



1 (2) "Child" means an individual who has not attained eighteen years  
2 of age.

3 (3) "Child custody determination" means a judgment, decree, or  
4 other order of a court providing for the legal custody, physical  
5 custody, or visitation with respect to a child. The term includes a  
6 permanent, temporary, initial, and modification order. The term does  
7 not include an order relating to child support or other monetary  
8 obligation of an individual.

9 (4) "Child custody proceeding" means a proceeding in which legal  
10 custody, physical custody, or visitation with respect to a child is an  
11 issue. The term includes a proceeding for dissolution, divorce,  
12 separation, neglect, abuse, dependency, guardianship, paternity,  
13 termination of parental rights, and protection from domestic violence,  
14 in which the issue may appear. The term does not include a proceeding  
15 involving juvenile delinquency, contractual emancipation, or  
16 enforcement under Article 3.

17 (5) "Commencement" means the filing of the first pleading in a  
18 proceeding.

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

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

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

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

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

34 (11) "Modification" means a child custody determination that  
35 changes, replaces, supersedes, or is otherwise made after a previous  
36 determination concerning the same child, whether or not it is made by  
37 the court that made the previous determination.

38 (12) "Person" means an individual, corporation, business trust,  
39 estate, trust, partnership, limited liability company, association,

1 joint venture, government, governmental subdivision, agency, or  
2 instrumentality, public corporation, or any other legal or commercial  
3 entity.

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

6 (a) Has physical custody of the child or has had physical custody  
7 for a period of six consecutive months, including any temporary  
8 absence, within one year immediately before the commencement of a child  
9 custody proceeding; and

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

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

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

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

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

23 NEW SECTION. **Sec. 103.** PROCEEDINGS GOVERNED BY OTHER LAW. This  
24 chapter does not govern an adoption proceeding or a proceeding  
25 pertaining to the authorization of emergency medical care for a child.

26 NEW SECTION. **Sec. 104.** APPLICATION TO INDIAN TRIBES. (1) A child  
27 custody proceeding that pertains to an Indian child as defined in the  
28 federal Indian child welfare act, 25 U.S.C. Sec. 1901 et seq., is not  
29 subject to this chapter to the extent that it is governed by the  
30 federal Indian child welfare act.

31 (2) A court of this state shall treat a tribe as if it were a state  
32 of the United States for the purpose of applying Articles 1 and 2.

33 (3) A child custody determination made by a tribe under factual  
34 circumstances in substantial conformity with the jurisdictional  
35 standards of this chapter must be recognized and enforced under Article  
36 3.

1        NEW SECTION.    **Sec. 105.**    INTERNATIONAL APPLICATION OF CHAPTER.    (1)  
2    A court of this state shall treat a foreign country as if it were a  
3    state of the United States for the purpose of applying Articles 1 and  
4    2.

5        (2) Except as otherwise provided in subsection (3) of this section,  
6    a child custody determination made in a foreign country under factual  
7    circumstances in substantial conformity with the jurisdictional  
8    standards of this chapter must be recognized and enforced under Article  
9    3.

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

13       NEW SECTION.    **Sec. 106.**    EFFECT OF CHILD CUSTODY DETERMINATION.    A  
14    child custody determination made by a court of this state that had  
15    jurisdiction under this chapter binds all persons who have been served  
16    in accordance with the laws of this state or notified in accordance  
17    with section 108 of this act or who have submitted to the jurisdiction  
18    of the court, and who have been given an opportunity to be heard. As  
19    to those persons, the determination is conclusive as to all decided  
20    issues of law and fact except to the extent the determination is  
21    modified.

22       NEW SECTION.    **Sec. 107.**    PRIORITY.    If a question of existence or  
23    exercise of jurisdiction under this chapter is raised in a child  
24    custody proceeding, the question, upon request of a party, must be  
25    given priority on the calendar and handled expeditiously.

