

By the Council for Smarter Government and Representatives  
Cantens and Kallinger

1                                   A bill to be entitled  
2           An act relating to child custody jurisdiction  
3           and enforcement; creating the "Uniform Child  
4           Custody Jurisdiction and Enforcement Act";  
5           providing purposes; providing definitions;  
6           specifying proceedings not governed by the act;  
7           providing application to Indian tribes;  
8           providing international application of the act;  
9           providing the effect of a child custody  
10          determination; providing priority for questions  
11          jurisdiction under the act; providing for  
12          notice to persons outside the state; providing  
13          for appearance at proceedings and limited  
14          immunity; providing for communication between  
15          courts of this state and courts of other  
16          states; providing for taking testimony in  
17          another state; providing for cooperation  
18          between courts and the preservation of records;  
19          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 providing an effective date.

19

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

21

22 Section 1. Short title.--Sections 1-43 of this act may  
23 be cited as the "Uniform Child Custody Jurisdiction and  
24 Enforcement Act."

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

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

31

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

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

7           (4) Deter abductions.

8           (5) Avoid relitigation in this state of custody  
9 decisions of other states.

10          (6) Facilitate the enforcement of custody decrees of  
11 other states.

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

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

17          Section 3. Definitions.--As used in sections 1-43 of  
18 this act, the term:

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

21           (2) "Child" means an individual who has not attained  
22 18 years of age.

23           (3) "Child custody determination" means a judgment,  
24 decree, or other order of a court providing for the legal  
25 custody, physical custody, or visitation with respect to a  
26 child. The term includes a permanent, temporary, initial, and  
27 modification order. The term does not include an order  
28 relating to child support or other monetary obligation of an  
29 individual.

30           (4) "Child custody proceeding" means a proceeding in  
31 which legal custody, physical custody, or visitation with

1 respect to a child is an issue. The term includes a proceeding  
2 for divorce, separation, neglect, abuse, dependency,  
3 guardianship, paternity, termination of parental rights, and  
4 protection from domestic violence in which the issue may  
5 appear. The term does not include a proceeding involving  
6 juvenile delinquency, contractual emancipation, or enforcement  
7 under sections 24-40.

8 (5) "Commencement" means the filing of the first  
9 pleading in a proceeding.

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

13 (7) "Home state" means the state in which a child  
14 lived with a parent or a person acting as a parent for at  
15 least 6 consecutive months immediately before the commencement  
16 of a child custody proceeding. In the case of a child less  
17 than 6 months of age, the term means the state in which the  
18 child lived from birth with a parent or a person acting as a  
19 parent. A period of temporary absence of a parent or a person  
20 acting as a parent is part of the period.

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

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

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

28 (11) "Modification" means a child custody  
29 determination that changes, replaces, or supersedes or is  
30 otherwise made after a previous determination concerning the  
31

1 same child, whether or not it is made by the court that made  
2 the previous determination.

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

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

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

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

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

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

23 (16) "Tribe" means an Indian tribe or band or an  
24 Alaskan Native village which is recognized by federal law or  
25 formally acknowledged by a state.

26 (17) "Warrant" means an order issued by a court  
27 authorizing law enforcement officers to take physical custody  
28 of a child.

29 Section 4. Proceedings governed by other law.--This  
30 act does not govern an adoption proceeding or a proceeding  
31

1 pertaining to the authorization of emergency medical care for  
2 a child.

3 Section 5. Application to Indian tribes.--

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

8 (2) A court of this state shall treat a tribe as if it  
9 were a state of the United States for purposes of applying  
10 sections 1-23.

11 (3) A child custody determination made by a tribe  
12 under factual circumstances in substantial conformity with the  
13 jurisdictional standards of this act must be recognized and  
14 enforced under sections 24-40.

15 Section 6. International application of act.--

16 (1) A court of this state shall treat a foreign  
17 country as if it were a state of the United States for  
18 purposes of applying sections 1-23.

19 (2) Except as otherwise provided in subsection (3), a  
20 child custody determination made in a foreign country under  
21 factual circumstances in substantial conformity with the  
22 jurisdictional standards of this act must be recognized and  
23 enforced under sections 24-40.

