.502 Purposes of part; construction of
4 provisions.--The general purposes of this part are to:

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

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

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

15 (4) Deter abductions.

16 (5) Avoid relitigating the custody decisions of other
17 states in this state.

18 (6) Facilitate the enforcement of custody decrees of
19 other states.

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

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

25 61.503 Definitions.--As used in this part, the term:

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

28 (2) "Child" means an individual who has not attained
29 18 years of age.

30 (3) "Child custody determination" means a judgment,
31 decree, or other order of a court providing for the legal

1 custody, physical custody, residential care, or visitation
2 with respect to a child. The term includes a permanent,
3 temporary, initial, and modification order. The term does not
4 include an order relating to child support or other monetary
5 obligation of an individual.

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

15 (5) "Commencement" means the filing of the first
16 pleading in a proceeding.

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

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

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

30
31

1 (9) "Issuing court" means the court that makes a child
2 custody determination for which enforcement is sought under
3 this part.

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

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

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

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

18 (a) Has physical custody of the child or has had
19 physical custody for a period of 6 consecutive months,
20 including any temporary absence, within 1 year immediately
21 before the commencement of a child custody proceeding; and

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

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

27 (15) "State" means a state of the United States, the
28 District of Columbia, Puerto Rico, the United States Virgin
29 Islands, or any territory or insular possession subject to the
30 jurisdiction of the United States.

31

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

4 (17) "Warrant" means an order issued by a court
5 authorizing law enforcement officers to take physical custody
6 of a child.

7 61.504 Proceedings governed by other law.--This part
8 does not govern a proceeding pertaining to the authorization
9 of emergency medical care for a child.

10 61.505 Application to Indian tribes.--

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

15 (2) A court of this state shall treat a tribe as if it
16 were a state of the United States for purposes of applying ss.
17 61.501-61.523.

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

22 61.506 International application of part.--

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

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

31

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

4 61.507 Effect of child custody determination.--A child
5 custody determination made by a court of this state which had
6 jurisdiction under this part binds all persons who have been
7 served in accordance with the laws of this state or notified
8 in accordance with s. 61.509 or who have submitted to the
9 jurisdiction of the court, and who have been given an
10 opportunity to be heard. As to those persons, the
11 determination is conclusive as to all decided issues of law
12 and fact except to the extent the determination is modified.

13 61.508 Priority.--If a question of existence or
14 exercise of jurisdiction under this part is raised in a child
15 custody proceeding, the question, upon request of a party,
16 must be given priority on the calendar and handled
17 expeditiously.

18 61.509 Notice to persons outside the state.--

19 (1) Notice required for the exercise of jurisdiction
20 when a person is outside this state may be given in a manner
21 prescribed by the laws of the state in which the service is
22 made. Notice must be given in a manner reasonably calculated
23 to give actual notice, but may be made by publication if other
24 means are not effective.

25 (2) Proof of service may be made in the manner
26 prescribed by the laws of the state in which the service is
27 made.

28 (3) Notice is not required for the exercise of
29 jurisdiction with respect to a person who submits to the
30 jurisdiction of the court.

31 61.510 Appearance and limited immunity.--

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

8 (2) A person who is subject to personal jurisdiction
9 in this state on a basis other than physical presence is not
10 immune from service of process in this state. A party present
11 in this state who is subject to the jurisdiction of another
12 state is not immune from service of process allowable under
13 the laws of that state.

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

18 61.511 Communication between courts.--

19 (1) A court of this state may communicate with a court
20 in another state concerning a proceeding arising under this
21 part.

22 (2) The court shall allow the parties to participate
23 in the communication. If the parties elect to participate in
24 the communication, they must be given the opportunity to
25 present facts and legal arguments before a decision on
26 jurisdiction is made.

27 (3) Communication between courts on schedules,
28 calendars, court records, and similar matters may occur
29 without informing the parties. A record need not be made of
30 the communication.

31

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

5 (5) For purposes of this section, the term "record"
6 means a form of information, including, but not limited to, an
7 electronic recording or transcription by a court reporter
8 which creates a verbatim memorialization of any communication
9 between two or more individuals or entities.

10 61.512 Taking testimony in another state.--

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

20 (2) Upon agreement of the parties, a court of this
21 state may permit an individual residing in another state to be
22 deposed or to testify by telephone, audiovisual means, or
23 other electronic means before a designated court or at another
24 location in that state. A court of this state shall cooperate
25 with courts of other states in designating an appropriate
26 location for the deposition or testimony.

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

31

1 61.513 Cooperation between courts; preservation of
2 records.--

3 (1) A court of this state may request the appropriate
4 court of another state to:

5 (a) Hold an evidentiary hearing;

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

8 (c) Order that an evaluation be made with respect to
9 the custody of a child involved in a pending proceeding
10 pursuant to the laws of the state where the proceeding is
11 pending;

12 (d) Forward to the court of this state a certified
13 copy of the transcript of the record of the hearing, the
14 evidence otherwise presented, and any evaluation prepared in
15 compliance with the request; or

16 (e) Order a party to a child custody proceeding or any
17 person having physical custody of the child to appear in the
18 proceeding with or without the child.

