

Amendment No. 01 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

Representative(s) Cantens offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause

and insert:

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

(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 costs of the mediation or the costs can be equitably divided

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1 between the parties, unless:

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

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

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

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

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

11 6. The parties have agreed to binding arbitration.

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

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

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

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

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

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

4           61.13 Custody and support of children; visitation  
5 rights; power of court in making orders.--

6           (2)

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

20           (e) When either parent materially violates a  
21 visitation or custody order without proper cause or consent of  
22 the other parent, in addition to any other remedies and  
23 sanctions provided at law, the court may order the violating  
24 party to post a bond or other security sufficient to provide  
25 for economic damages to the other party for any future  
26 violation. For purposes of this section, a material violation  
27 of a visitation or custody order shall include failure of  
28 either parent to provide care for a child during a time  
29 designated in a court order for him or her to be responsible  
30 for the child. However, when a party materially violates a  
31 visitation or custody order by removing the child from this

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1 state or country or by concealing the whereabouts of the  
2 child, section 4. of this bill and not this subsection shall  
3 apply.  
4 1. This subsection does not apply when a parent who is  
5 the victim of any act of domestic violence or who has  
6 reasonable cause to believe he or she is about to become the  
7 victim of any act of domestic violence, as defined in s.  
8 741.28, takes action contrary to a visitation or custody order  
9 based upon a good faith belief that such action was necessary  
10 to preserve the child from danger to his or her welfare.  
11 However, in order to gain the exemption conferred in this  
12 subparagraph, the party claiming the exemption must within 10  
13 days of the violation file with the court that issued the  
14 visitation or custody order an affidavit setting out the facts  
15 which are the basis for claiming the exemption.  
16 2. Upon a future material violation of any custody or  
17 visitation order entered under this section, the court may  
18 order the bond or other security forfeited in whole or in  
19 part. The proceeds of any bond or other security posted  
20 pursuant to this subsection may be used to reimburse the  
21 nonviolating party for actual costs or damages, including  
22 without limitation the costs to locate and return the child,  
23 reasonable attorney's fees and costs, and lost wages or child  
24 care expenses.  
25 3. The court must consider the party's financial  
26 resources prior to setting the bond amount under this section.  
27 Under no circumstances may the court set a bond that is  
28 unreasonable.  
29 4. Any deficiency of bond or security shall not  
30 absolve the violating party of responsibility to pay the full  
31 amount of damages determined by the court.

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

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

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

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

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

30           (c) Order that a parent may not take the child to a  
31 country that has not ratified or acceded to the Hague

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1 Convention on the Civil Aspects of International Child  
2 Abduction unless the other parent agrees in writing that the  
3 child may be taken to the country; or  
4 (d) Require a parent to surrender the passport of the  
5 child;  
6 (e) Require that party to post bond or other security.  
7 (2) If the court enters an order of child custody or  
8 visitation, including in a modification proceeding, that  
9 includes a provision entered under (b) or (c) a certified copy  
10 of the order should be sent by the parent who requested the  
11 restriction to the Passport Services Office of the U.S.  
12 Department of State requesting that they not issue a passport  
13 to the child without their signature or further court order.  
14 (3) In assessing the need for a bond or other  
15 security, the court may consider any reasonable factor bearing  
16 upon the risk that a party may violate a visitation or custody  
17 order by removing a child from this state or country or by  
18 concealing the whereabouts of a child, including but not  
19 limited to whether:  
20 (a) A court has previously found that a party  
21 previously removed a child from Florida or another state in  
22 violation of a custody or visitation order, or whether a court  
23 had found that a party has threatened to take a child out of  
24 Florida or another state in violation of a custody or  
25 visitation order;  
26 (b) The party has strong family and community ties to  
27 Florida or to other states or countries, including whether the  
28 party or child is a citizen of another country;  
29 (c) The party has strong financial reasons to remain  
30 in Florida or to relocate to another state or country;  
31 (d) The party has engaged in activities that suggest

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1 plans to leave Florida, such as quitting employment; sale of a  
2 residence or termination of a lease on a residence, without  
3 efforts to acquire an alternative residence in the state;  
4 closing bank accounts or otherwise liquidating assets; or  
5 applying for a passport;

6 (e) Either party has had a history of domestic  
7 violence as either a victim or perpetrator, child abuse or  
8 child neglect evidenced by criminal history, including but not  
9 limited to, arrest, an injunction for protection against  
10 domestic violence issued after notice and hearing under s.  
11 741.30, medical records, affidavits, or any other relevant  
12 information; or

13 (f) The party has a criminal record.

