

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

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

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

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

24
25 Section 1. Subsection (7) of section 39.502, Florida
26 Statutes, is amended to read:

27 39.502 Notice, process, and service.--

28 (7) Service of the summons and service of pleadings,
29 papers, and notices subsequent to the summons on persons
30 outside this state must be made pursuant to s. 61.509 ~~s.~~
31 ~~61.1312~~.

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

4 44.102 Court-ordered mediation.--

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

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

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

13 2. The action is filed for the purpose of collecting a
14 debt.

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

16 4. The action is governed by the Florida Small Claims
17 Rules.

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

20 6. The parties have agreed to binding arbitration.

21 7. The parties have agreed to an expedited trial
22 pursuant to s. 45.075.

23 8. The parties have agreed to voluntary trial
24 resolution pursuant to s. 44.104.

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

28 (c) In circuits in which a family mediation program
29 has been established and upon a court finding of a dispute,
30 shall refer to mediation all or part of custody, visitation,
31 or other parental responsibility issues as defined in s.

1 61.13. Upon motion or request of a party, a court shall not
2 refer any case to mediation if it finds there has been a
3 history of domestic violence that would compromise the
4 mediation process.

5 (d) In circuits in which a dependency or in need of
6 services mediation program has been established, may refer to
7 mediation all or any portion of a matter relating to
8 dependency or to a child in need of services or a family in
9 need of services.

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

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

15 (2)

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

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

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

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

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

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

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

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

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

1 violation. For purposes of this section, a material violation
2 of a visitation or custody order shall include failure of
3 either parent to provide care for a child during a time
4 designated in a court order for him or her to be responsible
5 for the child. However, when a party materially violates a
6 visitation or custody order by removing the child from this
7 state or country or by concealing the whereabouts of the
8 child, section 4. of this bill and not this subsection shall
9 apply.

10 1. This subsection does not apply when a parent who is
11 the victim of any act of domestic violence or who has
12 reasonable cause to believe he or she is about to become the
13 victim of any act of domestic violence, as defined in s.
14 741.28, takes action contrary to a visitation or custody order
15 based upon a good faith belief that such action was necessary
16 to preserve the child from danger to his or her welfare.
17 However, in order to gain the exemption conferred in this
18 subparagraph, the party claiming the exemption must within 10
19 days of the violation file with the court that issued the
20 visitation or custody order an affidavit setting out the facts
21 which are the basis for claiming the exemption.

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

31

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

5 4. Any deficiency of bond or security shall not
6 absolve the violating party of responsibility to pay the full
7 amount of damages determined by the court.

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

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

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

31

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

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

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

12 (d) Require a parent to surrender the passport of the
13 child; or

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

15 (2) If the court enters an order of child custody or
16 visitation, including in a modification proceeding, that
17 includes a provision entered under paragraph (1)(b) or
18 paragraph (1)(c), a certified copy of the order should be sent
19 by the parent who requested the restriction to the Passport
20 Services Office of the U.S. Department of State requesting
21 that they not issue a passport to the child without their
22 signature or further court order.

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

29 (a) A court has previously found that a party
30 previously removed a child from Florida or another state in
31 violation of a custody or visitation order, or whether a court

1 had found that a party has threatened to take a child out of
2 Florida or another state in violation of a custody or
3 visitation order;

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

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

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

15 (e) Either party has had a history of domestic
16 violence as either a victim or perpetrator, child abuse or
17 child neglect evidenced by criminal history, including but not
18 limited to, arrest, an injunction for protection against
19 domestic violence issued after notice and hearing under s.
20 741.30, medical records, affidavits, or any other relevant
21 information; or

22 (f) The party has a criminal record.

23 (4) 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 (5) 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 (6) Upon presentation of competent substantial
31 evidence that the party who posted the bond or other security

1 has materially violated a court order of visitation or custody
2 by removing the child from this state or country or by
3 concealing the whereabouts of the child, the court may order
4 the bond or other security forfeited in whole or in part.