26       NEW SECTION.    **Sec. 108.**    NOTICE TO PERSONS OUTSIDE STATE.    (1)  
27    Notice required for the exercise of jurisdiction when a person is  
28    outside this state may be given in a manner prescribed by the law of  
29    this state for service of process or by the law of the state in which  
30    the service is made. Notice must be given in a manner reasonably  
31    calculated to give actual notice but may be by publication if other  
32    means are not effective.

33       (2) Proof of service may be made in the manner prescribed by the  
34    law of this state or by the law of the state in which the service is  
35    made.

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

3 NEW SECTION. **Sec. 109.** APPEARANCE AND LIMITED IMMUNITY. (1) A  
4 party to a child custody proceeding, including a modification  
5 proceeding, or a petitioner or respondent in a proceeding to enforce or  
6 register a child custody determination, is not subject to personal  
7 jurisdiction in this state for another proceeding or purpose solely by  
8 reason of having participated, or of having been physically present for  
9 the purpose of participating, in the proceeding.

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

15 (3) The immunity granted by subsection (1) of this section does not  
16 extend to civil litigation based on acts unrelated to the participation  
17 in a proceeding under this chapter committed by an individual while  
18 present in this state.

19 NEW SECTION. **Sec. 110.** COMMUNICATION BETWEEN COURTS. (1) A court  
20 of this state may communicate with a court in another state concerning  
21 a proceeding arising under this chapter.

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

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

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

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

1        NEW SECTION.    **Sec. 111.**    TAKING TESTIMONY IN ANOTHER STATE.    (1) In  
2 addition to other procedures available to a party, a party to a child  
3 custody proceeding may offer testimony of witnesses who are located in  
4 another state, including testimony of the parties and the child, by  
5 deposition or other means allowable in this state for testimony taken  
6 in another state.    The court on its own motion may order that the  
7 testimony of a person be taken in another state and may prescribe the  
8 manner in which and the terms upon which the testimony is taken.

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

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

19        NEW SECTION.    **Sec. 112.**    COOPERATION BETWEEN COURTS--PRESERVATION  
20 OF RECORDS.    (1) A court of this state may request the appropriate  
21 court of another state to:

22        (a) Hold an evidentiary hearing;

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

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

27        (d) Forward to the court of this state a certified copy of the  
28 transcript of the record of the hearing, the evidence otherwise  
29 presented, and any evaluation prepared in compliance with the request;  
30 and

31        (e) Order a party to a child custody proceeding or any person  
32 having physical custody of the child to appear in the proceeding with  
33 or without the child.

34        (2) Upon request of a court of another state, a court of this state  
35 may hold a hearing or enter an order described in subsection (1) of  
36 this section.

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

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

10 **ARTICLE 2**  
11 **JURISDICTION**

12 NEW SECTION. **Sec. 201.** INITIAL CHILD CUSTODY JURISDICTION. (1)  
13 Except as otherwise provided in section 204 of this act, a court of  
14 this state has jurisdiction to make an initial child custody  
15 determination only if:

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

21 (b) A court of another state does not have jurisdiction under (a)  
22 of this subsection, or a court of the home state of the child has  
23 declined to exercise jurisdiction on the ground that this state is the  
24 more appropriate forum under section 207 or 208 of this act, and:

25 (i) The child and the child's parents, or the child and at least  
26 one parent or a person acting as a parent, have a significant  
27 connection with this state other than mere physical presence; and

28 (ii) Substantial evidence is available in this state concerning the  
29 child's care, protection, training, and personal relationships;

30 (c) All courts having jurisdiction under (a) or (b) of this  
31 subsection have declined to exercise jurisdiction on the ground that a  
32 court of this state is the more appropriate forum to determine the  
33 custody of the child under section 207 or 208 of this act; or

34 (d) No court of any other state would have jurisdiction under the  
35 criteria specified in (a), (b), or (c) of this subsection.

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

4 (3) Physical presence of, or personal jurisdiction over, a party or  
5 a child is not necessary or sufficient to make a child custody  
6 determination.