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

27 Section 7. Effect of child custody determination.--A  
28 child custody determination made by a court of this state that  
29 had jurisdiction under this act binds all persons who have  
30 been served in accordance with the laws of this state or  
31 notified in accordance with section 9 or who have submitted to

1 the jurisdiction of the court and who have been given an  
2 opportunity to be heard. As to those persons, the  
3 determination is conclusive as to all decided issues of law  
4 and fact except to the extent the determination is modified.

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

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

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

18 (2) Proof of service may be made in the manner  
19 prescribed by the law of this state or by the law of the state  
20 in which the service is made.

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

24 Section 10. Appearance and limited immunity.--

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



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

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

11           Section 11. Communication between courts.--

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

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

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

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

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

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

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

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

22           Section 13. Cooperation between courts; preservation  
23 of records.--

24           (1) A court of this state may request the appropriate  
25 court of another state to:

26           (a) Hold an evidentiary hearing;

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

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

31

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

5       (e) Order a party to a child custody proceeding or any  
6 person having physical custody of the child to appear in the  
7 proceeding with or without the child.

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

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

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

21       Section 14. Initial child custody jurisdiction.--

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

25       (a) This state is the home state of the child on the  
26 date of the commencement of the proceeding or was the home  
27 state of the child within 6 months before the commencement of  
28 the proceeding and the child is absent from this state but a  
29 parent or person acting as a parent continues to live in this  
30 state;

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1       (b) A court of another state does not have  
2 jurisdiction under paragraph (a) or a court of the home state  
3 of the child has declined to exercise jurisdiction on the  
4 ground that this state is the more appropriate forum under  
5 section 20 or section 21; and

6           1. The child and the child's parents, or the child and  
7 at least one parent or a person acting as a parent, have a  
8 significant connection with this state other than mere  
9 physical presence; and

10          2. Substantial evidence is available in this state  
11 concerning the child's care, protection, training, and  
12 personal relationships;

13       (c) All courts having jurisdiction under paragraph (a)  
14 or paragraph (b) have declined to exercise jurisdiction on the  
15 ground that a court of this state is the more appropriate  
16 forum to determine the custody of the child under section 20  
17 or section 21; or

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

21       (2) Subsection (1) is the exclusive jurisdictional  
22 basis for making a child custody determination by a court of  
23 this state.

24       (3) Physical presence of, or personal jurisdiction  
25 over, a party or a child is not necessary or sufficient to  
26 make a child custody determination.

27       Section 15. Exclusive, continuing jurisdiction.--

28       (1) Except as otherwise provided in section 17, a  
29 court of this state which has made a child custody  
30 determination consistent with section 14 or section 16 has  
31

1 exclusive, continuing jurisdiction over the determination  
2 until:

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

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

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

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

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

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

31 Section 17. Temporary emergency jurisdiction.--

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

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

19       (3) If there is a previous child custody determination  
20 that is entitled to be enforced under this act or a child  
21 custody proceeding has been commenced in a court of a state  
22 having jurisdiction under sections 14-16, any order issued by  
23 a court of this state under this section must specify in the  
24 order a period which the court considers adequate to allow the  
25 person seeking an order to obtain an order from the state  
26 having jurisdiction under sections 14-16. The order issued in  
27 this state remains in effect until an order is obtained from  
28 the other state within the period specified or the period  
29 expires.

30       (4) A court of this state which has been asked to make  
31 a child custody determination under this section, upon being

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

13 Section 18. Notice; opportunity to be heard;  
14 joinder.--

15 (1) Before a child custody determination is made under  
16 this act, notice and an opportunity to be heard in accordance  
17 with the provisions of section 9 must be given to all persons  
18 entitled to notice under the laws of this state as in child  
19 custody proceedings between residents of this state, any  
20 parent whose parental rights have not been previously  
21 terminated, and any person having physical custody of the  
22 child.