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

22 (3) Travel and other necessary and reasonable expenses
23 incurred under subsections (1) and (2) may be assessed against
24 the parties according to the laws of this state if the court
25 has personal jurisdiction over the party against whom these
26 expenses are being assessed.

27 (4) A court of this state shall preserve the
28 pleadings, orders, decrees, records of hearings, evaluations,
29 and other pertinent records with respect to a child custody
30 proceeding until the child attains 18 years of age. Upon
31 appropriate request by a court or law enforcement official of

1 another state, the court shall forward a certified copy of
2 these records.

3 61.514 Initial child custody jurisdiction.--

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

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

13 (b) A court of another state does not have
14 jurisdiction under paragraph (a), or a court of the home state
15 of the child has declined to exercise jurisdiction on the
16 grounds that this state is the more appropriate forum under s.
17 61.520 or s. 61.521, and:

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

22 2. Substantial evidence is available in this state
23 concerning the child's care, protection, training, and
24 personal relationships;

25 (c) All courts having jurisdiction under paragraph (a)
26 or paragraph (b) have declined to exercise jurisdiction on the
27 grounds that a court of this state is the more appropriate
28 forum to determine the custody of the child under s. 61.520 or
29 s. 61.521; or

30
31

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

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

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

10 61.515 Exclusive, continuing jurisdiction.--

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

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

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

24 (2) A court of this state which has made a child
25 custody determination and does not have exclusive, continuing
26 jurisdiction under this section may modify that determination
27 only if it has jurisdiction to make an initial determination
28 under s. 61.514.

29 61.516 Jurisdiction to modify a determination.--Except
30 as otherwise provided in s. 61.517, a court of this state may
31 not modify a child custody determination made by a court of

1 another state unless a court of this state has jurisdiction to
2 make an initial determination under s. 61.514(1)(a) or s.
3 61.514(1)(b) and:

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

8 (2) A court of this state or a court of the other
9 state determines that the child, the child's parents, and any
10 person acting as a parent does not presently reside in the
11 other state.

12 61.517 Temporary emergency jurisdiction.--

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

19 (2) If there is no previous child custody
20 determination that is entitled to be enforced under this part,
21 and a child custody proceeding has not been commenced in a
22 court of a state having jurisdiction under ss. 61.514-61.616,
23 a child custody determination made under this section remains
24 in effect until an order is obtained from a court of a state
25 having jurisdiction under ss. 61.514-61.516. If a child
26 custody proceeding has not been or is not commenced in a court
27 of a state having jurisdiction under ss. 61.514-61.516, a
28 child custody determination made under this section becomes a
29 final determination if it so provides and this state becomes
30 the home state of the child.

31

1 (3) If there is a previous child custody determination
2 that is entitled to be enforced under this part, or a child
3 custody proceeding has been commenced in a court of a state
4 having jurisdiction under ss. 61.514-61.516, any order issued
5 by a court of this state under this section must specify in
6 the order a period that the court considers adequate to allow
7 the person seeking an order to obtain an order from the state
8 having jurisdiction under ss. 61.514-61.516. The order issued
9 in this state remains in effect until an order is obtained
10 from the other state within the period specified or the period
11 expires.

12 (4) A court of this state which has been asked to make
13 a child custody determination under this section, upon being
14 informed that a child custody proceeding has been commenced
15 in, or a child custody determination has been made by, a court
16 of a state having jurisdiction under ss. 61.514-61.516, shall
17 immediately communicate with the other court. A court of this
18 state which is exercising jurisdiction under ss.
19 61.514-61.516, upon being informed that a child custody
20 proceeding has been commenced in, or a child custody
21 determination has been made by, a court of another state under
22 a statute similar to this section shall immediately
23 communicate with the court of that state to resolve the
24 emergency, protect the safety of the parties and the child,
25 and determine a period for the duration of the temporary
26 order.

27 61.518 Notice; opportunity to be heard; joinder.--

28 (1) Before a child custody determination is made under
29 this part, notice and an opportunity to be heard in accordance
30 with the standards of s. 61.509 must be given to all persons
31 entitled to notice under the laws of this state as in child

1 custody proceedings between residents of this state, any
2 parent whose parental rights have not been previously
3 terminated, and any person acting as a parent.

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

7 (3) The obligation to join a party and the right to
8 intervene as a party in a child custody proceeding under this
9 part are governed by the laws of this state as in child
10 custody proceedings between residents of this state.

11 61.519 Simultaneous proceedings.--

12 (1) Except as otherwise provided in s. 61.517, a court
13 of this state may not exercise its jurisdiction under ss.
14 61.514-61.524 if, at the time of the commencement of the
15 proceeding, a proceeding concerning the custody of the child
16 had been commenced in a court of another state having
17 jurisdiction substantially in conformity with this part,
18 unless the proceeding has been terminated or is stayed by the
19 court of the other state because a court of this state is a
20 more convenient forum under s. 61.520.