7 NEW SECTION. **Sec. 202.** EXCLUSIVE, CONTINUING JURISDICTION. (1)  
8 Except as otherwise provided in section 204 of this act, a court of  
9 this state that has made a child custody determination consistent with  
10 section 201 or 203 of this act has exclusive, continuing jurisdiction  
11 over the determination until:

12 (a) A court of this state determines that neither the child, the  
13 child's parents, and any person acting as a parent do not have a  
14 significant connection with this state and that substantial evidence is  
15 no longer available in this state concerning the child's care,  
16 protection, training, and personal relationships; or

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

20 (2) A court of this state that has made a child custody  
21 determination and does not have exclusive, continuing jurisdiction  
22 under this section may modify that determination only if it has  
23 jurisdiction to make an initial determination under section 201 of this  
24 act.

25 NEW SECTION. **Sec. 203.** JURISDICTION TO MODIFY DETERMINATION.  
26 Except as otherwise provided in section 204 of this act, a court of  
27 this state may not modify a child custody determination made by a court  
28 of another state unless a court of this state has jurisdiction to make  
29 an initial determination under section 201(1) (a) or (b) of this act  
30 and:

31 (1) The court of the other state determines it no longer has  
32 exclusive, continuing jurisdiction under section 202 of this act or  
33 that a court of this state would be a more convenient forum under  
34 section 207 of this act; or

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



1        NEW SECTION.    **Sec. 204.**    TEMPORARY EMERGENCY JURISDICTION.    (1) A

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

7        (2) If there is no previous child custody determination that is  
8 entitled to be enforced under this chapter and a child custody  
9 proceeding has not been commenced in a court of a state having  
10 jurisdiction under sections 201 through 203 of this act, a child  
11 custody determination made under this section remains in effect until  
12 an order is obtained from a court of a state having jurisdiction under  
13 sections 201 through 203 of this act. If a child custody proceeding  
14 has not been or is not commenced in a court of a state having  
15 jurisdiction under sections 201 through 203 of this act, a child  
16 custody determination made under this section becomes a final  
17 determination, if it so provides and this state becomes the home state  
18 of the child.

19        (3) If there is a previous child custody determination that is  
20 entitled to be enforced under this chapter, or a child custody  
21 proceeding has been commenced in a court of a state having jurisdiction  
22 under sections 201 through 203 of this act, any order issued by a court  
23 of this state under this section must specify in the order a period  
24 that the court considers adequate to allow the person seeking an order  
25 to obtain an order from the state having jurisdiction under sections  
26 201 through 203 of this act. The order issued in this state remains in  
27 effect until an order is obtained from the other state within the  
28 period specified or the period expires.

29        (4) A court of this state that has been asked to make a child  
30 custody determination under this section, upon being informed that a  
31 child custody proceeding has been commenced in, or a child custody  
32 determination has been made by, a court of a state having jurisdiction  
33 under sections 201 through 203 of this act, shall immediately  
34 communicate with the other court. A court of this state that is  
35 exercising jurisdiction pursuant to sections 201 through 203 of this  
36 act, upon being informed that a child custody proceeding has been  
37 commenced in, or a child custody determination has been made by, a  
38 court of another state under a statute similar to this section shall  
39 immediately communicate with the court of that state to resolve the

1 emergency, protect the safety of the parties and the child, and  
2 determine a period for the duration of the temporary order.

3 NEW SECTION. **Sec. 205.** NOTICE--OPPORTUNITY TO BE HEARD--JOINDER.

4 (1) Before a child custody determination is made under this chapter,  
5 notice and an opportunity to be heard in accordance with the standards  
6 of section 108 of this act must be given to all persons entitled to  
7 notice under the law of this state as in child custody proceedings  
8 between residents of this state, any parent whose parental rights have  
9 not been previously terminated, and any person having physical custody  
10 of the child.

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

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

18 NEW SECTION. **Sec. 206.** SIMULTANEOUS PROCEEDINGS. (1) Except as  
19 otherwise provided in section 204 of this act, a court of this state  
20 may not exercise its jurisdiction under this article if, at the time of  
21 the commencement of the proceeding, a proceeding concerning the custody  
22 of the child has been commenced in a court of another state having  
23 jurisdiction substantially in conformity with this chapter, unless the  
24 proceeding has been terminated or is stayed by the court of the other  
25 state because a court of this state is a more convenient forum under  
26 section 207 of this act.