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

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

30 Section 19. Simultaneous proceedings.--  
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1       (1) Except as otherwise provided in section 17, a  
2 court of this state may not exercise its jurisdiction under  
3 sections 14-23 if, at the time of the commencement of the  
4 proceeding, a proceeding concerning the custody of the child  
5 had been commenced in a court of another state having  
6 jurisdiction substantially in conformity with this act, unless  
7 the proceeding has been terminated or is stayed by the court  
8 of the other state because a court of this state is a more  
9 convenient forum under section 20.

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

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

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



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

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

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

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

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

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

20       Section 21. Jurisdiction declined by reason of  
21 conduct.--

22       (1) Except as otherwise provided in section 17 or by  
23 other law of this state, if a court of this state has  
24 jurisdiction under this act because a person seeking to invoke  
25 its jurisdiction has engaged in unjustifiable conduct, the  
26 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 sections 14-16 determines that this state is a more  
31 appropriate forum under section 20; or

1       (c) No court of any other state would have  
2 jurisdiction under the criteria specified in sections 14-16.

3       (2) If a court of this state declines to exercise its  
4 jurisdiction pursuant to subsection (1), it may fashion an  
5 appropriate remedy to ensure the safety of the child and  
6 prevent a repetition of the unjustifiable conduct, including  
7 staying the proceeding until a child custody proceeding is  
8 commenced in a court having jurisdiction under sections 14-16.

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

21       Section 22. Information to be submitted to the  
22 court.--

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

1 the child has lived during that period. The pleading or  
2 affidavit 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  
31

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

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

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

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

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

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

26          Section 24. Definitions.--As used in sections 24-40,  
27 the term:

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

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

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

11           Section 26. Duty to enforce.--

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

19           (2) A court of this state may utilize any remedy  
20 available under other law of this state to enforce a child  
21 custody determination made by a court of another state. The  
22 remedies provided by sections 24-40 are cumulative and do not  
23 affect the availability of other remedies to enforce a child  
24 custody determination.

25           Section 27. Temporary visitation.--

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

29           (a) A visitation schedule made by a court of another  
30 state; or

31

1           (b) The visitation provisions of a child custody  
2 determination of another state that does not provide for a  
3 specific visitation schedule.

4           (2) If a court of this state makes an order under  
5 paragraph (1)(b), it shall specify in the order a period that  
6 it considers adequate to allow the petitioner to obtain an  
7 order from a court having jurisdiction under the criteria  
8 specified in sections 14-23. The order remains in effect until  
9 an order is obtained from the other court or the period  
10 expires.

11           Section 28. Registration of child custody  
12 determination.--

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

17           (a) A letter or other document requesting  
18 registration;

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

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

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

31

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

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

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

9       (a) A registered determination is enforceable as of  
10 the date of the registration in the same manner as a  
11 determination issued by a court of this state;

12       (b) A hearing to contest the validity of the  
13 registered determination must be requested within 20 days  
14 after service of notice; and

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

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

24       (a) The issuing court did not have jurisdiction under  
25 sections 14-23;

26       (b) The child custody determination sought to be  
27 registered has been vacated, stayed, or modified by a court  
28 having jurisdiction to do so under sections 14-23; or

29       (c) The person contesting registration was entitled to  
30 notice, but notice was not given in accordance with the  
31



1 provisions of section 9 in the proceedings before the court  
2 that issued the order for which registration is sought.

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

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

12 Section 29. Enforcement of registered determination.--

13 (1) A court of this state may grant any relief  
14 normally available under the laws of this state to enforce a  
15 registered child custody determination made by a court of  
16 another state.

17 (2) A court of this state shall recognize and enforce,  
18 but may not modify, except in accordance with sections 14-23,  
19 a registered child custody determination of another state.

20 Section 30. Simultaneous proceedings.--If a proceeding  
21 for enforcement under sections 24-40 is commenced in a court  
22 of this state and the court determines that a proceeding to  
23 modify the determination is pending in a court of another  
24 state having jurisdiction to modify the determination under  
25 sections 14-23, the enforcing court shall immediately  
26 communicate with the modifying court. The proceeding for  
27 enforcement continues unless the enforcing court, after  
28 consultation with the modifying court, stays or dismisses the  
29 proceeding.