21 (2) Except as otherwise provided in s. 61.517, a court
22 of this state, before hearing a child custody proceeding,
23 shall examine the court documents and other information
24 supplied by the parties pursuant to s. 61.522. If the court
25 determines that a child custody proceeding was previously
26 commenced in a court in another state having jurisdiction
27 substantially in accordance with this part, the court of this
28 state shall stay its proceeding and communicate with the court
29 of the other state. If the court of the state having
30 jurisdiction substantially in accordance with this part does
31 not determine that the court of this state is a more

1 appropriate forum, the court of this state shall dismiss the
2 proceeding.

3 (3) In a proceeding to modify a child custody
4 determination, a court of this state shall determine whether a
5 proceeding to enforce the determination has been commenced in
6 another state. If a proceeding to enforce a child custody
7 determination has been commenced in another state, the court
8 may:

9 (a) Stay the proceeding for modification pending the
10 entry of an order of a court of the other state enforcing,
11 staying, denying, or dismissing the proceeding for
12 enforcement;

13 (b) Enjoin the parties from continuing with the
14 proceeding for enforcement; or

15 (c) Proceed with the modification under conditions it
16 considers appropriate.

17 61.520 Inconvenient forum.--

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

25 (2) Before determining whether it is an inconvenient
26 forum, a court of this state shall consider whether it is
27 appropriate for a court of another state to exercise
28 jurisdiction. For this purpose, the court shall allow the
29 parties to submit information and shall consider all relevant
30 factors, including:

31

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

4 (b) The length of time the child has resided outside
5 this state;

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

8 (d) The relative financial circumstances of the
9 parties;

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

12 (f) The nature and location of the evidence required
13 to resolve the pending litigation, including testimony of the
14 child;

15 (g) The ability of the court of each state to decide
16 the issue expeditiously and the procedures necessary to
17 present the evidence; and

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

20 (3) If a court of this state determines that it is an
21 inconvenient forum and that a court of another state is a more
22 appropriate forum, it shall stay the proceedings upon
23 condition that a child custody proceeding be promptly
24 commenced in another designated state and may impose any other
25 condition the court considers just and proper.

26 (4) A court of this state may decline to exercise its
27 jurisdiction under this part if a child custody determination
28 is incidental to an action for divorce or another proceeding
29 while still retaining jurisdiction over the divorce or other
30 proceeding.

31 61.521 Jurisdiction declined by reason of conduct.--

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

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

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

11 (c) No court of any other state would have
12 jurisdiction under the criteria specified in ss.
13 61.514-61.516.

14 (2) If a court of this state declines to exercise its
15 jurisdiction under subsection (1), it may fashion an
16 appropriate remedy to ensure the safety of the child and
17 prevent a repetition of the unjustifiable conduct, including
18 staying the proceeding until a child custody proceeding is
19 commenced in a court having jurisdiction under ss.
20 61.514-61.516.

21 (3) If a court dismisses a petition or stays a
22 proceeding because it declines to exercise its jurisdiction
23 under subsection (1), it shall assess against the party
24 seeking to invoke its jurisdiction necessary and reasonable
25 expenses, including costs, communication expenses, attorney's
26 fees, investigative fees, expenses for witnesses, travel
27 expenses, and expenses for child care during the course of the
28 proceedings, unless the party from whom fees are sought
29 establishes that the assessment would be clearly
30 inappropriate. The court may not assess fees, costs, or
31

1 expenses against this state unless authorized by law other
2 than this part.

3 61.522 Information to be submitted to the court.--

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

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

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

25 (c) Knows the names and addresses of any person not a
26 party to the proceeding who has physical custody of the child
27 or claims rights of legal custody or physical custody of, or
28 visitation with, the child and, if so, the names and addresses
29 of those persons.

30 (2) If the information required by subsection (1) is
31 not furnished, the court, upon motion of a party or its own

1 motion, may stay the proceeding until the information is
2 furnished.

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

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

13 61.523 Appearance of parties and child.--

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

20 (2) If a party to a child custody proceeding whose
21 presence is desired by the court is outside this state, the
22 court may order that a notice given pursuant to s. 61.509
23 include a statement directing the party to appear in person
24 with or without the child and informing the party that failure
25 to appear may result in a decision adverse to the party.

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

29 (4) If a party to a child custody proceeding who is
30 outside this state is directed to appear under subsection (2)
31 or desires to appear in person before the court with or

1 without the child, the court may require another party to pay
2 reasonable and necessary travel and other expenses of the
3 party so appearing and of the child.

4 61.524 Definitions.--As used in ss. 61.524-61.540, the
5 term:

6 (1) "Petitioner" means a person who seeks enforcement
7 of an order for return of a child under the Hague Convention
8 on the Civil Aspects of International Child Abduction or
9 enforcement of a child custody determination.

10 (2) "Respondent" means a person against whom a
11 proceeding has been commenced for enforcement of an order for
12 return of a child under the Hague Convention on the Civil
13 Aspects of International Child Abduction or enforcement of a
14 child custody determination.

