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SENATE FILE 367
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 129)

Passed Senate, ^(P.646) Date 3-16-99 Passed House, ^(P.1518) Date 4/21/99
Vote: Ayes 49 Nays 0 Vote: Ayes 96 Nays 0
Approved April 10, 1999

A BILL FOR

1 An Act adopting the Uniform Child Custody Jurisdiction and
2 Enforcement Act.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 367

S-3059

1 Amend Senate File 367 as follows:
2 1. Page 8, line 30, by striking the words "and
3 the child" and inserting the following: "or the
4 child".
5 2. Page 14, by striking lines 28 and 29 and
6 inserting the following:
7 "1. In a".
8 3. By striking page 15, line 33, through page 16,
9 line 6, and inserting the following:
10 "5. Upon a finding, which may be made ex parte,
11 that the health, safety, or liberty of a party or
12 child would be unreasonably put at risk by the
13 disclosure of identifying information, or if an
14 existing order so provides, the court shall order that
15 the address of the party or child or other identifying
16 information not be disclosed in a pleading or other
17 document filed in a proceeding under this chapter."

By O. GENE MADDOX

S-3059 FILED MARCH 15, 1999
adopted 3-16-99 (P.645)

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SF 367

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ARTICLE I

GENERAL PROVISIONS

Section 1. NEW SECTION. 598B.101 SHORT TITLE.

This chapter shall be known and may be cited as the "Uniform Child-custody Jurisdiction and Enforcement Act".

Sec. 2. NEW SECTION. 598B.102 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Abandoned" means left without provision for reasonable and necessary care or supervision.

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

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

4. "Child-custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for dissolution of marriage, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under article III.

5. "Commencement" means the filing of the first pleading in a proceeding.

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

7. "Home state" means the state in which a child lived with a parent or a person acting as a parent for at least six

1 consecutive months immediately before the commencement of a
2 child-custody proceeding. In the case of a child less than
3 six months of age, the term means the state in which the child
4 lived from birth with any of the persons mentioned. A period
5 of temporary absence of any of the mentioned persons is part
6 of the period.

7 8. "Initial determination" means the first child-custody
8 determination concerning a particular child.

9 9. "Issuing court" means the court that makes a child-
10 custody determination for which enforcement is sought under
11 this chapter.

12 10. "Issuing state" means the state in which a child-
13 custody determination is made.

14 11. "Modification" means a child-custody determination
15 that changes, replaces, supersedes, or is otherwise made after
16 a previous determination concerning the same child, whether or
17 not it is made by the court that made the previous
18 determination.

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

24 13. "Person acting as a parent" means a person, other than
25 a parent, to whom both of the following apply:

26 a. The person has physical custody of the child or has had
27 physical custody for a period of six consecutive months,
28 including any temporary absence, within one year immediately
29 before the commencement of a child-custody proceeding.

30 b. The person has been awarded legal custody by a court or
31 claims a right to legal custody under the law of this state.

32 14. "Physical custody" means the physical care and
33 supervision of a child.

34 15. "State" means a state of the United States, the
35 District of Columbia, Puerto Rico, the United States Virgin

1 Islands, or any territory or insular possession subject to the
2 jurisdiction of the United States.

3 16. "Tribe" means an Indian tribe or band, or Alaskan
4 native village, which is recognized by federal law or formally
5 acknowledged by a state.

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

8 Sec. 3. NEW SECTION. 598B.103 PROCEEDINGS GOVERNED BY
9 OTHER LAW.

10 This chapter does not govern an adoption proceeding or a
11 proceeding pertaining to the authorization of emergency
12 medical care for a child.

13 Sec. 4. NEW SECTION. 598B.104 APPLICATION TO INDIAN
14 TRIBES.

15 1. A child-custody proceeding that pertains to an Indian
16 child as defined in the federal Indian Child Welfare Act, 25
17 U.S.C. § 1901 et seq., is not subject to this chapter to the
18 extent that it is governed by the federal Indian Child Welfare
19 Act.

20 2. A court of this state shall treat a tribe as if it were
21 a state of the United States for the purpose of applying this
22 article and article II.

23 3. A child-custody determination made by a tribe under
24 factual circumstances in substantial conformity with the
25 jurisdictional standards of this chapter must be recognized
26 and enforced under article III.

27 Sec. 5. NEW SECTION. 598B.105 INTERNATIONAL APPLICATION.

28 1. A court of this state shall treat a foreign country as
29 if it were a state of the United States for the purpose of
30 applying this article and article II.

31 2. Except as otherwise provided in subsection 3, a child-
32 custody determination made in a foreign country under factual
33 circumstances in substantial conformity with the
34 jurisdictional standards of this chapter must be recognized
35 and enforced under article III.

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

4 Sec. 6. NEW SECTION. 598B.106 EFFECT OF CHILD-CUSTODY
5 DETERMINATION.

6 A child-custody determination made by a court of this state
7 that had jurisdiction under this chapter binds all persons who
8 have been served in accordance with the laws of this state, or
9 notified in accordance with section 598B.108, or who have
10 submitted to the jurisdiction of the court, and who have been
11 given an opportunity to be heard. As to those persons, the
12 determination is conclusive as to all decided issues of law
13 and fact except to the extent the determination is modified.

14 Sec. 7. NEW SECTION. 598B.107 PRIORITY.

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

19 Sec. 8. NEW SECTION. 598B.108 NOTICE TO PERSONS OUTSIDE
20 STATE.

21 1. Notice required for the exercise of jurisdiction when a
22 person is outside this state may be given in a manner
23 prescribed by the law of this state for service of process or
24 by the law of the state in which the service is made. Notice
25 shall be given in a manner reasonably calculated to give
26 actual notice but may be by publication if other means are not
27 effective.

28 2. Proof of service may be made in the manner prescribed
29 by the law of this state or by the law of the state in which
30 the service is made.

31 3. Notice is not required for the exercise of jurisdiction
32 with respect to a person who submits to the jurisdiction of
33 the court.

34 Sec. 9. NEW SECTION. 598B.109 APPEARANCE AND LIMITED
35 IMMUNITY.

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

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

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

18 Sec. 10. NEW SECTION. 598B.110 COMMUNICATION BETWEEN
19 COURTS.

20 1. A court of this state may communicate with a court in
21 another state concerning a proceeding arising under this
22 chapter.

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

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

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

35 5. For the purposes of this section, "record" means

1 information that is inscribed on a tangible medium or that is
2 stored in an electronic or other medium and is retrievable in
3 perceivable form.

4 Sec. 11. NEW SECTION. 598B.111 TAKING TESTIMONY IN
5 ANOTHER STATE.

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

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

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

26 Sec. 12. NEW SECTION. 598B.112 COOPERATION BETWEEN
27 COURTS -- PRESERVATION OF RECORDS.

28 1. A court of this state may request the appropriate court
29 of another state to do any or all of the following:

30 a. Hold an evidentiary hearing.

31 b. Order a person to produce or give evidence pursuant to
32 procedures of that state.

33 c. Order that an evaluation be made with respect to the
34 custody of a child involved in a pending proceeding.

35 d. Forward to the court of this state a certified copy of

1 the transcript of the record of the hearing, the evidence
2 otherwise presented, and any evaluation prepared in compliance
3 with the request.