30 Section 31. Expedited enforcement of child custody  
31 determination.--

1       (1) A petition under sections 24-40 must be verified.  
2 Certified copies of all orders sought to be enforced and of  
3 any order confirming registration must be attached to the  
4 petition. A copy of a certified copy of an order may be  
5 attached instead of the original.

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

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

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

15       (c) Whether any proceeding has been commenced that  
16 could affect the current proceeding, including proceedings  
17 relating to domestic violence, protective orders, termination  
18 of parental rights, and adoptions and, if so, identify the  
19 court, the case number, and the nature of the proceeding;

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

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

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

29       (3) Upon the filing of a petition, the court shall  
30 issue an order directing the respondent to appear in person  
31 with or without the child at a hearing and may enter any order

1 necessary to ensure the safety of the parties and the child.  
2 The hearing must be held on the next judicial day after  
3 service of the order unless that date is impossible. In that  
4 event, the court shall hold the hearing on the first judicial  
5 day possible. The court may extend the date of the hearing at  
6 the request of the petitioner.

7 (4) An order issued under subsection (3) must state  
8 the time and place of the hearing and advise the respondent  
9 that at the hearing the court will order that the petitioner  
10 may take immediate physical custody of the child and the  
11 payment of fees, costs, and expenses under section 35, and may  
12 schedule a hearing to determine whether further relief is  
13 appropriate, unless the respondent appears and establishes  
14 that:

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

17 1. The issuing court did not have jurisdiction under  
18 sections 14-23;

19 2. The child custody determination for which  
20 enforcement is sought has been vacated, stayed, or modified by  
21 a court of a state having jurisdiction to do so under sections  
22 14-23; or

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

27 (b) The child custody determination for which  
28 enforcement is sought was registered and confirmed under  
29 section 28 but has been vacated, stayed, or modified by a  
30 court of a state having jurisdiction to do so under sections  
31 14-23.

1           Section 32. Service of petition and order.--Except as  
2 otherwise provided in section 34, the petition and order must  
3 be served by any method authorized by the laws of this state  
4 upon the respondent and any person who has physical custody of  
5 the child.

6           Section 33. Hearing and order.--

7           (1) Unless the court enters a temporary emergency  
8 order pursuant to section 17, upon a finding that a petitioner  
9 is entitled to immediate physical custody of the child, the  
10 court shall order that the petitioner may take immediate  
11 physical custody of the child unless the respondent  
12 establishes that:

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

15           1. The issuing court did not have jurisdiction under  
16 sections 14-23;

17           2. The child custody determination for which  
18 enforcement is sought has been vacated, stayed, or modified by  
19 a court of a state having jurisdiction to do so under sections  
20 14-23; or

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

25           (b) The child custody determination for which  
26 enforcement is sought was registered and confirmed under  
27 section 28 but has been vacated, stayed, or modified by a  
28 court of a state having jurisdiction to do so under sections  
29 14-23.

30           (2) The court shall award the fees, costs, and  
31 expenses authorized under section 35 and may grant additional

1 relief, including a request for the assistance of law  
2 enforcement officers, and set a further hearing to determine  
3 whether additional relief is appropriate.

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

7 (4) A privilege against disclosure of communications  
8 between spouses and a defense of immunity based on the  
9 relationship of husband and wife or parent and child may not  
10 be invoked in a proceeding under sections 24-40.

11 Section 34. Warrant to take physical custody of  
12 child.--

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

19 (2) If the court, upon the testimony of the petitioner  
20 or other witness, finds that the child is likely to imminently  
21 suffer serious physical harm or removal from this state, it  
22 may issue a warrant to take physical custody of the child. The  
23 petition must be heard on the next judicial day after the  
24 warrant is executed unless that date is impossible. In that  
25 event, the court shall hold the hearing on the first judicial  
26 day possible. The application for the warrant must include the  
27 statements required by section 31(2).

28 (3) A warrant to take physical custody of a child  
29 must:  
30  
31

1           (a) Recite the facts upon which a conclusion of  
2 imminent serious physical harm or removal from the  
3 jurisdiction is based;

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

6           (c) Provide for the placement of the child pending  
7 final relief.