15 61.525 Enforcement under the Hague Convention.--Under
16 this part, a court of this state may enforce an order for the
17 return of a child made under the Hague Convention on the Civil
18 Aspects of International Child Abduction as if it were a child
19 custody determination.

20 61.526 Duty to enforce.--

21 (1) A court of this state shall recognize and enforce
22 a child custody determination of a court of another state if
23 the latter court exercised jurisdiction in substantial
24 conformity with this part or the determination was made under
25 factual circumstances meeting the jurisdictional standards of
26 this part and the determination has not been modified in
27 accordance with this part.

28 (2) A court of this state may use any remedy available
29 under other laws of this state to enforce a child custody
30 determination made by a court of another state. The remedies
31 provided by ss. 61.524-61.540 are cumulative and do not affect

1 the availability of other remedies to enforce a child custody
2 determination.

3 61.527 Temporary visitation.--

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

7 (a) A visitation schedule made by a court of another
8 state; or

9 (b) The visitation provisions of a child custody
10 determination of another state which does not provide for a
11 specific visitation schedule.

12 (2) If a court of this state makes an order under
13 paragraph (1)(b), it shall specify in the order a period that
14 it considers adequate to allow the petitioner to obtain an
15 order from a court having jurisdiction under the criteria
16 specified in ss. 61.514-61.523. The order remains in effect
17 until an order is obtained from the other court or the period
18 expires.

19 61.528 Registration of child custody determination.--

20 (1) A child custody determination issued by a court of
21 another state may be registered in this state, with or without
22 a simultaneous request for enforcement, by sending to the
23 circuit court of the county where the petitioner or respondent
24 resides or where a simultaneous request for enforcement is
25 sought:

26 (a) A letter or other document requesting
27 registration;

28 (b) Two copies, including one certified copy, of the
29 determination sought to be registered and a statement under
30 penalty of perjury that, to the best of the knowledge and
31

1 belief of the person seeking registration, the order has not
2 been modified; and

3 (c) Except as otherwise provided in s. 61.522, the
4 name and address of the person seeking registration and any
5 parent or person acting as a parent who has been awarded
6 custody or visitation in the child custody determination
7 sought to be registered.

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

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

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

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

18 (a) A registered determination is enforceable as of
19 the date of the registration in the same manner as a
20 determination issued by a court of this state;

21 (b) A hearing to contest the validity of the
22 registered determination must be requested within 20 days
23 after service of notice; and

24 (c) Failure to contest the registration will result in
25 confirmation of the child custody determination and preclude
26 further contest of that determination with respect to any
27 matter that could have been asserted.

28 (4) A person seeking to contest the validity of a
29 registered order must request a hearing within 20 days after
30 service of the notice. At that hearing, the court shall
31

1 confirm the registered order unless the person contesting
2 registration establishes that:
3 (a) The issuing court did not have jurisdiction under
4 ss. 61.514-61.523;
5 (b) The child custody determination sought to be
6 registered has been vacated, stayed, or modified by a court
7 having jurisdiction to do so under ss. 61.514-61.523; or
8 (c) The person contesting registration was entitled to
9 notice, but notice was not given in accordance with the
10 standards of s. 61.509 in the proceedings before the court
11 that issued the order for which registration is sought.
12 (5) If a timely request for a hearing to contest the
13 validity of the registration is not made, the registration is
14 confirmed as a matter of law and the person requesting
15 registration and all persons served must be notified of the
16 confirmation.
17 (6) Confirmation of a registered order, whether by
18 operation of law or after notice and hearing, precludes
19 further contest of the order with respect to any matter that
20 could have been asserted at the time of registration.
21 61.529 Enforcement of registered determination.--
22 (1) A court of this state may grant any relief
23 normally available under the laws of this state to enforce a
24 registered child custody determination made by a court of
25 another state.
26 (2) A court of this state shall recognize and enforce
27 but may not modify, except in accordance with ss.
28 61.514-61.523, a registered child custody determination of
29 another state.
30 61.530 Simultaneous proceedings.--If a proceeding for
31 enforcement under ss. 61.524-61.540 is commenced in a court of

1 this state and the court determines that a proceeding to
2 modify the determination is pending in a court of another
3 state having jurisdiction to modify the determination under
4 ss. 61.514-61.523, the enforcing court shall immediately
5 communicate with the modifying court. The proceeding for
6 enforcement continues unless the enforcing court, after
7 consultation with the modifying court, stays or dismisses the
8 proceeding.

9 61.531 Expedited enforcement of child custody
10 determination.--

11 (1) A petition under ss. 61.524-61.540 must be
12 verified. Certified copies of all orders sought to be enforced
13 and of any order confirming registration must be attached to
14 the petition. A copy of a certified copy of an order may be
15 attached instead of the original.

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

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

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

25 (c) Whether any proceeding has been commenced that
26 could affect the current proceeding, including proceedings
27 relating to domestic violence, protective orders, termination
28 of parental rights, and adoptions and, if so, identify the
29 court, the case number, and the nature of the proceeding;

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

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

5 (f) If the child custody determination has been
6 registered and confirmed under s. 61.528, the date and place
7 of registration.