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

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

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

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

20 ARTICLE II

21 JURISDICTION

22 Sec. 13. NEW SECTION. 598B.201 INITIAL CHILD-CUSTODY
23 JURISDICTION.

24 1. Except as otherwise provided in section 598B.204, a
25 court of this state has jurisdiction to make an initial child-
26 custody determination only if any of the following applies:

27 a. This state is the home state of the child on the date
28 of the commencement of the proceeding, or was the home state
29 of the child within six months before the commencement of the
30 proceeding and the child is absent from this state but a
31 parent or person acting as a parent continues to live in this
32 state.

33 b. A court of another state does not have jurisdiction
34 under paragraph "a", or a court of the home state of the child
35 has declined to exercise jurisdiction on the ground that this

1 state is the more appropriate forum under section 598B.207 or
2 598B.208 and both of the following apply:

3 (1) The child and the child's parents, or the child and at
4 least one parent or a person acting as a parent, have a
5 significant connection with this state other than mere
6 physical presence.

7 (2) Substantial evidence is available in this state
8 concerning the child's care, protection, training, and
9 personal relationships.

10 c. All courts having jurisdiction under paragraph "a" or
11 "b" have declined to exercise jurisdiction on the ground that
12 a court of this state is the more appropriate forum to
13 determine the custody of the child under section 598B.207 or
14 598B.208.

15 d. No court of any other state would have jurisdiction
16 under the criteria specified in paragraph "a", "b", or "c".

17 2. Subsection 1 is the exclusive jurisdictional basis for
18 making a child-custody determination by a court of this state.

19 3. Physical presence of, or personal jurisdiction over, a
20 party or a child is not necessary or sufficient to make a
21 child-custody determination.

22 Sec. 14. NEW SECTION. 598B.202 EXCLUSIVE, CONTINUING
23 JURISDICTION.

24 1. Except as otherwise provided in section 598B.204, a
25 court of this state which has made a child-custody
26 determination consistent with section 598B.201 or 598B.203 has
27 exclusive, continuing jurisdiction over the determination
28 until any of the following occurs:

29 a. A court of this state determines that the child does
30 not have, the child and one parent do not have, and the child
31 and a person acting as a parent do not have a significant
32 connection with this state and that substantial evidence is no
33 longer available in this state concerning the child's care,
34 protection, training, and personal relationships.

35 b. A court of this state or a court of another state

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

3 2. A court of this state which has made a child-custody
4 determination and does not have exclusive, continuing
5 jurisdiction under this section may modify that determination
6 only if it has jurisdiction to make an initial determination
7 under section 598B.201.

8 Sec. 15. NEW SECTION. 598B.203 JURISDICTION TO MODIFY
9 DETERMINATION.

10 Except as otherwise provided in section 598B.204, a court
11 of this state shall not modify a child-custody determination
12 made by a court of another state unless a court of this state
13 has jurisdiction to make an initial determination under
14 section 598B.201, subsection 1, paragraph "a" or "b", and
15 either of the following applies:

16 1. The court of the other state determines it no longer
17 has exclusive, continuing jurisdiction under section 598B.202
18 or that a court of this state would be a more convenient forum
19 under section 598B.207.

20 2. A court of this state or a court of the other state
21 determines that the child, the child's parents, and any person
22 acting as a parent do not presently reside in the other state.

23 Sec. 16. NEW SECTION. 598B.204 TEMPORARY EMERGENCY
24 JURISDICTION.

25 1. A court of this state has temporary emergency
26 jurisdiction if the child is present in this state and the
27 child has been abandoned or it is necessary in an emergency to
28 protect the child because the child, or a sibling or parent of
29 the child, is subjected to or threatened with mistreatment or
30 abuse.

31 2. If there is no previous child-custody determination
32 that is entitled to be enforced under this chapter and a
33 child-custody proceeding has not been commenced in a court of
34 a state having jurisdiction under sections 598B.201 through
35 598B.203, a child-custody determination made under this

1 section remains in effect until an order is obtained from a
2 court of a state having jurisdiction under sections 598B.201
3 through 598B.203. If a child-custody proceeding has not been
4 or is not commenced in a court of a state having jurisdiction
5 under sections 598B.201 through 598B.203, a child-custody
6 determination made under this section becomes a final
7 determination, if it so provides and this state becomes the
8 home state of the child.

9 3. If there is a previous child-custody determination that
10 is entitled to be enforced under this chapter, or a child-
11 custody proceeding has been commenced in a court of a state
12 having jurisdiction under sections 598B.201 through 598B.203,
13 any order issued by a court of this state under this section
14 must specify in the order a period that the court considers
15 adequate to allow the person seeking an order to obtain an
16 order from the state having jurisdiction under sections
17 598B.201 through 598B.203. The order issued in this state
18 remains in effect until an order is obtained from the other
19 state within the period specified or the period expires.

20 4. A court of this state which has been asked to make a
21 child-custody determination under this section, upon being
22 informed that a child-custody proceeding has been commenced
23 in, or a child-custody determination has been made by, a court
24 of a state having jurisdiction under sections 598B.201 through
25 598B.203, shall immediately communicate with the other court.
26 A court of this state which is exercising jurisdiction
27 pursuant to sections 598B.201 through 598B.203, upon being
28 informed that a child-custody proceeding has been commenced
29 in, or a child-custody determination has been made by, a court
30 or another state under a statute similar to this section shall
31 immediately communicate with the court of that state to
32 resolve the emergency, protect the safety of the parties and
33 the child, and determine a period for the duration of the
34 temporary order.

35 Sec. 17. NEW SECTION. 598B.205 NOTICE -- OPPORTUNITY TO

1 BE HEARD -- JOINDER.

2 1. Before a child-custody determination is made under this
3 chapter, notice and an opportunity to be heard in accordance
4 with the standards of section 598B.108 must be given to all
5 persons entitled to notice under the law of this state as in
6 child-custody proceedings between residents of this state, any
7 parent whose parental rights have not been previously
8 terminated, and any person having physical custody of the
9 child.

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

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

17 Sec. 18. NEW SECTION. 598B.206 SIMULTANEOUS PROCEEDINGS.

18 1. Except as otherwise provided in section 598B.204, a
19 court of this state shall not exercise its jurisdiction under
20 this article if, at the time of the commencement of the
21 proceeding, a proceeding concerning the custody of the child
22 has been commenced in a court of another state having
23 jurisdiction substantially in conformity with this chapter,
24 unless the proceeding has been terminated or is stayed by the
25 court of the other state because a court of this state is a
26 more convenient forum under section 598B.207.

27 2. Except as otherwise provided in section 598B.204, a
28 court of this state, before hearing a child-custody
29 proceeding, shall examine the court documents and other
30 information supplied by the parties pursuant to section
31 598B.209. If the court determines that a child-custody
32 proceeding has been commenced in a court in another state
33 having jurisdiction substantially in accordance with this
34 chapter, the court of this state shall stay its proceeding and
35 communicate with the court of the other state. If the court

1 of the state having jurisdiction substantially in accordance
2 with this chapter does not determine that the court of this
3 state is a more appropriate forum, the court of this state
4 shall dismiss the proceeding.