5 This section does not apply when a parent who is the victim of
6 any act of domestic violence or who has reasonable cause to
7 believe he or she is about to become the victim of any act of
8 domestic violence, as defined in s. 741.28, seeks shelter from
9 such acts or possible acts and takes with him or her, or
10 conceals, any child 17 years of age or younger. However, in
11 order to gain the exemption conferred in this subsection, the
12 party claiming the exemption must comply with the requirements
13 set out in s. 787.03(6)(b).

14 (7)(a) Upon an order of forfeiture, the proceeds of
15 any bond or other security posted pursuant to this subsection
16 may only be used 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 held as further
25 security if deemed necessary by the court, and if further
26 security is not found to be necessary; applied to any child
27 support arrears owed by the parent against whom the bond was
28 required, and if no arrears exists; all remaining proceeds
29 will be allocated by the court in the best interest of the
30 child.

31

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 subsection. Any party using such
7 proceeds for purposes not in accordance with this section may
8 be found in contempt of court.

9 Section 5. Sections 61.501 through 61.542, Florida
10 Statutes, are created to read:

11 61.501 Short title.--This part may be cited as the
12 "Uniform Child Custody Jurisdiction and Enforcement Act."

13 61.502 Purposes of part; construction of
14 provisions.--The general purposes of this part are to:

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

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

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

25 (4) Deter abductions.

26 (5) Avoid relitigating the custody decisions of other
27 states in this state.

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

30
31

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

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

6 61.503 Definitions.--As used in this part, the term:

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

9 (2) "Child" means an individual who has not attained
10 18 years of age.

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

18 (4) "Child custody proceeding" means a proceeding in
19 which legal custody, physical custody, residential care or
20 visitation with respect to a child is an issue. The term
21 includes a proceeding for divorce, separation, neglect, abuse,
22 dependency, guardianship, paternity, termination of parental
23 rights, and protection from domestic violence, in which the
24 issue may appear. The term does not include a proceeding
25 involving juvenile delinquency, contractual emancipation, or
26 enforcement under ss. 61.524-61.540.

27 (5) "Commencement" means the filing of the first
28 pleading in a proceeding.

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

1 (7) "Home state" means the state in which a child
2 lived with a parent or a person acting as a parent for at
3 least 6 consecutive months immediately before the commencement
4 of a child custody proceeding. In the case of a child younger
5 than 6 months of age, the term means the state in which the
6 child lived from birth with any of the persons mentioned. A
7 period of temporary absence of any of the mentioned persons is
8 part of the period.

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

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

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

16 (11) "Modification" means a child custody
17 determination that changes, replaces, supersedes, or is
18 otherwise made after a previous determination concerning the
19 same child, regardless of whether it is made by the court that
20 made the previous determination.

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

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

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

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

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

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

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

13 (17) "Warrant" means an order issued by a court
14 authorizing law enforcement officers to take physical custody
15 of a child.

16 61.504 Proceedings governed by other law.--This part
17 does not govern a proceeding pertaining to the authorization
18 of emergency medical care for a child.

19 61.505 Application to Indian tribes.--

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

24 (2) A court of this state shall treat a tribe as if it
25 were a state of the United States for purposes of applying ss.
26 61.501-61.523.

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

31 61.506 International application of part.--

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

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

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

12 61.507 Effect of child custody determination.--A child
13 custody determination made by a court of this state which had
14 jurisdiction under this part binds all persons who have been
15 served in accordance with the laws of this state or notified
16 in accordance with s. 61.509 or who have submitted to the
17 jurisdiction of the court, and who have been given an
18 opportunity to be heard. As to those persons, the
19 determination is conclusive as to all decided issues of law
20 and fact except to the extent the determination is modified.

21 61.508 Priority.--If a question of existence or
22 exercise of jurisdiction under this part is raised in a child
23 custody proceeding, the question, upon request of a party,
24 must be given priority on the calendar and handled
25 expeditiously.

26 61.509 Notice to persons outside the state.--

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

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

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

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

9 61.510 Appearance and limited immunity.--

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

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

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

27 61.511 Communication between courts.--

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

31

1 (2) The court shall allow the parties to participate
2 in the communication. If the parties elect to participate in
3 the communication, they must be given the opportunity to
4 present facts and legal arguments before a decision on
5 jurisdiction is made.