27 (2) Except as otherwise provided in section 204 of this act, a  
28 court of this state, before hearing a child custody proceeding, shall  
29 examine the court documents and other information supplied by the  
30 parties pursuant to section 209 of this act. If the court determines  
31 that a child custody proceeding has been commenced in a court in  
32 another state having jurisdiction substantially in accordance with this  
33 chapter, the court of this state shall stay its proceeding and  
34 communicate with the court of the other state. If the court of the  
35 state having jurisdiction substantially in accordance with this chapter  
36 does not determine that the court of this state is a more appropriate  
37 forum, the court of this state shall dismiss the proceeding.

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

6 (a) Stay the proceeding for modification pending the entry of an  
7 order of a court of the other state enforcing, staying, denying, or  
8 dismissing the proceeding for enforcement;

9 (b) Enjoin the parties from continuing with the proceeding for  
10 enforcement; or

11 (c) Proceed with the modification under conditions it considers  
12 appropriate.

13 NEW SECTION. **Sec. 207.** INCONVENIENT FORUM. (1) A court of this  
14 state which has jurisdiction under this chapter to make a child custody  
15 determination may decline to exercise its jurisdiction at any time if  
16 it determines that it is an inconvenient forum under the circumstances  
17 and that a court of another state is a more appropriate forum. The  
18 issue of inconvenient forum may be raised upon motion of a party, the  
19 court's own motion, or request of another court.

20 (2) Before determining whether it is an inconvenient forum, a court  
21 of this state shall consider whether it is appropriate for a court of  
22 another state to exercise jurisdiction. For this purpose, the court  
23 shall allow the parties to submit information and shall consider all  
24 relevant factors, including:

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

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

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

31 (d) The relative financial circumstances of the parties;

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

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

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

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

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

8 (4) A court of this state may decline to exercise its jurisdiction  
9 under this chapter if a child custody determination is incidental to an  
10 action for dissolution or another proceeding while still retaining  
11 jurisdiction over the dissolution or other proceeding.

12 NEW SECTION. **Sec. 208.** JURISDICTION DECLINED BY REASON OF  
13 CONDUCT. (1) Except as otherwise provided in section 204 of this act  
14 or by other law of this state, if a court of this state has  
15 jurisdiction under this chapter because a person seeking to invoke its  
16 jurisdiction has engaged in unjustifiable conduct, the court shall  
17 decline to exercise its jurisdiction unless:

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

20 (b) A court of the state otherwise having jurisdiction under  
21 sections 201 through 203 of this act determines that this state is a  
22 more appropriate forum under section 207 of this act; or

23 (c) No court of any other state would have jurisdiction under the  
24 criteria specified in sections 201 through 203 of this act.

25 (2) If a court of this state declines to exercise its jurisdiction  
26 pursuant to subsection (1) of this section, it may fashion an  
27 appropriate remedy to ensure the safety of the child and prevent a  
28 repetition of the unjustifiable conduct, including staying the  
29 proceeding until a child custody proceeding is commenced in a court  
30 having jurisdiction under sections 201 through 203 of this act.

31 (3) If a court dismisses a petition or stays a proceeding because  
32 it declines to exercise its jurisdiction pursuant to subsection (1) of  
33 this section, it shall assess against the party seeking to invoke its  
34 jurisdiction necessary and reasonable expenses including costs,  
35 communication expenses, attorneys' fees, investigative fees, expenses  
36 for witnesses, travel expenses, and child care during the course of the  
37 proceedings, unless the party from whom fees are sought establishes  
38 that the assessment would be clearly inappropriate. The court may not

1 assess fees, costs, or expenses against this state unless authorized by  
2 law other than this chapter.