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

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

19           (6) The court may impose conditions upon placement of  
20 a child to ensure the appearance of the child and the child's  
21 custodian.

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

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

31

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

3           Section 36. Recognition and enforcement.--A court of  
4 this state shall accord full faith and credit to an order  
5 issued by another state and consistent with this act which  
6 enforces a child custody determination by a court of another  
7 state unless the order has been vacated, stayed, or modified  
8 by a court having jurisdiction to do so under sections 14-23.

9           Section 37. Appeals.--An appeal may be taken from a  
10 final order in a proceeding under sections 24-40 in accordance  
11 with expedited appellate procedures in other civil cases.  
12 Unless the court enters a temporary emergency order under  
13 section 17, the enforcing court may not stay an order  
14 enforcing a child custody determination pending appeal.

15           Section 38. Role of state attorney.--

16           (1) In a case arising under this act or involving the  
17 Hague Convention on the Civil Aspects of International Child  
18 Abduction, the state attorney may take any lawful action,  
19 including resort to a proceeding under sections 24-40 or any  
20 other available civil proceeding, to locate a child, obtain  
21 the return of a child, or enforce a child custody  
22 determination, if there is:

23           (a) An existing child custody determination;

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

26           (c) A reasonable belief that a criminal statute has  
27 been violated; or

28           (d) A reasonable belief that the child has been  
29 wrongfully removed or retained in violation of the Hague  
30 Convention on the Civil Aspects of International Child  
31 Abduction.

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

3           Section 39. Role of law enforcement officers.--At the  
4 request of a state attorney acting under section 38, a law  
5 enforcement officer may take any lawful action reasonably  
6 necessary to locate a child or a party and assist a state  
7 attorney with responsibilities under section 38.

8           Section 40. Costs and expenses.--If the respondent is  
9 not the prevailing party, the court may assess against the  
10 respondent all direct expenses and costs incurred by the state  
11 attorney and law enforcement officers under section 38 or  
12 section 39.

13           Section 41. Application and construction.--In applying  
14 and construing this act, consideration must be given to the  
15 need to promote uniformity of the law with respect to its  
16 subject matter among states that enact it.

17           Section 42. Severability clause.--If any provision of  
18 this act or its application to any person or circumstance is  
19 held invalid, the invalidity does not affect other provisions  
20 or applications of this act which can be given effect without  
21 the invalid provision or application, and to this end the  
22 provisions of this act are severable.

23           Section 43. Transitional provision.--A motion or other  
24 request for relief made in a child custody proceeding or to  
25 enforce a child custody determination which was commenced  
26 before the effective date of this act is governed by the law  
27 in effect at the time the motion or other request was made.

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

30           39.502 Notice, process, and service.--  
31



1           (7) Service of the summons and service of pleadings,  
2 papers, and notices subsequent to the summons on persons  
3 outside this state must be made pursuant to section 9 of the  
4 Uniform Child Custody Jurisdiction and Enforcement Act ~~s.~~  
5 ~~61.1312~~.

6           Section 45. Paragraph (b) of subsection (2) of section  
7 61.13, Florida Statutes, is amended, and paragraph (e) is  
8 added to said subsection, to read:

9           61.13 Custody and support of children; visitation  
10 rights; power of court in making orders.--

11           (2)

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

25           2. The court shall order that the parental  
26 responsibility for a minor child be shared by both parents  
27 unless the court finds that shared parental responsibility  
28 would be detrimental to the child. Evidence that a parent has  
29 been convicted of a felony of the third degree or higher  
30 involving domestic violence, as defined in s. 741.28 and  
31 chapter 775, or meets the criteria of s. 39.806(1)(d), creates

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

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

25 b. The court shall order "sole parental  
26 responsibility, with or without visitation rights, to the  
27 other parent when it is in the best interests of" the minor  
28 child.

29 c. The court may award the grandparents visitation  
30 rights with a minor child if it is in the child's best  
31 interest. Grandparents have legal standing to seek judicial

1 enforcement of such an award. This section does not require  
2 that grandparents be made parties or given notice of  
3 dissolution pleadings or proceedings, nor do grandparents have  
4 legal standing as "contestants" as defined in s. 61.1306. A  
5 court may not order that a child be kept within the state or  
6 jurisdiction of the court solely for the purpose of permitting  
7 visitation by the grandparents.