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

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

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

19 61.512 Taking testimony in another state.--

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

29 (2) Upon agreement of the parties, a court of this
30 state may permit an individual residing in another state to be
31 deposed or to testify by telephone, audiovisual means, or

1 other electronic means before a designated court or at another
2 location in that state. A court of this state shall cooperate
3 with courts of other states in designating an appropriate
4 location for the deposition or testimony.

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

9 61.513 Cooperation between courts; preservation of
10 records.--

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

13 (a) Hold an evidentiary hearing;

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

16 (c) Order that an evaluation be made with respect to
17 the custody of a child involved in a pending proceeding
18 pursuant to the laws of the state where the proceeding is
19 pending;

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

24 (e) Order a party to a child custody proceeding or any
25 person having physical custody of the child to appear in the
26 proceeding with or without the child.

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

30 (3) Travel and other necessary and reasonable expenses
31 incurred under subsections (1) and (2) may be assessed against

1 the parties according to the laws of this state if the court
2 has personal jurisdiction over the party against whom these
3 expenses are being assessed.

4 (4) A court of this state shall preserve the
5 pleadings, orders, decrees, records of hearings, evaluations,
6 and other pertinent records with respect to a child custody
7 proceeding until the child attains 18 years of age. Upon
8 appropriate request by a court or law enforcement official of
9 another state, the court shall forward a certified copy of
10 these records.

11 61.514 Initial child custody jurisdiction.--

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

15 (a) This state is the home state of the child on the
16 date of the commencement of the proceeding, or was the home
17 state of the child within 6 months before the commencement of
18 the proceeding and the child is absent from this state but a
19 parent or person acting as a parent continues to live in this
20 state;

21 (b) A court of another state does not have
22 jurisdiction under paragraph (a), or a court of the home state
23 of the child has declined to exercise jurisdiction on the
24 grounds that this state is the more appropriate forum under s.
25 61.520 or s. 61.521, and:

26 1. The child and the child's parents, or the child and
27 at least one parent or a person acting as a parent, have a
28 significant connection with this state other than mere
29 physical presence; and
30
31

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

4 (c) All courts having jurisdiction under paragraph (a)
5 or paragraph (b) have declined to exercise jurisdiction on the
6 grounds that a court of this state is the more appropriate
7 forum to determine the custody of the child under s. 61.520 or
8 s. 61.521; or

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

12 (2) Subsection (1) is the exclusive jurisdictional
13 basis for making a child custody determination by a court of
14 this state.

15 (3) Physical presence of, or personal jurisdiction
16 over, a party or a child is not necessary or sufficient to
17 make a child custody determination.

18 61.515 Exclusive, continuing jurisdiction.--

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

23 (a) A court of this state determines that the child,
24 the child's parents, and any person acting as a parent does
25 not have a significant connection with this state and that
26 substantial evidence is no longer available in this state
27 concerning the child's care, protection, training, and
28 personal relationships; or

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

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

6 61.516 Jurisdiction to modify a determination.--Except
7 as otherwise provided in s. 61.517, a court of this state may
8 not modify a child custody determination made by a court of
9 another state unless a court of this state has jurisdiction to
10 make an initial determination under s. 61.514(1)(a) or s.
11 61.514(1)(b) and:

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

16 (2) A court of this state or a court of the other
17 state determines that the child, the child's parents, and any
18 person acting as a parent does not presently reside in the
19 other state.

20 61.517 Temporary emergency jurisdiction.--

21 (1) A court of this state has temporary emergency
22 jurisdiction if the child is present in this state and the
23 child has been abandoned or it is necessary in an emergency to
24 protect the child because the child, or a sibling or parent of
25 the child, is subjected to or threatened with mistreatment or
26 abuse.

27 (2) If there is no previous child custody
28 determination that is entitled to be enforced under this part,
29 and a child custody proceeding has not been commenced in a
30 court of a state having jurisdiction under ss. 61.514-61.616,
31 a child custody determination made under this section remains

1 in effect until an order is obtained from a court of a state
2 having jurisdiction under ss. 61.514-61.516. If a child
3 custody proceeding has not been or is not commenced in a court
4 of a state having jurisdiction under ss. 61.514-61.516, a
5 child custody determination made under this section becomes a
6 final determination if it so provides and this state becomes
7 the home state of the child.