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

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

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

27 This section does not apply when a parent who is the victim of  
28 any act of domestic violence or who has reasonable cause to  
29 believe he or she is about to become the victim of any act of  
30 domestic violence, as defined in s. 741.28, seeks shelter from  
31 such acts or possible acts and takes with him or her, or

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1 conceals, any child 17 years of age or younger. However, in  
2 order to gain the exemption conferred in this subparagraph,  
3 the party claiming the exemption must comply with the  
4 requirements set out in s. 787.03(6)(b), F.S.

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

8 (a) Reimburse the nonviolating party for actual costs  
9 or damages incurred in upholding the court's order of custody  
10 or visitation.

11 (b) Locate and return the child to the residence as  
12 set forth in the visitation or custody order.

13 (c) Reimburse reasonable fees and costs as determined  
14 by the court.

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

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

30 Section 5. Sections 61.501 through 61.542, Florida  
31 Statutes, are created to read:



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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

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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 (9) "Issuing court" means the court that makes a child  
31 custody determination for which enforcement is sought under

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1 this part.

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

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

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

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

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

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

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

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

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

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1           (17) "Warrant" means an order issued by a court  
2 authorizing law enforcement officers to take physical custody  
3 of a child.

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

7           61.505 Application to Indian tribes.--

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

12           (2) A court of this state shall treat a tribe as if it  
13 were a state of the United States for purposes of applying ss.  
14 61.501-61.523.

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

19           61.506 International application of part.--

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

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

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

31           61.507 Effect of child custody determination.--A child

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

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

14 61.509 Notice to persons outside the state.--

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

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

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

27 61.510 Appearance and limited immunity.--

28 (1) A party to a child custody proceeding, including a  
29 modification proceeding, or a petitioner or respondent in a  
30 proceeding to enforce or register a child custody  
31 determination, is not subject to personal jurisdiction in this

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1 state for another proceeding or purpose solely by reason of  
2 having participated, or of having been physically present for  
3 the purpose of participating, in the proceeding.

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

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

14 61.511 Communication between courts.--

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

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

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

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

31 (5) For purposes of this section, the term "record"

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1 means a form of information, including, but not limited to, an  
2 electronic recording or transcription by a court reporter  
3 which creates a verbatim memorialization of any communication  
4 between two or more individuals or entities.

5 61.512 Taking testimony in another state.--

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

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

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

26 61.513 Cooperation between courts; preservation of  
27 records.--

28 (1) A court of this state may request the appropriate  
29 court of another state to:

30 (a) Hold an evidentiary hearing;

31 (b) Order a person to produce or give evidence

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1 pursuant to the laws of that state;

2 (c) Order that an evaluation be made with respect to  
3 the custody of a child involved in a pending proceeding  
4 pursuant to the laws of the state where the proceeding is  
5 pending;

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

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

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

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

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

28 61.514 Initial child custody jurisdiction.--

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



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1       (a) This state is the home state of the child on the  
2 date of the commencement of the proceeding, or was the home  
3 state of the child within 6 months before the commencement of  
4 the proceeding and the child is absent from this state but a  
5 parent or person acting as a parent continues to live in this  
6 state;

7       (b) A court of another state does not have  
8 jurisdiction under paragraph (a), or a court of the home state  
9 of the child has declined to exercise jurisdiction on the  
10 grounds that this state is the more appropriate forum under s.  
11 61.520 or s. 61.521, and:

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

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

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

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

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

30       (3) Physical presence of, or personal jurisdiction  
31 over, a party or a child is not necessary or sufficient to

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1 make a child custody determination.