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

17 (4) An order issued under subsection (3) must state
18 the time and place of the hearing and advise the respondent
19 that at the hearing the court will order that the petitioner
20 may take immediate physical custody of the child and the
21 payment of fees, costs, and expenses under s. 61.535 and may
22 schedule a hearing to determine whether further relief is
23 appropriate, unless the respondent appears and establishes
24 that:

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

27 1. The issuing court did not have jurisdiction under
28 ss. 61.514-61.523;

29 2. The child custody determination for which
30 enforcement is sought has been vacated, stayed, or modified by
31

1 a court of a state having jurisdiction to do so under ss.
2 61.514-61.523; or
3 3. The respondent was entitled to notice, but notice
4 was not given in accordance with the standards of s. 61.509 in
5 the proceedings before the court that issued the order for
6 which enforcement is sought; or
7 (b) The child custody determination for which
8 enforcement is sought was registered and confirmed under s.
9 61.528, but has been vacated, stayed, or modified by a court
10 of a state having jurisdiction to do so under ss.
11 61.514-61.523.
12 61.532 Service of petition and order.--Except as
13 otherwise provided in s. 61.534, the petition and order must
14 be served by any method authorized by the laws of this state
15 upon the respondent and any person who has physical custody of
16 the child.
17 61.533 Hearing and order.--
18 (1) Unless the court enters a temporary emergency
19 order under s. 61.517, upon a finding that a petitioner is
20 entitled to immediate physical custody of the child, the court
21 shall order that the petitioner may take immediate physical
22 custody of the child unless the respondent establishes that:
23 (a) The child custody determination has not been
24 registered and confirmed under s. 61.528 and that:
25 1. The issuing court did not have jurisdiction under
26 ss. 61.514-61.523;
27 2. The child custody determination for which
28 enforcement is sought has been vacated, stayed, or modified by
29 a court of a state having jurisdiction to do so under ss.
30 61.514-61.523; or
31

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

5 (b) The child custody determination for which
6 enforcement is sought was registered and confirmed under s.
7 61.528, but has been vacated, stayed, or modified by a court
8 of a state having jurisdiction to do so under ss.
9 61.514-61.523.

10 (2) The court shall award the fees, costs, and
11 expenses authorized under s. 61.535 and may grant additional
12 relief, including a request for the assistance of law
13 enforcement officers, and set a further hearing to determine
14 whether additional relief is appropriate.

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

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

22 61.534 Warrant to take physical custody of child.--

23 (1) Upon the filing of a petition seeking enforcement
24 of a child custody determination, the petitioner may file a
25 verified application for the issuance of a warrant to take
26 physical custody of the child if the child is likely to
27 imminently suffer serious physical harm or removal from this
28 state.

29 (2) If the court, upon the testimony of the petitioner
30 or other witness, finds that the child is likely to imminently
31 suffer serious physical harm or removal from this state, it

1 may issue a warrant to take physical custody of the child. The
2 petition must be heard on the next judicial day after the
3 warrant is executed unless that date is impossible. In that
4 event, the court shall hold the hearing on the first judicial
5 day possible. The application for the warrant must include the
6 statements required by s. 61.531(2).

7 (3) A warrant to take physical custody of a child
8 must:

9 (a) Recite the facts upon which a conclusion of
10 imminent serious physical harm or removal from the
11 jurisdiction is based;

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

14 (c) Provide for the placement of the child pending
15 final relief.

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

19 (5) A warrant to take physical custody of a child is
20 enforceable throughout this state. If the court finds on the
21 basis of the testimony of the petitioner or other witness that
22 a less intrusive remedy is not effective, it may authorize law
23 enforcement officers to enter private property to take
24 physical custody of the child. If required by exigent
25 circumstances of the case, the court may authorize law
26 enforcement officers to make a forcible entry at any hour.

27 (6) The court may impose conditions upon placement of
28 a child to ensure the appearance of the child and the child's
29 custodian.

30 61.535 Costs, fees, and expenses.--
31

1 (1) So long as the court has personal jurisdiction
2 over the party against whom the expenses are being assessed,
3 the court shall award the prevailing party, including a state,
4 necessary and reasonable expenses incurred by or on behalf of
5 the party, including costs, communication expenses, attorney's
6 fees, investigative fees, expenses for witnesses, travel
7 expenses, and expenses for child care during the course of the
8 proceedings, unless the party from whom fees or expenses are
9 sought establishes that the award would be clearly
10 inappropriate.

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

13 61.536 Recognition and enforcement.--A court of this
14 state shall accord full faith and credit to an order issued by
15 another state and consistent with this part which enforces a
16 child custody determination by a court of another state unless
17 the order has been vacated, stayed, or modified by a court
18 having jurisdiction to do so under ss. 61.514-61.523.

19 61.537 Appeals.--An appeal may be taken from a final
20 order in a proceeding under ss. 61.524-61.640 in accordance
21 with expedited appellate procedures in other civil cases.
22 Unless the court enters a temporary emergency order under s.
23 61.517, the enforcing court may not stay an order enforcing a
24 child custody determination pending appeal.