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

19 (4) A court of this state which has been asked to make
20 a child custody determination under this section, upon being
21 informed that a child custody proceeding has been commenced
22 in, or a child custody determination has been made by, a court
23 of a state having jurisdiction under ss. 61.514-61.516, shall
24 immediately communicate with the other court. A court of this
25 state which is exercising jurisdiction under ss.
26 61.514-61.516, upon being informed that a child custody
27 proceeding has been commenced in, or a child custody
28 determination has been made by, a court of another state under
29 a statute similar to this section shall immediately
30 communicate with the court of that state to resolve the
31 emergency, protect the safety of the parties and the child,

1 and determine a period for the duration of the temporary
2 order.

3 61.518 Notice; opportunity to be heard; joinder.--

4 (1) Before a child custody determination is made under
5 this part, notice and an opportunity to be heard in accordance
6 with the standards of s. 61.509 must be given to all persons
7 entitled to notice under the laws of this state as in child
8 custody proceedings between residents of this state, any
9 parent whose parental rights have not been previously
10 terminated, and any person acting as a parent.

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

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

18 61.519 Simultaneous proceedings.--

19 (1) Except as otherwise provided in s. 61.517, a court
20 of this state may not exercise its jurisdiction under ss.
21 61.514-61.524 if, at the time of the commencement of the
22 proceeding, a proceeding concerning the custody of the child
23 had been commenced in a court of another state having
24 jurisdiction substantially in conformity with this part,
25 unless the proceeding has been terminated or is stayed by the
26 court of the other state because a court of this state is a
27 more convenient forum under s. 61.520.

28 (2) Except as otherwise provided in s. 61.517, a court
29 of this state, before hearing a child custody proceeding,
30 shall examine the court documents and other information
31 supplied by the parties pursuant to s. 61.522. If the court

1 determines that a child custody proceeding was previously
2 commenced in a court in another state having jurisdiction
3 substantially in accordance with this part, the court of this
4 state shall stay its proceeding and communicate with the court
5 of the other state. If the court of the state having
6 jurisdiction substantially in accordance with this part does
7 not determine that the court of this state is a more
8 appropriate forum, the court of this state shall dismiss the
9 proceeding.

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

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

20 (b) Enjoin the parties from continuing with the
21 proceeding for enforcement; or

22 (c) Proceed with the modification under conditions it
23 considers appropriate.

24 61.520 Inconvenient forum.--

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

1 (2) Before determining whether it is an inconvenient
2 forum, a court of this state shall consider whether it is
3 appropriate for a court of another state to exercise
4 jurisdiction. For this purpose, the court shall allow the
5 parties to submit information and shall consider all relevant
6 factors, including:

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

10 (b) The length of time the child has resided outside
11 this state;

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

14 (d) The relative financial circumstances of the
15 parties;

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

18 (f) The nature and location of the evidence required
19 to resolve the pending litigation, including testimony of the
20 child;

21 (g) The ability of the court of each state to decide
22 the issue expeditiously and the procedures necessary to
23 present the evidence; and

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

26 (3) If a court of this state determines that it is an
27 inconvenient forum and that a court of another state is a more
28 appropriate forum, it shall stay the proceedings upon
29 condition that a child custody proceeding be promptly
30 commenced in another designated state and may impose any other
31 condition the court considers just and proper.

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

6 61.521 Jurisdiction declined by reason of conduct.--

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

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

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

17 (c) No court of any other state would have
18 jurisdiction under the criteria specified in ss.
19 61.514-61.516.

20 (2) If a court of this state declines to exercise its
21 jurisdiction under subsection (1), it may fashion an
22 appropriate remedy to ensure the safety of the child and
23 prevent a repetition of the unjustifiable conduct, including
24 staying the proceeding until a child custody proceeding is
25 commenced in a court having jurisdiction under ss.
26 61.514-61.516.