2 61.515 Exclusive, continuing jurisdiction.--

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

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

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

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

21 61.516 Jurisdiction to modify a determination.--Except  
22 as otherwise provided in s. 61.517, a court of this state may  
23 not modify a child custody determination made by a court of  
24 another state unless a court of this state has jurisdiction to  
25 make an initial determination under s. 61.514(1)(a) or s.  
26 61.514(1)(b) and:

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

31 (2) A court of this state or a court of the other

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1 state determines that the child, the child's parents, and any  
2 person acting as a parent does not presently reside in the  
3 other state.

4 61.517 Temporary emergency jurisdiction.--

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

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

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

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1 from the other state within the period specified or the period  
2 expires.

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

18 61.518 Notice; opportunity to be heard; joinder.--

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

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

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

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1 custody proceedings between residents of this state.

2 61.519 Simultaneous proceedings.--

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

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

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

31 (a) Stay the proceeding for modification pending the

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- 1 entry of an order of a court of the other state enforcing,  
2 staying, denying, or dismissing the proceeding for  
3 enforcement;
- 4 (b) Enjoin the parties from continuing with the  
5 proceeding for enforcement; or
- 6 (c) Proceed with the modification under conditions it  
7 considers appropriate.
- 8 61.520 Inconvenient forum.--
- 9 (1) A court of this state which has jurisdiction under  
10 this part to make a child custody determination may decline to  
11 exercise its jurisdiction at any time if it determines that it  
12 is an inconvenient forum under the circumstances and that a  
13 court of another state is a more appropriate forum. The issue  
14 of inconvenient forum may be raised upon motion of a party,  
15 the court's own motion, or request of another court.
- 16 (2) Before determining whether it is an inconvenient  
17 forum, a court of this state shall consider whether it is  
18 appropriate for a court of another state to exercise  
19 jurisdiction. For this purpose, the court shall allow the  
20 parties to submit information and shall consider all relevant  
21 factors, including:
- 22 (a) Whether domestic violence has occurred and is  
23 likely to continue in the future and which state could best  
24 protect the parties and the child;
- 25 (b) The length of time the child has resided outside  
26 this state;
- 27 (c) The distance between the court in this state and  
28 the court in the state that would assume jurisdiction;
- 29 (d) The relative financial circumstances of the  
30 parties;
- 31 (e) Any agreement of the parties as to which state

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1 should assume jurisdiction;

2 (f) The nature and location of the evidence required  
3 to resolve the pending litigation, including testimony of the  
4 child;

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

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

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

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

21 61.521 Jurisdiction declined by reason of conduct.--

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

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

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

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1           (c) No court of any other state would have  
2 jurisdiction under the criteria specified in ss.  
3 61.514-61.516.

4           (2) If a court of this state declines to exercise its  
5 jurisdiction under subsection (1), it may fashion an  
6 appropriate remedy to ensure the safety of the child and  
7 prevent a repetition of the unjustifiable conduct, including  
8 staying the proceeding until a child custody proceeding is  
9 commenced in a court having jurisdiction under ss.  
10 61.514-61.516.

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

23           61.522 Information to be submitted to the court.--

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



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1 child has lived during that period. The pleading or affidavit  
2 must state whether the party:

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

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

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

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

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

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

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1 affect the current proceeding.

2 61.523 Appearance of parties and child.--

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

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

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

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

24 61.524 Definitions.--As used in ss. 61.524-61.540, the  
25 term:

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

30 (2) "Respondent" means a person against whom a  
31 proceeding has been commenced for enforcement of an order for

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1 return of a child under the Hague Convention on the Civil  
2 Aspects of International Child Abduction or enforcement of a  
3 child custody determination.

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

9 61.526 Duty to enforce.--

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

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

23 61.527 Temporary visitation.--

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

27 (a) A visitation schedule made by a court of another  
28 state; or

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

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

8           61.528 Registration of child custody determination.--

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

15           (a) A letter or other document requesting  
16 registration;

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

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

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

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

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

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

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

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

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

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

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

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

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

30           (5) If a timely request for a hearing to contest the  
31 validity of the registration is not made, the registration is

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1 confirmed as a matter of law and the person requesting  
2 registration and all persons served must be notified of the  
3 confirmation.

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

8 61.529 Enforcement of registered determination.--

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

13 (2) A court of this state shall recognize and enforce  
14 but may not modify, except in accordance with ss.  
15 61.514-61.523, a registered child custody determination of  
16 another state.