5 3. In a proceeding to modify a child-custody
6 determination, a court of this state shall determine whether a
7 proceeding to enforce the determination has been commenced in
8 another state. If a proceeding to enforce a child-custody
9 determination has been commenced in another state, the court
10 may do any of the following:

11 a. Stay the proceeding for modification pending the entry
12 of an order of a court of the other state enforcing, staying,
13 denying, or dismissing the proceeding for enforcement.

14 b. Enjoin the parties from continuing with the proceeding
15 for enforcement.

16 c. Proceed with the modification under conditions it
17 considers appropriate.

18 Sec. 19. NEW SECTION. 598B.207 INCONVENIENT FORUM.

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

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

32 a. Whether domestic violence has occurred and is likely to
33 continue in the future and which state could best protect the
34 parties and the child.

35 b. The length of time the child has resided outside this

1 state.

2 c. The distance between the court in this state and the
3 court in the state that would assume jurisdiction.

4 d. The relative financial circumstances of the parties.

5 e. Any agreement of the parties as to which state should
6 assume jurisdiction.

7 f. The nature and location of the evidence required to
8 resolve the pending litigation, including testimony of the
9 child.

10 g. The ability of the court of each state to decide the
11 issue expeditiously and the procedures necessary to present
12 the evidence.

13 h. The familiarity of the court of each state with the
14 facts and issues in the pending litigation.

15 3. If a court of this state determines that it is an
16 inconvenient forum and that a court of another state is a more
17 appropriate forum, it shall stay the proceedings upon
18 condition that a child-custody proceeding be promptly
19 commenced in another designated state and may impose any other
20 condition the court considers just and proper.

21 4. A court of this state may decline to exercise its
22 jurisdiction under this chapter if a child-custody
23 determination is incidental to an action for dissolution of
24 marriage or another proceeding while still retaining
25 jurisdiction over the dissolution of marriage or other
26 proceeding.

27 Sec. 20. NEW SECTION. 598B.208 JURISDICTION DECLINED BY
28 REASON OF CONDUCT.

29 1. Except as otherwise provided in section 598B.204 or by
30 any other law of this state, if a court of this state has
31 jurisdiction under this chapter because a person seeking to
32 invoke its jurisdiction has engaged in unjustifiable conduct,
33 the court shall decline to exercise its jurisdiction unless
34 any of the following applies:

35 a. The parents and all persons acting as parents have

1 acquiesced in the exercise of jurisdiction.

2 b. A court of the state otherwise having jurisdiction
3 under sections 598B.201 through 598B.203 determines that this
4 state is a more appropriate forum under section 598B.207.

5 c. No court of any other state would have jurisdiction
6 under the criteria specified in sections 598B.201 through
7 598B.203.

8 2. If a court of this state declines to exercise its
9 jurisdiction pursuant to subsection 1, it may fashion an
10 appropriate remedy to ensure the safety of the child and
11 prevent a repetition of the unjustifiable conduct, including
12 staying the proceeding until a child-custody proceeding is
13 commenced in a court having jurisdiction under sections
14 598B.201 through 598B.203.

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

26 Sec. 21. NEW SECTION. 598B.209 INFORMATION TO BE
27 SUBMITTED TO COURT.

28 1. Subject to law providing for the confidentiality of
29 procedures, addresses, and other identifying information, in a
30 child-custody proceeding, each party, in its first pleading or
31 in an attached affidavit, shall give information, if
32 reasonably ascertainable, under oath as to the child's present
33 address or whereabouts, the places where the child has lived
34 during the last five years, and the names and present
35 addresses of the persons with whom the child has lived during

1 that period. The pleading or affidavit must state whether the
2 party has or knows all of the following:

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

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

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

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

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

30 4. Each party has a continuing duty to inform the court of
31 any proceeding in this or any other state that could affect
32 the current proceeding.

33 5. If a party alleges in an affidavit or a pleading under
34 oath that the health, safety, or liberty of a party or child
35 would be jeopardized by disclosure of identifying information,

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

7 Sec. 22. NEW SECTION. 598B.210 APPEARANCE OF PARTIES AND
8 CHILD.

9 1. In a child-custody proceeding in this state, the court
10 may order a party to the proceeding who is in this state to
11 appear before the court in person with or without the child.
12 The court may order any person who is in this state and who
13 has physical custody or control of the child to appear in
14 person with the child.

15 2. If a party to a child-custody proceeding whose presence
16 is desired by the court is outside this state, the court may
17 order that a notice given pursuant to section 598B.108 include
18 a statement directing the party to appear in person with or
19 without the child and informing the party that failure to
20 appear may result in a decision adverse to the party.

21 3. The court may enter any orders necessary to ensure the
22 safety of the child and of any person ordered to appear under
23 this section.

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

30 ARTICLE III
31 ENFORCEMENT

32 Sec. 23. NEW SECTION. 598B.301 DEFINITIONS.

33 As used in this article, unless the context otherwise
34 requires:

35 1. "Petitioner" means a person who seeks enforcement of an

1 order for return of a child under the Hague convention on the
2 civil aspects of international child abduction or enforcement
3 of a child-custody determination.

4 2. "Respondent" means a person against whom a proceeding
5 has been commenced for enforcement of an order for return of a
6 child under the Hague convention on the civil aspects of
7 international child abduction or enforcement of a child-
8 custody determination.

9 Sec. 24. NEW SECTION. 598B.302 ENFORCEMENT UNDER HAGUE
10 CONVENTION.

11 Under this article, a court of this state may enforce an
12 order for the return of the child made under the Hague
13 convention on the civil aspects of international child
14 abduction as if it were a child-custody determination.

15 Sec. 25. NEW SECTION. 598B.303 DUTY TO ENFORCE.

16 1. A court of this state shall recognize and enforce a
17 child-custody determination of a court of another state if the
18 latter court exercised jurisdiction in substantial conformity
19 with this chapter or the determination was made under factual
20 circumstances meeting the jurisdictional standards of this
21 chapter and the determination has not been modified in
22 accordance with this chapter.

23 2. A court of this state may utilize any remedy available
24 under other law of this state to enforce a child-custody
25 determination made by a court of another state. The remedies
26 provided in this article are cumulative and do not affect the
27 availability of other remedies to enforce a child-custody
28 determination.

29 Sec. 26. NEW SECTION. 598B.304 TEMPORARY VISITATION.

30 1. A court of this state which does not have jurisdiction
31 to modify a child-custody determination, may issue a temporary
32 order enforcing any of the following:

33 a. A visitation schedule made by a court of another state.

34 b. The visitation provisions of a child-custody
35 determination of another state that does not provide for a

1 specific visitation schedule.

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

9 Sec. 27. NEW SECTION. 598B.305 REGISTRATION OF CHILD-
10 CUSTODY DETERMINATION.

11 1. A child-custody determination issued by a court of
12 another state may be registered in this state, with or without
13 a simultaneous request for enforcement, by sending to the
14 district court in this state all of the following:

15 a. A letter or other document requesting registration.

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

21 c. Except as otherwise provided in section 598B.209, the
22 name and address of the person seeking registration and any
23 parent or person acting as a parent who has been awarded
24 custody or visitation in the child-custody determination
25 sought to be registered.