25 61.538 Role of state attorney.--

26 (1) In a case arising under this part or involving the
27 Hague Convention on the Civil Aspects of International Child
28 Abduction, the state attorney may take any lawful action,
29 including resort to a proceeding under ss. 61.524-61.540 or
30 any other available civil proceeding, to locate a child,
31

1 obtain the return of a child, or enforce a child custody
2 determination, if there is:
3 (a) An existing child custody determination;
4 (b) A request to do so from a court in a pending child
5 custody proceeding;
6 (c) A reasonable belief that a criminal statute has
7 been violated; or
8 (d) A reasonable belief that the child has been
9 wrongfully removed or retained in violation of the Hague
10 Convention on the Civil Aspects of International Child
11 Abduction.
12 (2) A state attorney acting under this section acts on
13 behalf of the court and may not represent any party.
14 61.539 Role of law enforcement officers.--At the
15 request of a state attorney acting under s. 61.538, a law
16 enforcement officer may take any lawful action reasonably
17 necessary to locate a child or a party and assist a state
18 attorney with responsibilities under s. 61.538.
19 61.540 Costs and expenses.--The court may assess
20 against the nonprevailing party all direct expenses and costs
21 incurred by the state attorney and law enforcement officers
22 under s. 61.538 or s. 61.539 so long as the court has personal
23 jurisdiction over the nonprevailing party.
24 61.541 Application and construction.--In applying and
25 construing this part, consideration must be given to the need
26 to promote uniformity of the law with respect to its subject
27 matter among states that enact it.
28 61.542 Transitional provision.--A motion or other
29 request for relief made in a child custody proceeding or to
30 enforce a child custody determination that was commenced
31

1 before the effective date of this part is governed by the law
2 in effect at the time the motion or other request was made.

3 Section 2. Subsection (7) of section 39.502, Florida
4 Statutes, is amended to read:

5 39.502 Notice, process, and service.--

6 (7) Service of the summons and service of pleadings,
7 papers, and notices subsequent to the summons on persons
8 outside this state must be made pursuant to s. 61.509,~~s.~~
9 ~~61.1312~~.

10 Section 3. Paragraph (b) of subsection (2) of section
11 61.13, Florida Statutes, is amended, and paragraph (e) is
12 added to that subsection, to read:

13 61.13 Custody and support of children; visitation
14 rights; power of court in making orders.--

15 (2)

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

29 2. The court shall order that the parental
30 responsibility for a minor child be shared by both parents
31 unless the court finds that shared parental responsibility

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

20 a. In ordering shared parental responsibility, the
21 court may consider the expressed desires of the parents and
22 may grant to one party the ultimate responsibility over
23 specific aspects of the child's welfare or may divide those
24 responsibilities between the parties based on the best
25 interests of the child. Areas of responsibility may include
26 primary residence, education, medical and dental care, and any
27 other responsibilities that the court finds unique to a
28 particular family.

29 b. The court shall order "sole parental
30 responsibility, with or without visitation rights, to the
31

1 other parent when it is in the best interests of" the minor
2 child.

3 c. The court may award the grandparents visitation
4 rights with a minor child if it is in the child's best
5 interest. Grandparents have legal standing to seek judicial
6 enforcement of such an award. This section does not require
7 that grandparents be made parties or given notice of
8 dissolution pleadings or proceedings, nor do grandparents have
9 legal standing as "contestants" as defined in s. 61.1306. A
10 court may not order that a child be kept within the state or
11 jurisdiction of the court solely for the purpose of permitting
12 visitation by the grandparents.

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

26 (e) When either parent materially violates a
27 visitation or custody order without proper cause or consent of
28 the other parent, in addition to any other remedies and
29 sanctions provided at law, the court may order the violating
30 party to post a bond or other security sufficient to provide
31 for economic damages to the other party for any future

1 violation. Violation of a visitation order shall include
2 failure of either parent to provide care for a child during a
3 time designated in a court order for said parent to be
4 responsible for the child.

5 1. This paragraph does not apply in cases in which a
6 parent who is the victim of any act of domestic violence or
7 who has reasonable cause to believe he or she is about to
8 become the victim of any act of domestic violence, as defined
9 in s. 741.28, or who believes that his or her action was
10 necessary to preserve the child from danger to the child's
11 welfare. However, in order to gain the exemption conferred in
12 this subparagraph, the party claiming the exemption must
13 within 10 days after the violation file with the court that
14 issued the visitation or custody order an affidavit setting
15 out the facts which are the basis for claiming the exemption
16 and, if applicable, must comply with the requirements set out
17 in s. 787.03(6)(b).

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

27 3. The court must consider the party's financial
28 resources prior to setting the bond amount under this section.
29 Under no circumstances may the court set a bond that is
30 unreasonable.

31

1 4. Any deficiency of bond or security shall not
2 absolve the violating party of responsibility to pay the full
3 amount of damages determined by the court.