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

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

8 61.522 Information to be submitted to the court.--

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

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

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

30 (c) Knows the names and addresses of any person not a
31 party to the proceeding who has physical custody of the child

1 or claims rights of legal custody or physical custody of, or
2 visitation with, the child and, if so, the names and addresses
3 of those persons.

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

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

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

18 61.523 Appearance of parties and child.--

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

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

31

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

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

10 61.524 Definitions.--As used in ss. 61.524-61.540, the
11 term:

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

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

21 61.525 Enforcement under the Hague Convention.--Under
22 this part, a court of this state may enforce an order for the
23 return of a child made under the Hague Convention on the Civil
24 Aspects of International Child Abduction as if it were a child
25 custody determination.

26 61.526 Duty to enforce.--

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

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

3 (2) A court of this state may use any remedy available
4 under other laws of this state to enforce a child custody
5 determination made by a court of another state. The remedies
6 provided by ss. 61.524-61.540 are cumulative and do not affect
7 the availability of other remedies to enforce a child custody
8 determination.

9 61.527 Temporary visitation.--

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

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

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

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

25 61.528 Registration of child custody determination.--

26 (1) A child custody determination issued by a court of
27 another state may be registered in this state, with or without
28 a simultaneous request for enforcement, by sending to the
29 circuit court of the county where the petitioner or respondent
30 resides or where a simultaneous request for enforcement is
31 sought:

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

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

8 (c) Except as otherwise provided in s. 61.522, the
9 name and address of the person seeking registration and any
10 parent or person acting as a parent who has been awarded
11 custody or visitation in the child custody determination
12 sought to be registered.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 61.529 Enforcement of registered determination.--

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

31

1 (2) A court of this state shall recognize and enforce
2 but may not modify, except in accordance with ss.
3 61.514-61.523, a registered child custody determination of
4 another state.

5 61.530 Simultaneous proceedings.--If a proceeding for
6 enforcement under ss. 61.524-61.540 is commenced in a court of
7 this state and the court determines that a proceeding to
8 modify the determination is pending in a court of another
9 state having jurisdiction to modify the determination under
10 ss. 61.514-61.523, the enforcing court shall immediately
11 communicate with the modifying court. The proceeding for
12 enforcement continues unless the enforcing court, after
13 consultation with the modifying court, stays or dismisses the
14 proceeding.

15 61.531 Expedited enforcement of child custody
16 determination.--

17 (1) A petition under ss. 61.524-61.540 must be
18 verified. Certified copies of all orders sought to be enforced
19 and of any order confirming registration must be attached to
20 the petition. A copy of a certified copy of an order may be
21 attached instead of the original.

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

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

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

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

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

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

12 (f) If the child custody determination has been
13 registered and confirmed under s. 61.528, the date and place
14 of registration.

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

24 (4) An order issued under subsection (3) must state
25 the time and place of the hearing and advise the respondent
26 that at the hearing the court will order that the petitioner
27 may take immediate physical custody of the child and the
28 payment of fees, costs, and expenses under s. 61.535 and may
29 schedule a hearing to determine whether further relief is
30 appropriate, unless the respondent appears and establishes
31 that:

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

3 1. The issuing court did not have jurisdiction under
4 ss. 61.514-61.523;

5 2. The child custody determination for which
6 enforcement is sought has been vacated, stayed, or modified by
7 a court of a state having jurisdiction to do so under ss.
8 61.514-61.523; or

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

13 (b) The child custody determination for which
14 enforcement is sought was registered and confirmed under s.
15 61.528, but has been vacated, stayed, or modified by a court
16 of a state having jurisdiction to do so under ss.
17 61.514-61.523.

18 61.532 Service of petition and order.--Except as
19 otherwise provided in s. 61.534, the petition and order must
20 be served by any method authorized by the laws of this state
21 upon the respondent and any person who has physical custody of
22 the child.