26 2. On receipt of the documents required by subsection 1,
27 the registering court shall do all of the following:

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

31 b. Serve notice upon the persons named pursuant to
32 subsection 1, paragraph "c", and provide them with an
33 opportunity to contest the registration in accordance with
34 this section.

35 3. The notice required by subsection 2, paragraph "b",

1 must state all of the following:

2 a. That a registered determination is enforceable as of
3 the date of the registration in the same manner as a
4 determination issued by a court of this state.

5 b. That a hearing to contest the validity of the
6 registered determination must be requested within twenty days
7 after service of notice.

8 c. That failure to contest the registration will result in
9 confirmation of the child-custody determination and preclude
10 further contest of that determination with respect to any
11 matter that could have been asserted.

12 4. A person seeking to contest the validity of a
13 registered order must request a hearing within twenty days
14 after service of the notice. At that hearing, the court shall
15 confirm the registered order unless the person contesting
16 registration establishes any of the following:

17 a. That the issuing court did not have jurisdiction under
18 article II.

19 b. That the child-custody determination sought to be
20 registered has been vacated, stayed, or modified by a court
21 having jurisdiction to do so under article II.

22 c. That the person contesting registration was entitled to
23 notice, but notice was not given in accordance with the
24 standards of section 598B.108, in the proceedings before the
25 court that issued the order for which registration is sought.

26 5. If a timely request for a hearing to contest the
27 validity of the registration is not made, the registration is
28 confirmed as a matter of law and the person requesting
29 registration and all persons served must be notified of the
30 confirmation.

31 6. Confirmation of a registered order, whether by
32 operation of law or after notice and hearing, precludes
33 further contest of the order with respect to any matter that
34 could have been asserted at the time of registration.

35 Sec. 28. NEW SECTION. 598B.306 ENFORCEMENT OF REGISTERED

1 DETERMINATION.

2 1. A court of this state may grant any relief normally
3 available under the law of this state to enforce a registered
4 child-custody determination made by a court of another state.

5 2. A court of this state shall recognize and enforce, but
6 shall not modify, except in accordance with article II, a
7 registered child-custody determination of a court of another
8 state.

9 Sec. 29. NEW SECTION. 598B.307 SIMULTANEOUS PROCEEDINGS.

10 If a proceeding for enforcement under this article is
11 commenced in a court of this state and the court determines
12 that a proceeding to modify the determination is pending in a
13 court of another state having jurisdiction to modify the
14 determination under article II, the enforcing court shall
15 immediately communicate with the modifying court. The
16 proceeding for enforcement continues unless the enforcing
17 court, after consultation with the modifying court, stays or
18 dismisses the proceeding.

19 Sec. 30. NEW SECTION. 598B.308 EXPEDITED ENFORCEMENT OF
20 CHILD-CUSTODY DETERMINATION.

21 1. A petition under this article must be verified.
22 Certified copies of all orders sought to be enforced and of
23 any order confirming registration must be attached to the
24 petition. A copy of a certified copy of an order may be
25 attached instead of the original.

26 2. A petition for enforcement of a child-custody
27 determination must state all of the following:

28 a. Whether the court that issued the determination
29 identified the jurisdictional basis it relied upon in
30 exercising jurisdiction and, if so, what the basis was.

31 b. Whether the determination for which enforcement is
32 sought has been vacated, stayed, or modified by a court whose
33 decision must be enforced under this chapter and, if so,
34 identify the court, the case number, and the nature of the
35 proceeding.

1 c. Whether any proceeding has been commenced that could
2 affect the current proceeding, including proceedings relating
3 to domestic violence, protective orders, termination of
4 parental rights, and adoptions and, if so, identify the court,
5 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 physical
9 custody of the child and attorney fees is sought, including a
10 request for assistance from law enforcement officials and, if
11 so, the relief sought.

12 f. If the child-custody determination has been registered
13 and confirmed under section 598B.305, the date and place of
14 registration.

15 3. Upon the filing of a petition, the court shall issue an
16 order directing the respondent to appear in person with or
17 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 hearing at the
23 request of the petitioner.

24 4. An order issued under subsection 3 must state the time
25 and place of the hearing and advise the respondent that at the
26 hearing the court will order that the petitioner may take
27 immediate physical custody of the child and the payment of
28 fees, costs, and expenses under section 598B.312, and may
29 schedule a hearing to determine whether further relief is
30 appropriate, unless the respondent appears and establishes
31 either of the following:

32 a. The child-custody determination has not been registered
33 and confirmed under section 598B.305 and that all of the
34 following apply:

35 (1) The issuing court did not have jurisdiction under

1 article II.

2 (2) The child-custody determination for which enforcement
3 is sought has been vacated, stayed, or modified by a court
4 having jurisdiction to do so under article II.

5 (3) The respondent was entitled to notice, but notice was
6 not given in accordance with the standards of section
7 598B.108, in the proceedings before the court that issued the
8 order for which enforcement is sought.

9 b. The child-custody determination for which enforcement
10 is sought was registered and confirmed under section 598B.305,
11 but has been vacated, stayed, or modified by a court of a
12 state having jurisdiction to do so under article II.

13 Sec. 31. NEW SECTION. 598B.309 SERVICE OF PETITION AND
14 ORDER.

15 Except as otherwise provided in section 598B.311, the
16 petition and order must be served, by any method authorized by
17 the law of this state, upon respondent and any person who has
18 physical custody of the child.

19 Sec. 32. NEW SECTION. 598B.310 HEARING AND ORDER.

20 1. Unless the court issues a temporary emergency order
21 pursuant to section 598B.204, upon a finding that a petitioner
22 is entitled to immediate physical custody of the child, the
23 court shall order that the petitioner may take immediate
24 physical custody of the child unless the respondent
25 establishes that any of the following applies:

26 a. The child-custody determination has not been registered
27 and confirmed under section 598B.305, and that any of the
28 following applies:

29 (1) The issuing court did not have jurisdiction under
30 article II.

31 (2) The child-custody determination for which enforcement
32 is sought has been vacated, stayed, or modified by a court of
33 a state having jurisdiction to do so under article II.

34 (3) The respondent was entitled to notice, but notice was
35 not given in accordance with the standards of section

1 598B.108, in the proceedings before the court that issued the
2 order for which enforcement is sought.

3 b. The child-custody determination for which enforcement
4 is sought was registered and confirmed under section 598B.305,
5 but has been vacated, stayed, or modified by a court of a
6 state having jurisdiction to do so under article II.

7 2. The court shall award the fees, costs, and expenses
8 authorized under section 598B.312, and may grant additional
9 relief, including a request for the assistance of law
10 enforcement officials, and set a further hearing to determine
11 whether additional relief is appropriate.

12 3. If a party called to testify refuses to answer on the
13 ground that the testimony may be self-incriminating, the court
14 may draw an adverse inference from the refusal.

15 4. A privilege against disclosure of communications
16 between spouses and a defense of immunity based on the
17 relationship of husband and wife or parent and child shall not
18 be invoked in a proceeding under this article.