3 NEW SECTION. **Sec. 209.** INFORMATION TO BE SUBMITTED TO COURT. (1)  
4 Subject to laws providing for the confidentiality of procedures,  
5 addresses, and other identifying information, in a child custody  
6 proceeding, each party, in its first pleading or in an attached  
7 affidavit, shall give information, if reasonably ascertainable, under  
8 oath as to the child's present address or whereabouts, the places where  
9 the child has lived during the last five years, and the names and  
10 present addresses of the persons with whom the child has lived during  
11 that period. The pleading or affidavit must state whether the party:

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

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

21 (c) Knows the names and addresses of any person not a party to the  
22 proceeding who has physical custody of the child or claims rights of  
23 legal custody or physical custody of, or visitation with, the child  
24 and, if so, the names and addresses of those persons.

25 (2) If the information required by subsection (1) of this section  
26 is not furnished, the court, upon motion of a party or its own motion,  
27 may stay the proceeding until the information is furnished.

28 (3) If the declaration as to any of the items described in  
29 subsection (1)(a) through (c) of this section is in the affirmative,  
30 the declarant shall give additional information under oath as required  
31 by the court. The court may examine the parties under oath as to  
32 details of the information furnished and other matters pertinent to the  
33 court's jurisdiction and the disposition of the case.

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

37 (5) If a party alleges in an affidavit or a pleading under oath  
38 that the health, safety, or liberty of a party or child would be

1 jeopardized by disclosure of identifying information, the information  
2 must be sealed and may not be disclosed to the other party or the  
3 public unless the court orders the disclosure to be made after a  
4 hearing in which the court takes into consideration the health, safety,  
5 or liberty of the party or child and determines that the disclosure is  
6 in the interest of justice.

7 NEW SECTION. **Sec. 210.** APPEARANCE OF PARTIES AND CHILD. (1) In  
8 a child custody proceeding in this state, the court may order a party  
9 to the proceeding who is in this state to appear before the court in  
10 person with or without the child. The court may order any person who  
11 is in this state and who has physical custody or control of the child  
12 to appear in person with the child.

13 (2) If a party to a child custody proceeding whose presence is  
14 desired by the court is outside this state, the court may order that a  
15 notice given pursuant to section 108 of this act include a statement  
16 directing the party to appear in person with or without the child and  
17 informing the party that failure to appear may result in a decision  
18 adverse to the party.

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

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

27 **ARTICLE 3**  
28 **ENFORCEMENT**

29 NEW SECTION. **Sec. 301.** DEFINITIONS. The definitions in this  
30 section apply throughout this article, unless the context clearly  
31 requires otherwise.

32 (1) "Petitioner" means a person who seeks enforcement of an order  
33 for return of a child under the Hague Convention on the Civil Aspects  
34 of International Child Abduction or enforcement of a child custody  
35 determination.

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

5 NEW SECTION. **Sec. 302.** ENFORCEMENT UNDER HAGUE CONVENTION. Under  
6 this article a court of this state may enforce an order for the return  
7 of the child made under the Hague Convention on the Civil Aspects of  
8 International Child Abduction as if it were a child custody  
9 determination.

10 NEW SECTION. **Sec. 303.** DUTY TO ENFORCE. (1) A court of this  
11 state shall recognize and enforce a child custody determination of a  
12 court of another state if the latter court exercised jurisdiction in  
13 substantial conformity with this chapter or the determination was made  
14 under factual circumstances meeting the jurisdictional standards of  
15 this chapter and the determination has not been modified in accordance  
16 with this chapter.

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

22 NEW SECTION. **Sec. 304.** TEMPORARY VISITATION. (1) A court of this  
23 state that does not have jurisdiction to modify a child custody  
24 determination may issue a temporary order enforcing:

- 25 (a) A visitation schedule made by a court of another state; or  
26 (b) The visitation provisions of a child custody determination of  
27 another state that does not provide for a specific visitation schedule.

28 (2) If a court of this state makes an order under subsection (1)(b)  
29 of this section, it shall specify in the order a period that it  
30 considers adequate to allow the petitioner to obtain an order from a  
31 court having jurisdiction under the criteria specified in Article 2.  
32 The order remains in effect until an order is obtained from the other  
33 court or the period expires.