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

27 61.531 Expedited enforcement of child custody  
28 determination.--

29 (1) A petition under ss. 61.524-61.540 must be  
30 verified. Certified copies of all orders sought to be enforced  
31 and of any order confirming registration must be attached to

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1 the petition. A copy of a certified copy of an order may be  
2 attached instead of the original.  
3 (2) A petition for enforcement of a child custody  
4 determination must state:  
5 (a) Whether the court that issued the determination  
6 identified the jurisdictional basis it relied upon in  
7 exercising jurisdiction and, if so, specify the basis;  
8 (b) Whether the determination for which enforcement is  
9 sought has been vacated, stayed, or modified by a court whose  
10 decision must be enforced under this part and, if so, identify  
11 the court, the case number, and the nature of the proceeding;  
12 (c) Whether any proceeding has been commenced that  
13 could affect the current proceeding, including proceedings  
14 relating to domestic violence, protective orders, termination  
15 of parental rights, and adoptions and, if so, identify the  
16 court, the case number, and the nature of the proceeding;  
17 (d) The present physical address of the child and the  
18 respondent, if known;  
19 (e) Whether relief in addition to the immediate  
20 physical custody of the child and attorney's fees is sought,  
21 including a request for assistance from law enforcement  
22 officers and, if so, the relief sought; and  
23 (f) If the child custody determination has been  
24 registered and confirmed under s. 61.528, the date and place  
25 of registration.  
26 (3) Upon the filing of a petition, the court shall  
27 issue an order directing the respondent to appear in person  
28 with or without the child at a hearing and may enter any order  
29 necessary to ensure the safety of the parties and the child.  
30 The hearing must be held on the next judicial day after  
31 service of the order unless that date is impossible. In that

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1 event, the court shall hold the hearing on the first judicial  
2 day possible. The court may extend the date of the hearing at  
3 the request of the petitioner.

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

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

14 1. The issuing court did not have jurisdiction under  
15 ss. 61.514-61.523;

16 2. The child custody determination for which  
17 enforcement is sought has been vacated, stayed, or modified by  
18 a court of a state having jurisdiction to do so under ss.  
19 61.514-61.523; or

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

24 (b) The child custody determination for which  
25 enforcement is sought was registered and confirmed under s.  
26 61.528, but has been vacated, stayed, or modified by a court  
27 of a state having jurisdiction to do so under ss.  
28 61.514-61.523.

29 61.532 Service of petition and order.--Except as  
30 otherwise provided in s. 61.534, the petition and order must  
31 be served by any method authorized by the laws of this state



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1 upon the respondent and any person who has physical custody of  
2 the child.

3 61.533 Hearing and order.--

4 (1) Unless the court enters a temporary emergency  
5 order under s. 61.517, upon a finding that a petitioner is  
6 entitled to immediate physical custody of the child, the court  
7 shall order that the petitioner may take immediate physical  
8 custody of the child unless the respondent establishes that:

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

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

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

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

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

26 (2) The court shall award the fees, costs, and  
27 expenses authorized under s. 61.535 and may grant additional  
28 relief, including a request for the assistance of law  
29 enforcement officers, and set a further hearing to determine  
30 whether additional relief is appropriate.

31 (3) If a party called to testify refuses to answer on

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1 the ground that the testimony may be self-incriminating, the  
2 court may draw an adverse inference from the refusal.

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

7 61.534 Warrant to take physical custody of child.--

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

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

23 (3) A warrant to take physical custody of a child  
24 must:

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

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

30 (c) Provide for the placement of the child pending  
31 final relief.

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

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

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

15           61.535 Costs, fees, and expenses.--

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

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

28           61.536 Recognition and enforcement.--A court of this  
29 state shall accord full faith and credit to an order issued by  
30 another state and consistent with this part which enforces a  
31 child custody determination by a court of another state unless

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1 the order has been vacated, stayed, or modified by a court  
2 having jurisdiction to do so under ss. 61.514-61.523.

3 61.537 Appeals.--An appeal may be taken from a final  
4 order in a proceeding under ss. 61.524-61.640 in accordance  
5 with expedited appellate procedures in other civil cases.  
6 Unless the court enters a temporary emergency order under s.  
7 61.517, the enforcing court may not stay an order enforcing a  
8 child custody determination pending appeal.