19 Sec. 33. NEW SECTION. 598B.311 WARRANT TO TAKE PHYSICAL
20 CUSTODY OF CHILD.

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

27 2. If the court, upon the testimony of the petitioner or
28 other witness, finds that the child is imminently likely to
29 suffer serious physical harm or be removed from this state, it
30 may issue a warrant to take physical custody of the child.
31 The petition must be heard on the next judicial day after the
32 warrant is executed unless that date is impossible. In that
33 event, the court shall hold the hearing on the first judicial
34 day possible. The application for the warrant must include
35 the statements required by section 598B.308, subsection 2.

1 3. A warrant to take physical custody of a child must
2 provide all of the following:

3 a. Recite the facts upon which a conclusion of imminent
4 serious physical harm or removal from the jurisdiction is
5 based.

6 b. Direct law enforcement officers to take physical
7 custody of the child immediately.

8 c. Provide for the placement of the child pending final
9 relief.

10 4. The respondent must be served with the petition,
11 warrant, and order immediately after the child is taken into
12 physical custody.

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

21 6. The court may impose conditions upon placement of a
22 child to ensure the appearance of the child and the child's
23 custodian.

24 Sec. 34. NEW SECTION. 598B.312 COSTS, FEES, AND
25 EXPENSES.

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

34 2. The court shall not assess fees, costs, or expenses
35 against a state unless authorized by law other than this

1 chapter.

2 Sec. 35. NEW SECTION. 598B.313 RECOGNITION AND
3 ENFORCEMENT.

4 A court of this state shall accord full faith and credit to
5 an order issued by another state and consistent with this
6 chapter which enforces a child-custody determination by a
7 court of another state unless the order has been vacated,
8 stayed, or modified by a court having jurisdiction to do so
9 under article II.

10 Sec. 36. NEW SECTION. 598B.314 APPEALS.

11 An appeal may be taken from a final order in a proceeding
12 under this article in accordance with expedited appellate
13 procedures in other civil cases. Unless the court enters a
14 temporary emergency order under section 598B.204, the
15 enforcing court shall not stay an order enforcing a child-
16 custody determination pending appeal.

17 Sec. 37. NEW SECTION. 598B.315 ROLE OF PROSECUTOR.

18 1. In a case arising under this chapter or involving the
19 Hague convention on the civil aspects of international child
20 abduction, the prosecutor may take any lawful action,
21 including resort to a proceeding under this article or any
22 other available civil proceeding to locate a child, obtain the
23 return of a child, or enforce a child-custody determination if
24 there is any of the following:

25 a. An existing child-custody determination.

26 b. A request to do so from a court in a pending child-
27 custody proceeding.

28 c. A reasonable belief that a criminal statute has been
29 violated.

30 d. A reasonable belief that the child has been wrongfully
31 removed or retained in violation of the Hague convention on
32 the civil aspects of international child abduction.

33 2. A prosecutor acting under this section acts on behalf
34 of the court and shall not represent any party.

35 Sec. 38. NEW SECTION. 598B.316 ROLE OF LAW ENFORCEMENT.

1 At the request of a prosecutor acting under 598B.315, a law
2 enforcement officer may take any lawful action reasonably
3 necessary to locate a child or a party and assist a prosecutor
4 with responsibilities under section 598B.315.

5 Sec. 39. NEW SECTION. 598B.317 COSTS AND EXPENSES.

6 If the respondent is not the prevailing party, the court
7 may assess against the respondent all direct expenses and
8 costs incurred by the prosecutor and law enforcement officers
9 under section 598B.315 or 598B.316.

10 ARTICLE IV

11 MISCELLANEOUS PROVISIONS

12 Sec. 40. NEW SECTION. 598B.401 APPLICATION AND
13 CONSTRUCTION.

14 In applying and construing this uniform Act, consideration
15 must be given to the need to promote uniformity of the law
16 with respect to its subject matter among states that enact it.

17 Sec. 41. NEW SECTION. 598B.402 TRANSITIONAL PROVISION.

18 A motion or other request for relief made in a child-
19 custody proceeding or to enforce a child-custody determination
20 which was commenced before the effective date of this Act, is
21 governed by the law in effect at the time the motion or other
22 request was made.

23 Sec. 42. Section 232.3, subsection 1, Code 1999, is
24 amended to read as follows:

25 1. During the pendency of an action under this chapter, a
26 party to the action is estopped from litigating concurrently
27 the custody, guardianship, or placement of a child who is the
28 subject of the action, in a court other than the juvenile
29 court. A district judge, district associate judge,
30 magistrate, or judicial hospitalization referee, upon notice
31 of the pendency of an action under this chapter, shall not
32 issue an order, finding, or decision relating to the custody,
33 guardianship, or placement of the child who is the subject of
34 the action, under any law, including but not limited to
35 chapter 598, 598A 598B, or 633.

1 Sec. 43. Section 597.15, unnumbered paragraph 1, Code
2 1999, is amended to read as follows:

3 If one spouse abandons the other spouse, the abandoned
4 spouse is entitled to the custody of the minor children,
5 unless the district court, upon application for that purpose,
6 otherwise directs, or unless a custody decree is entered in
7 accordance with chapter 598A 598B. In this section "abandon"
8 does not include:

9 Sec. 44. Section 598.21, subsection 6, Code 1999, is
10 amended to read as follows:

11 6. The court may provide for joint custody of the children
12 by the parties pursuant to section 598.41. All orders
13 relating to custody of a child are subject to chapter 598A
14 598B.

15 Sec. 45. Section 598.21, subsection 8, unnumbered
16 paragraph 2, Code 1999, is amended to read as follows:

17 Unless otherwise provided pursuant to 28 U.S.C. § 1738B, a
18 modification of a support order entered under chapter 234,
19 252A, 252C, 600B, this chapter, or any other support chapter
20 or proceeding between parties to the order is void unless the
21 modification is approved by the court, after proper notice and
22 opportunity to be heard is given to all parties to the order,
23 and entered as an order of the court. If support payments
24 have been assigned to the department of human services
25 pursuant to section 234.39, 239B.6, or 252E.11, or if services
26 are being provided pursuant to chapter 252B, the department is
27 a party to the support order. Modifications of orders
28 pertaining to child custody shall be made pursuant to chapter
29 598A 598B. If the petition for a modification of an order
30 pertaining to child custody asks either for joint custody or
31 that joint custody be modified to an award of sole custody,
32 the modification, if any, shall be made pursuant to section
33 598.41.

34 Sec. 46. Section 602.8102, subsection 85, Code 1999, is
35 amended to read as follows:

1 85. Carry out duties relating to the custody of children
2 as provided in chapter 598A 598B.

3 Sec. 47. Chapter 598A, Code 1999, is repealed.

4 EXPLANATION

5 This bill, the Uniform Child Custody Jurisdiction and
6 Enforcement Act (UCCJEA), updates the Uniform Child Custody
7 Jurisdiction Act (UCCJA).

8 The UCCJA was adopted as law in all 50 states, the District
9 of Columbia, and the Virgin Islands. However, in the
10 subsequent 30-year period, federal enactments and litigation
11 have produced inconsistency in interpretation of the Act.