34 NEW SECTION. **Sec. 305.** REGISTRATION OF CHILD CUSTODY  
35 DETERMINATION. (1) A child custody determination issued by a court of

1 another state may be registered in this state, with or without a  
2 simultaneous request for enforcement, by sending to the appropriate  
3 court in this state:

4 (a) A letter or other document requesting registration;

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

9 (c) Except as otherwise provided in section 209 of this act, the  
10 name and address of the person seeking registration and any parent or  
11 person acting as a parent who has been awarded custody or visitation in  
12 the child custody determination sought to be registered.

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

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

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

21 (3) The notice required by subsection (2)(b) of this section must  
22 state that:

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

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

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

32 (4) A person seeking to contest the validity of a registered order  
33 must request a hearing within twenty days after service of the notice.  
34 At that hearing, the court shall confirm the registered order unless  
35 the person contesting registration establishes that:

36 (a) The issuing court did not have jurisdiction under Article 2;

37 (b) The child custody determination sought to be registered has  
38 been vacated, stayed, or modified by a court having jurisdiction to do  
39 so under Article 2; or



1 (c) The person contesting registration was entitled to notice, but  
2 notice was not given in accordance with the standards of section 108 of  
3 this act, in the proceedings before the court that issued the order for  
4 which registration is sought.

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

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

13 NEW SECTION. **Sec. 306.** ENFORCEMENT OF REGISTERED DETERMINATION.

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

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

20 NEW SECTION. **Sec. 307.** SIMULTANEOUS PROCEEDINGS. If a proceeding  
21 for enforcement under this article is commenced in a court of this  
22 state and the court determines that a proceeding to modify the  
23 determination is pending in a court of another state having  
24 jurisdiction to modify the determination under Article 2, the enforcing  
25 court shall immediately communicate with the modifying court. The  
26 proceeding for enforcement continues unless the enforcing court, after  
27 consultation with the modifying court, stays or dismisses the  
28 proceeding.

29 NEW SECTION. **Sec. 308.** EXPEDITED ENFORCEMENT OF CHILD CUSTODY  
30 DETERMINATION. (1) A petition under this article must be verified.  
31 Certified copies of all orders sought to be enforced and of any order  
32 confirming registration must be attached to the petition. A copy of a  
33 certified copy of an order may be attached instead of the original.

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

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

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

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

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

15 (e) Whether relief in addition to the immediate physical custody of  
16 the child and attorneys' fees is sought, including a request for  
17 assistance from law enforcement officials and, if so, the relief  
18 sought; and

19 (f) If the child custody determination has been registered and  
20 confirmed under section 305 of this act, the date and place of  
21 registration.

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

30 (4) An order issued under subsection (3) of this section must state  
31 the time and place of the hearing and advise the respondent that at the  
32 hearing the court will order that the petitioner may take immediate  
33 physical custody of the child and the payment of fees, costs, and  
34 expenses under section 312 of this act, and may schedule a hearing to  
35 determine whether further relief is appropriate, unless the respondent  
36 appears and establishes that:

37 (a) The child custody determination has not been registered and  
38 confirmed under section 305 of this act and that:

39 (i) The issuing court did not have jurisdiction under Article 2;

1 (ii) The child custody determination for which enforcement is  
2 sought has been vacated, stayed, or modified by a court having  
3 jurisdiction to do so under Article 2;

4 (iii) The respondent was entitled to notice, but notice was not  
5 given in accordance with the standards of section 108 of this act, in  
6 the proceedings before the court that issued the order for which  
7 enforcement is sought; or

8 (b) The child custody determination for which enforcement is sought  
9 was registered and confirmed under section 304 of this act, but has  
10 been vacated, stayed, or modified by a court of a state having  
11 jurisdiction to do so under Article 2.

12 NEW SECTION. **Sec. 309.** SERVICE OF PETITION AND ORDER. Except as  
13 otherwise provided in section 311 of this act, the petition and order  
14 must be served, by any method authorized by the law of this state, upon  
15 the respondent and any person who has physical custody of the child.