4 5. Any remaining proceeds shall be held as further
5 security, if deemed necessary by the court, and, if further
6 security is not found to be necessary, shall be applied to any
7 child support arrearage owed by the parent against whom the
8 bond was required; and, if no arrearage exists, all remaining
9 proceeds shall be allocated by the court in the best interest
10 of the child.

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

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

27 (a) Order that a party may not remove the child from
28 this state without the notarized written permission of both
29 parents or by further court order;

30
31

1 **(b) Order that a party may not remove the child from**
2 **this country without the notarized written permission of both**
3 **parents or by further court order;**

4 **(c) Order that a party may not take the child to a**
5 **country that has not ratified or acceded to the Hague**
6 **Convention on the Civil Aspects of International Child**
7 **Abduction unless the other parent agrees in writing that the**
8 **child may be taken to the country;**

9 **(d) Require a party to surrender the passport of the**
10 **child; or**

11 **(e) Require the party to post bond or other security.**

12 **(2) If the court enters an order of child custody or**
13 **visitation, including such an order in a modification**
14 **proceeding, that includes a provision entered under paragraph**
15 **(2)(b) or paragraph (2)(c), a certified copy of the order**
16 **shall be sent by the party who requested the restriction to**
17 **the Passport Services Office of the United States Department**
18 **of State requesting that the Passport Services Office not**
19 **issue a passport to the child without the signature of the**
20 **requesting party or by further court order.**

21 **(3) In assessing the need for a bond or other**
22 **security, the court may consider any reasonable factor bearing**
23 **upon the risk that a party may violate a visitation or custody**
24 **order by removing a child from this state or this country or**
25 **by concealing the whereabouts of a child, including, but not**
26 **limited to, whether:**

27 **(a) A court has previously found that a party**
28 **previously removed a child from this state or another state in**
29 **violation of a custody or visitation order, or whether a court**
30 **has found that a party has threatened to take a child out of**
31

1 this state or another state in violation of a custody or
2 visitation order;

3 (b) The party has previously been found to have
4 committed a violation under section 787.03, Florida Statutes,
5 or has failed to comply with the provisions of said section
6 giving rise to a defense;

7 (c) The party has strong family and community ties to
8 this state or to other states or countries, including whether
9 the party or child is a citizen of another country;

10 (d) The party has strong financial reasons to remain
11 in this state or to relocate to another state or country;

12 (e) The party has engaged in activities that suggest
13 plans to leave this state, such as termination of employment,
14 sale of a residence or termination of a lease on a residence
15 without efforts to acquire an alternative residence in the
16 state, closing bank accounts or otherwise liquidating assets,
17 or applying for a passport;

18 (f) Either party has a history of domestic violence as
19 either a victim or perpetrator of child abuse or child neglect
20 as evidenced by criminal history, including, but not limited
21 to, arrest, an injunction for protection against domestic
22 violence issued after notice and hearing under section 741.30,
23 Florida Statutes, medical records, affidavits, or any other
24 relevant information; or

25 (g) The party has a criminal record.

26 (4) The court must consider the party's financial
27 resources prior to setting the bond amount under this section.
28 Under no circumstances may the court set a bond that is
29 unreasonable.

30
31

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

4 (6) Upon a material violation of any custody or
5 visitation order entered under this section, the court may
6 order the bond or other security forfeited in whole or in
7 part. This section does not apply in cases in which a parent
8 who is the victim of any act of domestic violence or who has
9 reasonable cause to believe he or she is about to become the
10 victim of any act of domestic violence, as defined in section
11 741.28, Florida Statutes, or believes that his or her action
12 was necessary to preserve the child from danger to the child's
13 welfare seeks shelter from such acts or possible acts and
14 takes with him or her, or conceals, any child 17 years of age
15 or younger. However, in order to gain the exemption conferred
16 in this subsection, the party claiming the exemption must,
17 within 10 days after the violation, file with the court that
18 issued the visitation or custody order an affidavit setting
19 out the facts which are the basis for claiming the exemption
20 and, if applicable, must comply with the requirements set out
21 in section 787.03(6)(b), Florida Statutes.

22 (7)(a) Upon an order of forfeiture, the proceeds of
23 any bond or other security posted pursuant to this section may
24 be used only to:

25 1. Reimburse the nonviolating party for actual costs
26 or damages incurred in upholding the court's order of custody
27 or visitation.

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

30 3. Reimburse reasonable fees and costs as determined
31 by the court.