12 In 1980, the federal government enacted the Parental
13 Kidnapping Prevention Act (PKPA), 28 U.S.C. § 1738A, to
14 address the interstate custody jurisdictional problems that
15 continued to exist after the adoption of the UCCJA. The PKPA
16 mandates that state authorities give full faith and credit to
17 other states' custody determinations, so long as those
18 determinations are made in conformity with the provisions of
19 the PKPA. The PKPA provisions regarding bases for
20 jurisdiction, restrictions on modifications, preclusion of
21 simultaneous proceedings, and notice requirements are similar
22 to those in the UCCJA. There are, however, some significant
23 differences. Inconsistency of interpretation of the UCCJA and
24 the technicalities of applying the PKPA also resulted in a
25 loss of uniformity among the states.

26 The revisions of the jurisdictional aspects of the UCCJA
27 can be summarized as follows:

- 28 1. Home state priority. The PKPA prioritizes "home state"
- 29 jurisdiction by requiring that full faith and credit cannot be
- 30 given to a child custody determination by a state that
- 31 exercises initial jurisdiction as a "significant connection
- 32 state" when there is also a "home state". The UCCJA, however,
- 33 specifically authorizes four independent bases of jurisdiction
- 34 without prioritization. Under the UCCJA, a significant
- 35 connection custody determination may have to be enforced even

1 if it would be denied enforcement under the PKPA. The UCCJEA
2 prioritizes "home state" jurisdiction.

3 2. Emergency jurisdiction. The language of the UCCJA does
4 not specify that emergency jurisdiction may be exercised only
5 to protect the child on a temporary basis until the court with
6 appropriate jurisdiction issues a permanent order. Also, the
7 emergency jurisdiction provisions predated the widespread
8 enactment of state domestic violence statutes.

9 The UCCJEA contains a separate section on emergency
10 jurisdiction which addresses these issues.

11 3. Exclusive continuing jurisdiction for the state that
12 entered the decree. The UCCJA does not clearly enunciate that
13 the decree-granting state retains exclusive continuing
14 jurisdiction to modify a decree. The UCCJA also provided no
15 guidance on when it is necessary to determine whether the
16 state with continuing jurisdiction has relinquished it.

17 The UCCJEA addresses these issues.

18 4. Specification of what custody proceedings are covered.
19 The definition of custody proceeding in the UCCJA does not
20 specify whether the UCCJA applies to neglect, abuse,
21 dependency, wardship, guardianship, termination of parental
22 rights, and protection from domestic violence proceedings.
23 The UCCJEA includes a definition that, with the exception of
24 adoption, includes virtually all cases that can involve
25 custody of or visitation with a child as a "custody
26 determination".

27 5. Role of "best interests". The jurisdictional scheme of
28 the UCCJA was designed to promote the best interests of the
29 children when custody was at issue by discouraging parental
30 abduction and providing that, in general, the state with the
31 closest connections to, and the most evidence regarding, a
32 child should decide that child's custody. The UCCJEA
33 eliminates the term "best interests" to distinguish between
34 the jurisdictional standards and the substantive standards
35 relating to custody and visitation of children.

1 6. Other changes. This bill also makes a number of
2 additional amendments to the UCCJA. Many of these changes
3 were made to harmonize the provisions of this bill with those
4 of the federal Uniform Interstate Family Support Act.

5 One of the major purposes of the revision of the UCCJA was
6 to provide a remedy for interstate visitation and custody
7 cases. There is currently no uniform method of enforcing
8 custody and visitation orders validly entered in another
9 state. Despite the fact that both the UCCJA and the PKPA
10 direct the enforcement of visitation and custody orders
11 entered in accordance with mandated jurisdictional
12 prerequisites and due process, neither Act provides
13 enforcement procedures or remedies.

14 The bill provides several remedies for the enforcement of a
15 custody determination. There is a simple procedure for
16 registering a custody determination in another state. This
17 will allow a party to know in advance whether that state will
18 recognize the party's custody determination. The bill
19 provides a swift remedy along the lines of habeas corpus.

20 The scope of the enforcing court's inquiry is limited to
21 the issue of whether the decree court had jurisdiction and
22 complied with due process in rendering the original custody
23 decree. No further inquiry is necessary because neither the
24 bill nor the PKPA allows an enforcing court to modify a
25 custody determination.

26 The enforcing court will be able to utilize an
27 extraordinary remedy. If the enforcing court is concerned
28 that the parent who has physical custody of the child will
29 flee or harm the child, a warrant to take physical possession
30 of the child is available.

31 Finally, a role is provided for public authorities, such as
32 prosecutors, in the enforcement process. The bill does not
33 authorize the public authorities to be involved in the action
34 leading up to the custody determination, except when requested
35 by the court, when there is a violation of the Hague

1 convention on the civil aspects of international child
2 abduction, or when the person holding the child has violated a
3 criminal statute. The bill does not mandate that public
4 authorities be involved in all cases.

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ARTICLE I

GENERAL PROVISIONS

1
2
3 Section 1. NEW SECTION. 598B.101 SHORT TITLE.

4 This chapter shall be known and may be cited as the
5 "Uniform Child-custody Jurisdiction and Enforcement Act".

6 Sec. 2. NEW SECTION. 598B.102 DEFINITIONS.

7 As used in this chapter, unless the context otherwise
8 requires:

9 1. "Abandoned" means left without provision for reasonable
10 and necessary care or supervision.

11 2. "Child" means an individual who has not attained
12 eighteen years of age.

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

20 4. "Child-custody proceeding" means a proceeding in which
21 legal custody, physical custody, or visitation with respect to
22 a child is an issue. The term includes a proceeding for
23 dissolution of marriage, separation, neglect, abuse,
24 dependency, guardianship, paternity, termination of parental
25 rights, and protection from domestic violence, in which the
26 issue may appear. The term does not include a proceeding
27 involving juvenile delinquency, contractual emancipation, or
28 enforcement under article III.

29 5. "Commencement" means the filing of the first pleading
30 in a proceeding.

31 6. "Court" means an entity authorized under the law of a
32 state to establish, enforce, or modify a child-custody
33 determination.

34 7. "Home state" means the state in which a child lived
35 with a parent or a person acting as a parent for at least six

1 consecutive months immediately before the commencement of a
2 child-custody proceeding. In the case of a child less than
3 six months of age, the term means the state in which the child
4 lived from birth with any of the persons mentioned. A period
5 of temporary absence of any of the mentioned persons is part
6 of the period.

7 8. "Initial determination" means the first child-custody
8 determination concerning a particular child.

9 9. "Issuing court" means the court that makes a child-
10 custody determination for which enforcement is sought under
11 this chapter.

12 10. "Issuing state" means the state in which a child-
13 custody determination is made.

14 11. "Modification" means a child-custody determination
15 that changes, replaces, supersedes, or is otherwise made after
16 a previous determination concerning the same child, whether or
17 not it is made by the court that made the previous
18 determination.

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

24 13. "Person acting as a parent" means a person, other than
25 a parent, to whom both of the following apply:

26 a. The person has physical custody of the child or has had
27 physical custody for a period of six consecutive months,
28 including any temporary absence, within one year immediately
29 before the commencement of a child-custody proceeding.

30 b. The person has been awarded legal custody by a court or
31 claims a right to legal custody under the law of this state.

32 14. "Physical custody" means the physical care and
33 supervision of a child.