16 NEW SECTION. **Sec. 310.** HEARING AND ORDER. (1) Unless the court  
17 issues a temporary emergency order pursuant to section 204 of this act,  
18 upon a finding that a petitioner is entitled to immediate physical  
19 custody of the child, the court shall order that the petitioner may  
20 take immediate physical custody of the child unless the respondent  
21 establishes that:

22 (a) The child custody determination has not been registered and  
23 confirmed under section 305 of this act and that:

24 (i) The issuing court did not have jurisdiction under Article 2;

25 (ii) The child custody determination for which enforcement is  
26 sought has been vacated, stayed, or modified by a court of a state  
27 having jurisdiction to do so under Article 2; or

28 (iii) The respondent was entitled to notice, but notice was not  
29 given in accordance with the standards of section 108 of this act, in  
30 the proceedings before the court that issued the order for which  
31 enforcement is sought; or

32 (b) The child custody determination for which enforcement is sought  
33 was registered and confirmed under section 305 of this act but has been  
34 vacated, stayed, or modified by a court of a state having jurisdiction  
35 to do so under Article 2.

36 (2) The court shall award the fees, costs, and expenses authorized  
37 under section 312 of this act and may grant additional relief,

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

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

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

11 NEW SECTION. **Sec. 311.** WARRANT TO TAKE PHYSICAL CUSTODY OF CHILD.

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

17 (2) If the court, upon the testimony of the petitioner or other  
18 witness, finds that the child is imminently likely to suffer serious  
19 physical harm or be removed from this state, it may issue a warrant to  
20 take physical custody of the child. The petition must be heard on the  
21 next judicial day after the warrant is executed unless that date is  
22 impossible. In that event, the court shall hold the hearing on the  
23 first judicial day possible. The application for the warrant must  
24 include the statements required by section 308(2) of this act.

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

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

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

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

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

33 (5) A warrant to take physical custody of a child is enforceable  
34 throughout this state. If the court finds on the basis of the  
35 testimony of the petitioner or other witness that a less intrusive  
36 remedy is not effective, it may authorize law enforcement officers to  
37 enter private property to take physical custody of the child. If

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

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

5 NEW SECTION. **Sec. 312.** COSTS, FEES, AND EXPENSES. (1) The court  
6 shall award the prevailing party, including a state, necessary and  
7 reasonable expenses incurred by or on behalf of the party, including  
8 costs, communication expenses, attorneys' fees, investigative fees,  
9 expenses for witnesses, travel expenses, and child care during the  
10 course of the proceedings, unless the party from whom fees or expenses  
11 are sought establishes that the award would be clearly inappropriate.

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

14 NEW SECTION. **Sec. 313.** RECOGNITION AND ENFORCEMENT. A court of  
15 this state shall accord full faith and credit to an order issued by  
16 another state and consistent with this chapter that enforces a child  
17 custody determination by a court of another state unless the order has  
18 been vacated, stayed, or modified by a court having jurisdiction to do  
19 so under Article 2.

20 NEW SECTION. **Sec. 314.** APPEALS. An appeal may be taken from a  
21 final order in a proceeding under this article in accordance with  
22 expedited appellate procedures in other civil cases. Unless the court  
23 enters a temporary emergency order under section 204 of this act, the  
24 enforcing court may not stay an order enforcing a child custody  
25 determination pending appeal.

26 NEW SECTION. **Sec. 315.** ROLE OF PROSECUTOR. (1) In a case arising  
27 under this chapter or involving the Hague Convention on the Civil  
28 Aspects of International Child Abduction, the prosecutor may take any  
29 lawful action, including resorting to a proceeding under this article  
30 or any other available civil proceeding to locate a child, obtain the  
31 return of a child, or enforce a child custody determination if there  
32 is:

33 (a) An existing child custody determination;

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

1 (c) A reasonable belief that a criminal statute has been violated;  
2 or

3 (d) A reasonable belief that the child has been wrongfully removed  
4 or retained in violation of the Hague Convention on the Civil Aspects  
5 of International Child Abduction.

6 (2) A prosecutor acting under this section acts on behalf of the  
7 court and may not represent any party.