1 (b) Any remaining proceeds shall be:
2 1. Held as further security if deemed necessary by the
3 court;
4 2. If further security is not found to be necessary,
5 applied to any child support arrearage owed by the parent
6 against whom the bond was required; or
7 3. If no arrearage exists, allocated by the court in
8 the best interest of the child.
9 (8) At any time after the forfeiture of the bond or
10 other security, the party who posted the bond or other
11 security, or the court on its own motion, may request that the
12 party provide documentation substantiating that the proceeds
13 received as a result of the forfeiture have been used solely
14 in accordance with this section. Any party using such proceeds
15 for purposes not in accordance with this section may be found
16 in contempt of court.
17 Section 5. Paragraph (d) of subsection (3), subsection
18 (4), and paragraph (a) of subsection (7) of section 741.30,
19 Florida Statutes, are amended to read:
20 741.30 Domestic violence; injunction; powers and
21 duties of court and clerk; petition; notice and hearing;
22 temporary injunction; issuance of injunction; statewide
23 verification system; enforcement.--
24 (3)
25 (d) If the sworn petition seeks to determine issues of
26 custody or visitation with regard to the minor child or
27 children of the parties, the sworn petition shall be
28 accompanied by or shall incorporate the allegations required
29 by s. 61.522 ~~s. 61.132~~ of the Uniform Child Custody
30 Jurisdiction and Enforcement Act.
31

1 (4) Upon the filing of the petition, the court shall
2 set a hearing to be held at the earliest possible time. The
3 respondent shall be personally served with a copy of the
4 petition, financial affidavit, uniform child custody
5 jurisdiction and enforcement act affidavit, if any, notice of
6 hearing, and temporary injunction, if any, prior to the
7 hearing.

8 (7)(a)1. The clerk of the court shall furnish a copy
9 of the petition, financial affidavit, uniform child custody
10 jurisdiction and enforcement act affidavit, if any, notice of
11 hearing, and temporary injunction, if any, to the sheriff or a
12 law enforcement agency of the county where the respondent
13 resides or can be found, who shall serve it upon the
14 respondent as soon thereafter as possible on any day of the
15 week and at any time of the day or night. The clerk of the
16 court shall be responsible for furnishing to the sheriff such
17 information on the respondent's physical description and
18 location as is required by the department to comply with the
19 verification procedures set forth in this section.

20 Notwithstanding any other provision of law to the contrary,
21 the chief judge of each circuit, in consultation with the
22 appropriate sheriff, may authorize a law enforcement agency
23 within the jurisdiction to effect service. A law enforcement
24 agency serving injunctions pursuant to this section shall use
25 service and verification procedures consistent with those of
26 the sheriff.

27 2. When an injunction is issued, if the petitioner
28 requests the assistance of a law enforcement agency, the court
29 may order that an officer from the appropriate law enforcement
30 agency accompany the petitioner and assist in placing the
31 petitioner in possession of the dwelling or residence, or

1 otherwise assist in the execution or service of the
2 injunction. A law enforcement officer shall accept a copy of
3 an injunction for protection against domestic violence,
4 certified by the clerk of the court, from the petitioner and
5 immediately serve it upon a respondent who has been located
6 but not yet served.

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

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

30 Section 6. Sections 61.1302, 61.1304, 61.1306,
31 61.1308, 61.131, 61.1312, 61.1314, 61.1316, 61.1318, 61.132,

1 61.1322, 61.1324, 61.1326, 61.1328, 61.133, 61.1332, 61.1334,
2 61.1336, 61.1338, 61.134, 61.1342, 61.1344, 61.1346, and
3 61.1348, Florida Statutes, are repealed.

4 Section 7. For purposes of incorporating an amendment
5 to section 61.13, Florida Statutes, subsection (2) of section
6 44.102, Florida Statutes, is reenacted to read:

7 44.102 Court-ordered mediation.--

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

9 (a) Must, upon request of one party, refer to
10 mediation any filed civil action for monetary damages,
11 provided the requesting party is willing and able to pay the
12 costs of the mediation or the costs can be equitably divided
13 between the parties, unless:

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

16 2. The action is filed for the purpose of collecting a
17 debt.

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

19 4. The action is governed by the Florida Small Claims
20 Rules.

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

23 6. The parties have agreed to binding arbitration.

24 7. The parties have agreed to an expedited trial
25 pursuant to s. 45.075.

26 8. The parties have agreed to voluntary trial
27 resolution pursuant to s. 44.104.

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

31

1 (c) In circuits in which a family mediation program
2 has been established and upon a court finding of a dispute,
3 shall refer to mediation all or part of custody, visitation,
4 or other parental responsibility issues as defined in s.
5 61.13. Upon motion or request of a party, a court shall not
6 refer any case to mediation if it finds there has been a
7 history of domestic violence that would compromise the
8 mediation process.

9 (d) In circuits in which a dependency or in need of
10 services mediation program has been established, may refer to
11 mediation all or any portion of a matter relating to
12 dependency or to a child in need of services or a family in
13 need of services.

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

15
16 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
17 COMMITTEE SUBSTITUTE FOR
18 Senate Bill 1312

19 Assigns specific statutory section numbers to the Uniform
20 Child Custody Jurisdiction and Enforcement Act as created by
21 this bill and conforms the Act to changes made in another bill
22 in which the same Act is contained.

23 Revises the conditions for requiring and enforcing a bond or
24 other security in child custody and visitation matters in
25 order to protect the interests of persons who are victims or
26 potential victims of domestic violence.

27 Clarifies that custodial and noncustodial parents may both be
28 sanctioned with a requirement to post a bond for material
29 violation of a child custody or visitation order.
30
31