34 15. "State" means a state of the United States, the
35 District of Columbia, Puerto Rico, the United States Virgin

1 Islands, or any territory or insular possession subject to the
2 jurisdiction of the United States.

3 16. "Tribe" means an Indian tribe or band, or Alaskan
4 native village, which is recognized by federal law or formally
5 acknowledged by a state.

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

8 Sec. 3. NEW SECTION. 598B.103 PROCEEDINGS GOVERNED BY
9 OTHER LAW.

10 This chapter does not govern an adoption proceeding or a
11 proceeding pertaining to the authorization of emergency
12 medical care for a child.

13 Sec. 4. NEW SECTION. 598B.104 APPLICATION TO INDIAN
14 TRIBES.

15 1. A child-custody proceeding that pertains to an Indian
16 child as defined in the federal Indian Child Welfare Act, 25
17 U.S.C. § 1901 et seq., is not subject to this chapter to the
18 extent that it is governed by the federal Indian Child Welfare
19 Act.

20 2. A court of this state shall treat a tribe as if it were
21 a state of the United States for the purpose of applying this
22 article and article II.

23 3. A child-custody determination made by a tribe under
24 factual circumstances in substantial conformity with the
25 jurisdictional standards of this chapter must be recognized
26 and enforced under article III.

27 Sec. 5. NEW SECTION. 598B.105 INTERNATIONAL APPLICATION.

28 1. A court of this state shall treat a foreign country as
29 if it were a state of the United States for the purpose of
30 applying this article and article II.

31 2. Except as otherwise provided in subsection 3, a child-
32 custody determination made in a foreign country under factual
33 circumstances in substantial conformity with the
34 jurisdictional standards of this chapter must be recognized
35 and enforced under article III.

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

4 Sec. 6. NEW SECTION. 598B.106 EFFECT OF CHILD-CUSTODY
5 DETERMINATION.

6 A child-custody determination made by a court of this state
7 that had jurisdiction under this chapter binds all persons who
8 have been served in accordance with the laws of this state, or
9 notified in accordance with section 598B.108, or who have
10 submitted to the jurisdiction of the court, and who have been
11 given an opportunity to be heard. As to those persons, the
12 determination is conclusive as to all decided issues of law
13 and fact except to the extent the determination is modified.

14 Sec. 7. NEW SECTION. 598B.107 PRIORITY.

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

19 Sec. 8. NEW SECTION. 598B.108 NOTICE TO PERSONS OUTSIDE
20 STATE.

21 1. Notice required for the exercise of jurisdiction when a
22 person is outside this state may be given in a manner
23 prescribed by the law of this state for service of process or
24 by the law of the state in which the service is made. Notice
25 shall be given in a manner reasonably calculated to give
26 actual notice but may be by publication if other means are not
27 effective.

28 2. Proof of service may be made in the manner prescribed
29 by the law of this state or by the law of the state in which
30 the service is made.

31 3. Notice is not required for the exercise of jurisdiction
32 with respect to a person who submits to the jurisdiction of
33 the court.

34 Sec. 9. NEW SECTION. 598B.109 APPEARANCE AND LIMITED
35 IMMUNITY.

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

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

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

18 Sec. 10. NEW SECTION. 598B.110 COMMUNICATION BETWEEN
19 COURTS.

20 1. A court of this state may communicate with a court in
21 another state concerning a proceeding arising under this
22 chapter.

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

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

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

35 5. For the purposes of this section, "record" means

1 information that is inscribed on a tangible medium or that is
2 stored in an electronic or other medium and is retrievable in
3 perceivable form.

4 Sec. 11. NEW SECTION. 598B.111 TAKING TESTIMONY IN
5 ANOTHER STATE.

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

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

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

26 Sec. 12. NEW SECTION. 598B.112 COOPERATION BETWEEN
27 COURTS -- PRESERVATION OF RECORDS.

28 1. A court of this state may request the appropriate court
29 of another state to do any or all of the following:

30 a. Hold an evidentiary hearing.

31 b. Order a person to produce or give evidence pursuant to
32 procedures of that state.

33 c. Order that an evaluation be made with respect to the
34 custody of a child involved in a pending proceeding.

35 d. Forward to the court of this state a certified copy of

1 the transcript of the record of the hearing, the evidence
2 otherwise presented, and any evaluation prepared in compliance
3 with the request.

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

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

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

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

20 ARTICLE II

21 JURISDICTION

22 Sec. 13. NEW SECTION. 598B.201 INITIAL CHILD-CUSTODY
23 JURISDICTION.

24 1. Except as otherwise provided in section 598B.204, a
25 court of this state has jurisdiction to make an initial child-
26 custody determination only if any of the following applies:

27 a. This state is the home state of the child on the date
28 of the commencement of the proceeding, or was the home state
29 of the child within six months before the commencement of the
30 proceeding and the child is absent from this state but a
31 parent or person acting as a parent continues to live in this
32 state.

33 b. A court of another state does not have jurisdiction
34 under paragraph "a", or a court of the home state of the child
35 has declined to exercise jurisdiction on the ground that this

1 state is the more appropriate forum under section 598B.207 or
2 598B.208 and both of the following apply:

3 (1) The child and the child's parents, or the child and at
4 least one parent or a person acting as a parent, have a
5 significant connection with this state other than mere
6 physical presence.

7 (2) Substantial evidence is available in this state
8 concerning the child's care, protection, training, and
9 personal relationships.

10 c. All courts having jurisdiction under paragraph "a" or
11 "b" have declined to exercise jurisdiction on the ground that
12 a court of this state is the more appropriate forum to
13 determine the custody of the child under section 598B.207 or
14 598B.208.

15 d. No court of any other state would have jurisdiction
16 under the criteria specified in paragraph "a", "b", or "c".

17 2. Subsection 1 is the exclusive jurisdictional basis for
18 making a child-custody determination by a court of this state.

19 3. Physical presence of, or personal jurisdiction over, a
20 party or a child is not necessary or sufficient to make a
21 child-custody determination.

22 Sec. 14. NEW SECTION. 598B.202 EXCLUSIVE, CONTINUING
23 JURISDICTION.

24 1. Except as otherwise provided in section 598B.204, a
25 court of this state which has made a child-custody
26 determination consistent with section 598B.201 or 598B.203 has
27 exclusive, continuing jurisdiction over the determination
28 until any of the following occurs:

29 a. A court of this state determines that the child does
30 not have, the child and one parent do not have, or the child
31 and a person acting as a parent do not have a significant
32 connection with this state and that substantial evidence is no
33 longer available in this state concerning the child's care,
34 protection, training, and personal relationships.

35 b. A court of this state or a court of another state

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

3 2. A court of this state which has made a child-custody
4 determination and does not have exclusive, continuing
5 jurisdiction under this section may modify that determination
6 only if it has jurisdiction to make an initial determination
7 under section 598B.201.

8 Sec. 15. NEW SECTION. 598B.203 JURISDICTION TO MODIFY
9 DETERMINATION.

10 Except as otherwise provided in section 598B.204, a court
11 of this state shall not modify a child-custody determination
12 made by a court of another state unless a court of this state
13 has jurisdiction to make an initial determination under
14 section 598B.201, subsection 1, paragraph "a" or "b", and
15 either of the following applies:

16 1. The court of the other state determines it no longer
17 has exclusive, continuing jurisdiction under section 598B.202
18 or that a court of this state would be a more convenient forum
19 under section 598B.207.