23 61.533 Hearing and order.--

24 (1) Unless the court enters a temporary emergency
25 order under s. 61.517, upon a finding that a petitioner is
26 entitled to immediate physical custody of the child, the court
27 shall order that the petitioner may take immediate physical
28 custody of the child unless the respondent establishes that:

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

31

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

3 2. The child custody determination for which
4 enforcement is sought has been vacated, stayed, or modified by
5 a court of a state having jurisdiction to do so under ss.
6 61.514-61.523; or

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

11 (b) The child custody determination for which
12 enforcement is sought was registered and confirmed under s.
13 61.528, but has been vacated, stayed, or modified by a court
14 of a state having jurisdiction to do so under ss.
15 61.514-61.523.

16 (2) The court shall award the fees, costs, and
17 expenses authorized under s. 61.535 and may grant additional
18 relief, including a request for the assistance of law
19 enforcement officers, and set a further hearing to determine
20 whether additional relief is appropriate.

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

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

28 61.534 Warrant to take physical custody of child.--

29 (1) Upon the filing of a petition seeking enforcement
30 of a child custody determination, the petitioner may file a
31 verified application for the issuance of a warrant to take

1 physical custody of the child if the child is likely to
2 imminently suffer serious physical harm or removal from this
3 state.

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

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

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

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

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

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

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

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

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

6 61.535 Costs, fees, and expenses.--

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

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

19 61.536 Recognition and enforcement.--A court of this
20 state shall accord full faith and credit to an order issued by
21 another state and consistent with this part which enforces a
22 child custody determination by a court of another state unless
23 the order has been vacated, stayed, or modified by a court
24 having jurisdiction to do so under ss. 61.514-61.523.

25 61.537 Appeals.--An appeal may be taken from a final
26 order in a proceeding under ss. 61.524-61.540 in accordance
27 with expedited appellate procedures in other civil cases.
28 Unless the court enters a temporary emergency order under s.
29 61.517, the enforcing court may not stay an order enforcing a
30 child custody determination pending appeal.

31 61.538 Role of state attorney.--

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

8 (a) An existing child custody determination;

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

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

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

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

19 61.539 Role of law enforcement officers.--At the
20 request of a state attorney acting under s. 61.538, a law
21 enforcement officer may take any lawful action reasonably
22 necessary to locate a child or a party and assist a state
23 attorney with responsibilities under s. 61.538.

24 61.540 Costs and expenses.--The court may assess
25 against the nonprevailing party all direct expenses and costs
26 incurred by the state attorney and law enforcement officers
27 under s. 61.538 or s. 61.539 so long as the court has personal
28 jurisdiction over the nonprevailing party.

29 61.541 Application and construction.--In applying and
30 construing this part, consideration must be given to the need
31

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

3 61.542 Transitional provision.--A motion or other
4 request for relief made in a child custody proceeding or to
5 enforce a child custody determination that was commenced
6 before the effective date of this part is governed by the law
7 in effect at the time the motion or other request was made.

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

11 741.30 Domestic violence; injunction; powers and
12 duties of court and clerk; petition; notice and hearing;
13 temporary injunction; issuance of injunction; statewide
14 verification system; enforcement.--

15 (3)

16 (d) If the sworn petition seeks to determine issues of
17 custody or visitation with regard to the minor child or
18 children of the parties, the sworn petition shall be
19 accompanied by or shall incorporate the allegations required
20 by s. 61.522 ~~s. 61.132~~ of the Uniform Child Custody
21 Jurisdiction and Enforcement Act.

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

29 (7)(a)1. The clerk of the court shall furnish a copy
30 of the petition, financial affidavit, uniform child custody
31 jurisdiction and enforcement act affidavit, if any, notice of

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

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

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

28 3. All orders issued, changed, continued, extended, or
29 vacated subsequent to the original service of documents
30 enumerated under subparagraph 1., shall be certified by the
31 clerk of the court and delivered to the parties at the time of

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

13

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

20 Section 7. Sections 61.1302, 61.1304, 61.1306,
21 61.1308, 61.131, 61.1312, 61.1314, 61.1316, 61.1318, 61.132,
22 61.1322, 61.1324, 61.1326, 61.1328, 61.133, 61.1332, 61.1334,
23 61.1336, 61.1338, 61.134, 61.1342, 61.1344, 61.1346, and
24 61.1348, Florida Statutes, are repealed.

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

26

27

28

29

30

31