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

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

31

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

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

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

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

30           5. Any remaining proceeds shall be held as further  
31 security, if deemed necessary by the court, and, if further

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

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

14 Section 46. (1) In a proceeding in which the court  
15 enters an order of child custody or visitation, including such  
16 an order in a modification proceeding, upon the presentation  
17 of competent substantial evidence that there is a risk that  
18 one party may violate the court's order of visitation or  
19 custody by removing a child from this state or this country or  
20 by concealing the whereabouts of a child, or upon stipulation  
21 of the parties, the court may:

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

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

28 (c) Order that a party may not take the child to a  
29 country that has not ratified or acceded to the Hague  
30 Convention on the Civil Aspects of International Child  
31

1 Abduction unless the other parent agrees in writing that the  
2 child may be taken to the country;  
3 (d) Require a party to surrender the passport of the  
4 child; or  
5 (e) Require the party to post bond or other security.  
6 (2) If the court enters an order of child custody or  
7 visitation, including such an order in a modification  
8 proceeding, that includes a provision entered under paragraph  
9 (2)(b) or paragraph (2)(c), a certified copy of the order  
10 shall be sent by the party who requested the restriction to  
11 the Passport Services Office of the United States Department  
12 of State requesting that the Passport Services Office not  
13 issue a passport to the child without the signature of the  
14 requesting party or by further court order.  
15 (3) In assessing the need for a bond or other  
16 security, the court may consider any reasonable factor bearing  
17 upon the risk that a party may violate a visitation or custody  
18 order by removing a child from this state or this country or  
19 by concealing the whereabouts of a child, including, but not  
20 limited to, whether:  
21 (a) A court has previously found that a party  
22 previously removed a child from this state or another state in  
23 violation of a custody or visitation order, or whether a court  
24 has found that a party has threatened to take a child out of  
25 this state or another state in violation of a custody or  
26 visitation order;  
27 (b) The party has previously been found to have  
28 committed a violation under s. 787.03, Florida Statutes, or  
29 has failed to comply with the provisions of said section  
30 giving rise to a defense;  
31

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

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

6       (e) The party has engaged in activities that suggest  
7 plans to leave this state, such as termination of employment,  
8 sale of a residence or termination of a lease on a residence  
9 without efforts to acquire an alternative residence in the  
10 state, closing bank accounts or otherwise liquidating assets,  
11 or applying for a passport;

12       (f) Either party has a history of domestic violence as  
13 either a victim or perpetrator of child abuse or child neglect  
14 as evidenced by criminal history, including, but not limited  
15 to, arrest, an injunction for protection against domestic  
16 violence issued after notice and hearing under s. 741.30,  
17 Florida Statutes, medical records, affidavits, or any other  
18 relevant information; or

19       (g) The party has a criminal record.

20       (4) The court must consider the party's financial  
21 resources prior to setting the bond amount under this section.  
22 Under no circumstances may the court set a bond that is  
23 unreasonable.

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

27       (6) Upon a material violation of any custody or  
28 visitation order entered under this section, the court may  
29 order the bond or other security forfeited in whole or in  
30 part. This section does not apply in cases in which a parent  
31 who is the victim of any act of domestic violence or who has

1 reasonable cause to believe he or she is about to become the  
2 victim of any act of domestic violence, as defined in s.  
3 741.28, Florida Statutes, or believes that his or her action  
4 was necessary to preserve the child from danger to the child's  
5 welfare seeks shelter from such acts or possible acts and  
6 takes with him or her, or conceals, any child 17 years of age  
7 or younger. However, in order to gain the exemption conferred  
8 in this subsection, the party claiming the exemption must,  
9 within 10 days after the violation, file with the court that  
10 issued the visitation or custody order an affidavit setting  
11 out the facts which are the basis for claiming the exemption  
12 and, if applicable, must comply with the requirements set out  
13 in s. 787.03(6)(b), Florida Statutes.