9 61.538 Role of state attorney.--

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

17 (a) An existing child custody determination;

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

20 (c) A reasonable belief that a criminal statute has  
21 been violated; or

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

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

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

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1 attorney with responsibilities under s. 61.538.

2 61.540 Costs and expenses.--The court may assess  
3 against the nonprevailing party all direct expenses and costs  
4 incurred by the state attorney and law enforcement officers  
5 under s. 61.538 or s. 61.539 so long as the court has personal  
6 jurisdiction over the nonprevailing party.

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

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

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

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

23 (3)

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

30 (4) Upon the filing of the petition, the court shall  
31 set a hearing to be held at the earliest possible time. The

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1 respondent shall be personally served with a copy of the  
2 petition, financial affidavit, uniform child custody  
3 jurisdiction and enforcement act affidavit, if any, notice of  
4 hearing, and temporary injunction, if any, prior to the  
5 hearing.

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

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

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

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1 an injunction for protection against domestic violence,  
2 certified by the clerk of the court, from the petitioner and  
3 immediately serve it upon a respondent who has been located  
4 but not yet served.

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

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

28           Section 7. Sections 61.1302, 61.1304, 61.1306,  
29 61.1308, 61.131, 61.1312, 61.1314, 61.1316, 61.1318, 61.132,  
30 61.1322, 61.1324, 61.1326, 61.1328, 61.133, 61.1332, 61.1334,  
31 61.1336, 61.1338, 61.134, 61.1342, 61.1344, 61.1346, and

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1 61.1348, Florida Statutes, are repealed.

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

3

4

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

6 And the title is amended as follows:

7 On page 1, line 1, through page 3, line 18

8 remove: the entire title

9

10 and insert:

11

A bill to be entitled

12

An act relating to child custody jurisdiction

13

and enforcement; amending s. 39.502, F.S.;

14

conforming references and cross references;

15

re-enacting s. 44.102, F.S.; to incorporate an

16

amendment to s. 61.13, F.S.; amending s. 61.13,

17

F.S.; conforming a reference; providing for the

18

posting of a bond with respect to certain

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orders of child custody or visitation;

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providing criteria for the court to use in

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assessing the need for a bond; providing for

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forfeiture of the bond under certain

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circumstances; providing for the posting of a

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bond with respect to certain orders of child

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custody or visitation; providing criteria for

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the court to use in assessing the need for a

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bond; providing for forfeiture of the bond

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under certain circumstances; creating sections

29

61.501 through 61.542, F.S., cited as the

30

"Uniform Child Custody Jurisdiction and

31

Enforcement Act"; providing purposes; providing



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

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1 of another state; providing for temporary  
2 visitation; providing for registration of  
3 out-of-state child custody determinations;  
4 providing for enforcement of registered  
5 determinations; providing procedures with  
6 respect to simultaneous proceedings; providing  
7 for expedited enforcement of a child custody  
8 determination; providing for service of  
9 petition and order; providing for hearing and  
10 order; providing for issuance of a warrant to  
11 take physical custody of a child under certain  
12 circumstances; providing for award of costs,  
13 fees, and expenses to the prevailing party;  
14 providing for recognition of enforcement orders  
15 of a court of another state; providing for  
16 appeals; providing for actions by the state  
17 attorney; providing for actions by law  
18 enforcement officers; providing for assessment  
19 of costs and expenses incurred by the state  
20 attorney and law enforcement officers;  
21 providing for application and construction of  
22 the act; providing severability; providing for  
23 transition; amending s. 741.30, F.S.;  
24 conforming references and cross references;  
25 repealing ss. 61.1302, 61.1304, 61.1306,  
26 61.1308, 61.131, 61.1312, 61.1314, 61.1316,  
27 61.1318, 61.132, 61.1322, 61.1324, 61.1326,  
28 61.1328, 61.133, 61.1332, 61.1334, 61.1336,  
29 61.1338, 61.134, 61.1342, 61.1344, 61.1346, and  
30 61.1348, F.S., relating to the "Uniform Child  
31 Custody Jurisdiction Act"; providing an

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1           effective date.  
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