8 NEW SECTION. **Sec. 316.** ROLE OF LAW ENFORCEMENT. At the request  
9 of a prosecutor acting under section 315 of this act, a law enforcement  
10 officer may take any lawful action reasonably necessary to locate a  
11 child or a party and assist a prosecutor with responsibilities under  
12 section 315 of this act.

13 NEW SECTION. **Sec. 317.** COSTS AND EXPENSES. If the respondent is  
14 not the prevailing party, the court may assess against the respondent  
15 all direct expenses and costs incurred by the prosecutor and law  
16 enforcement officers under section 315 or 316 of this act.

17 **ARTICLE 4**  
18 **MISCELLANEOUS PROVISIONS**

19 NEW SECTION. **Sec. 401.** APPLICATION AND CONSTRUCTION. In applying  
20 and construing this chapter, consideration must be given to the need to  
21 promote uniformity of the law with respect to its subject matter among  
22 states that enact it.

23 NEW SECTION. **Sec. 402.** SEVERABILITY CLAUSE. If any provision of  
24 this act or its application to any person or circumstance is held  
25 invalid, the remainder of the act or the application of the provision  
26 to other persons or circumstances is not affected.

27 NEW SECTION. **Sec. 403.** The following acts or parts of acts are  
28 each repealed:

- 29 (1) RCW 26.27.010 and 1979 c 98 s 1;  
30 (2) RCW 26.27.020 and 1979 c 98 s 2;  
31 (3) RCW 26.27.030 and 1979 c 98 s 3;  
32 (4) RCW 26.27.040 and 1979 c 98 s 4;  
33 (5) RCW 26.27.050 and 1979 c 98 s 5;

- 1 (6) RCW 26.27.060 and 1979 c 98 s 6;
- 2 (7) RCW 26.27.070 and 1979 c 98 s 7;
- 3 (8) RCW 26.27.080 and 1979 c 98 s 8;
- 4 (9) RCW 26.27.090 and 1979 c 98 s 9;
- 5 (10) RCW 26.27.100 and 1979 c 98 s 10;
- 6 (11) RCW 26.27.110 and 1979 c 98 s 11;
- 7 (12) RCW 26.27.120 and 1979 c 98 s 12;
- 8 (13) RCW 26.27.130 and 1979 c 98 s 13;
- 9 (14) RCW 26.27.140 and 1979 c 98 s 14;
- 10 (15) RCW 26.27.150 and 1979 c 98 s 15;
- 11 (16) RCW 26.27.160 and 1984 c 128 s 7 & 1979 c 98 s 16;
- 12 (17) RCW 26.27.170 and 1979 c 98 s 17;
- 13 (18) RCW 26.27.180 and 1979 c 98 s 18;
- 14 (19) RCW 26.27.190 and 1979 c 98 s 19;
- 15 (20) RCW 26.27.200 and 1979 c 98 s 20;
- 16 (21) RCW 26.27.210 and 1979 c 98 s 21;
- 17 (22) RCW 26.27.220 and 1979 c 98 s 22;
- 18 (23) RCW 26.27.230 and 1979 c 98 s 23;
- 19 (24) RCW 26.27.900 and 1979 c 98 s 24;
- 20 (25) RCW 26.27.910 and 1979 c 98 s 25;
- 21 (26) RCW 26.27.920 and 1979 c 98 s 26; and
- 22 (27) RCW 26.27.930 and 1979 c 98 s 27.

23 NEW SECTION. **Sec. 404.** TRANSITIONAL PROVISION. A motion or other  
24 request for relief made in a child custody proceeding or to enforce a  
25 child custody determination that was commenced before the effective  
26 date of this section is governed by the law in effect at the time the  
27 motion or other request was made.

28 NEW SECTION. **Sec. 405.** CAPTIONS, ARTICLE DESIGNATIONS, AND  
29 ARTICLE HEADINGS NOT LAW. Captions, article designations, and article  
30 headings used in this chapter are not any part of the law.

31 NEW SECTION. **Sec. 406.** Sections 101 through 112, 201 through 210,  
32 301 through 317, 401, 404, and 405 of this act are each added to  
33 chapter 26.27 RCW.

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