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

17 1. Reimburse the nonviolating party for actual costs  
18 or damages incurred in upholding the court's order of custody  
19 or visitation.

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

22 3. Reimburse reasonable fees and costs as determined  
23 by the court.

24 (b) Any remaining proceeds shall be:

25 1. Held as further security if deemed necessary by the  
26 court;

27 2. If further security is not found to be necessary,  
28 applied to any child support arrearage owed by the parent  
29 against whom the bond was required; or

30 3. If no arrearage exists, allocated by the court in  
31 the best interest of the child.



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

9           Section 47. Paragraph (d) of subsection (3),  
10 subsection (4), and paragraph (a) of subsection (7) of section  
11 741.30, Florida Statutes, are amended to read:

12           741.30 Domestic violence; injunction; powers and  
13 duties of court and clerk; petition; notice and hearing;  
14 temporary injunction; issuance of injunction; statewide  
15 verification system; enforcement.--

16           (3)

17           (d) If the sworn petition seeks to determine issues of  
18 custody or visitation with regard to the minor child or  
19 children of the parties, the sworn petition shall be  
20 accompanied by or shall incorporate the allegations required  
21 by section 22 ~~s. 61.132~~ of the Uniform Child Custody  
22 Jurisdiction and Enforcement Act.

23           (4) Upon the filing of the petition, the court shall  
24 set a hearing to be held at the earliest possible time. The  
25 respondent shall be personally served with a copy of the  
26 petition, financial affidavit, uniform child custody  
27 jurisdiction and enforcement act affidavit, if any, notice of  
28 hearing, and temporary injunction, if any, prior to the  
29 hearing.

30           (7)(a)1. The clerk of the court shall furnish a copy  
31 of the petition, financial affidavit, uniform child custody

1 jurisdiction and enforcement act affidavit, if any, notice of  
2 hearing, and temporary injunction, if any, to the sheriff or a  
3 law enforcement agency of the county where the respondent  
4 resides or can be found, who shall serve it upon the  
5 respondent as soon thereafter as possible on any day of the  
6 week and at any time of the day or night. The clerk of the  
7 court shall be responsible for furnishing to the sheriff such  
8 information on the respondent's physical description and  
9 location as is required by the department to comply with the  
10 verification procedures set forth in this section.

11 Notwithstanding any other provision of law to the contrary,  
12 the chief judge of each circuit, in consultation with the  
13 appropriate sheriff, may authorize a law enforcement agency  
14 within the jurisdiction to effect service. A law enforcement  
15 agency serving injunctions pursuant to this section shall use  
16 service and verification procedures consistent with those of  
17 the sheriff.

18         2. When an injunction is issued, if the petitioner  
19 requests the assistance of a law enforcement agency, the court  
20 may order that an officer from the appropriate law enforcement  
21 agency accompany the petitioner and assist in placing the  
22 petitioner in possession of the dwelling or residence, or  
23 otherwise assist in the execution or service of the  
24 injunction. A law enforcement officer shall accept a copy of  
25 an injunction for protection against domestic violence,  
26 certified by the clerk of the court, from the petitioner and  
27 immediately serve it upon a respondent who has been located  
28 but not yet served.

29         3. All orders issued, changed, continued, extended, or  
30 vacated subsequent to the original service of documents  
31 enumerated under subparagraph 1., shall be certified by the

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

14  
15 If the respondent has been served previously with the  
16 temporary injunction and has failed to appear at the initial  
17 hearing on the temporary injunction, any subsequent petition  
18 for injunction seeking an extension of time may be served on  
19 the respondent by the clerk of the court by certified mail in  
20 lieu of personal service by a law enforcement officer.

21 Section 48. Sections 61.1302, 61.1304, 61.1306,  
22 61.1308, 61.131, 61.1312, 61.1314, 61.1316, 61.1318, 61.132,  
23 61.1322, 61.1324, 61.1326, 61.1328, 61.133, 61.1332, 61.1334,  
24 61.1336, 61.1338, 61.134, 61.1342, 61.1344, 61.1346, and  
25 61.1348, Florida Statutes, are repealed.

26 Section 49. This act shall take effect October 1,  
27 2002.

28  
29  
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31