20 2. A court of this state or a court of the other state
21 determines that the child, the child's parents, and any person
22 acting as a parent do not presently reside in the other state.

23 Sec. 16. NEW SECTION. 598B.204 TEMPORARY EMERGENCY
24 JURISDICTION.

25 1. A court of this state has temporary emergency
26 jurisdiction if the child is present in this state and the
27 child has been abandoned or it is necessary in an emergency to
28 protect the child because the child, or a sibling or parent of
29 the child, is subjected to or threatened with mistreatment or
30 abuse.

31 2. If there is no previous child-custody determination
32 that is entitled to be enforced under this chapter and a
33 child-custody proceeding has not been commenced in a court of
34 a state having jurisdiction under sections 598B.201 through
35 598B.203, a child-custody determination made under this

1 section remains in effect until an order is obtained from a
2 court of a state having jurisdiction under sections 598B.201
3 through 598B.203. If a child-custody proceeding has not been
4 or is not commenced in a court of a state having jurisdiction
5 under sections 598B.201 through 598B.203, a child-custody
6 determination made under this section becomes a final
7 determination, if it so provides and this state becomes the
8 home state of the child.

9 3. If there is a previous child-custody determination that
10 is entitled to be enforced under this chapter, or a child-
11 custody proceeding has been commenced in a court of a state
12 having jurisdiction under sections 598B.201 through 598B.203,
13 any order issued by a court of this state under this section
14 must specify in the order a period that the court considers
15 adequate to allow the person seeking an order to obtain an
16 order from the state having jurisdiction under sections
17 598B.201 through 598B.203. The order issued in this state
18 remains in effect until an order is obtained from the other
19 state within the period specified or the period expires.

20 4. A court of this state which has been asked to make a
21 child-custody determination under this section, upon being
22 informed that a child-custody proceeding has been commenced
23 in, or a child-custody determination has been made by, a court
24 of a state having jurisdiction under sections 598B.201 through
25 598B.203, shall immediately communicate with the other court.
26 A court of this state which is exercising jurisdiction
27 pursuant to sections 598B.201 through 598B.203, upon being
28 informed that a child-custody proceeding has been commenced
29 in, or a child-custody determination has been made by, a court
30 or another state under a statute similar to this section shall
31 immediately communicate with the court of that state to
32 resolve the emergency, protect the safety of the parties and
33 the child, and determine a period for the duration of the
34 temporary order.

35 Sec. 17. NEW SECTION. 598B.205 NOTICE -- OPPORTUNITY TO

1 BE HEARD -- JOINDER.

2 1. Before a child-custody determination is made under this
3 chapter, notice and an opportunity to be heard in accordance
4 with the standards of section 598B.108 must be given to all
5 persons entitled to notice under the law of this state as in
6 child-custody proceedings between residents of this state, any
7 parent whose parental rights have not been previously
8 terminated, and any person having physical custody of the
9 child.

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

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

17 Sec. 18. NEW SECTION. 598B.206 SIMULTANEOUS PROCEEDINGS.

18 1. Except as otherwise provided in section 598B.204, a
19 court of this state shall not exercise its jurisdiction under
20 this article if, at the time of the commencement of the
21 proceeding, a proceeding concerning the custody of the child
22 has been commenced in a court of another state having
23 jurisdiction substantially in conformity with this chapter,
24 unless the proceeding has been terminated or is stayed by the
25 court of the other state because a court of this state is a
26 more convenient forum under section 598B.207.

27 2. Except as otherwise provided in section 598B.204, a
28 court of this state, before hearing a child-custody
29 proceeding, shall examine the court documents and other
30 information supplied by the parties pursuant to section
31 598B.209. If the court determines that a child-custody
32 proceeding has been commenced in a court in another state
33 having jurisdiction substantially in accordance with this
34 chapter, the court of this state shall stay its proceeding and
35 communicate with the court of the other state. If the court

1 of the state having jurisdiction substantially in accordance
2 with this chapter does not determine that the court of this
3 state is a more appropriate forum, the court of this state
4 shall dismiss the proceeding.

5 3. In a proceeding to modify a child-custody
6 determination, a court of this state shall determine whether a
7 proceeding to enforce the determination has been commenced in
8 another state. If a proceeding to enforce a child-custody
9 determination has been commenced in another state, the court
10 may do any of the following:

11 a. Stay the proceeding for modification pending the entry
12 of an order of a court of the other state enforcing, staying,
13 denying, or dismissing the proceeding for enforcement.

14 b. Enjoin the parties from continuing with the proceeding
15 for enforcement.

16 c. Proceed with the modification under conditions it
17 considers appropriate.

18 Sec. 19. NEW SECTION. 598B.207 INCONVENIENT FORUM.

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

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

32 a. Whether domestic violence has occurred and is likely to
33 continue in the future and which state could best protect the
34 parties and the child.

35 b. The length of time the child has resided outside this

1 state.

2 c. The distance between the court in this state and the
3 court in the state that would assume jurisdiction.

4 d. The relative financial circumstances of the parties.

5 e. Any agreement of the parties as to which state should
6 assume jurisdiction.

7 f. The nature and location of the evidence required to
8 resolve the pending litigation, including testimony of the
9 child.

10 g. The ability of the court of each state to decide the
11 issue expeditiously and the procedures necessary to present
12 the evidence.

13 h. The familiarity of the court of each state with the
14 facts and issues in the pending litigation.

15 3. If a court of this state determines that it is an
16 inconvenient forum and that a court of another state is a more
17 appropriate forum, it shall stay the proceedings upon
18 condition that a child-custody proceeding be promptly
19 commenced in another designated state and may impose any other
20 condition the court considers just and proper.

21 4. A court of this state may decline to exercise its
22 jurisdiction under this chapter if a child-custody
23 determination is incidental to an action for dissolution of
24 marriage or another proceeding while still retaining
25 jurisdiction over the dissolution of marriage or other
26 proceeding.

27 Sec. 20. NEW SECTION. 598B.208 JURISDICTION DECLINED BY
28 REASON OF CONDUCT.

29 1. Except as otherwise provided in section 598B.204 or by
30 any other law of this state, if a court of this state has
31 jurisdiction under this chapter because a person seeking to
32 invoke its jurisdiction has engaged in unjustifiable conduct,
33 the court shall decline to exercise its jurisdiction unless
34 any of the following applies:

35 a. The parents and all persons acting as parents have

1 acquiesced in the exercise of jurisdiction.

2 b. A court of the state otherwise having jurisdiction
3 under sections 598B.201 through 598B.203 determines that this
4 state is a more appropriate forum under section 598B.207.

5 c. No court of any other state would have jurisdiction
6 under the criteria specified in sections 598B.201 through
7 598B.203.

8 2. If a court of this state declines to exercise its
9 jurisdiction pursuant to subsection 1, it may fashion an
10 appropriate remedy to ensure the safety of the child and
11 prevent a repetition of the unjustifiable conduct, including
12 staying the proceeding until a child-custody proceeding is
13 commenced in a court having jurisdiction under sections
14 598B.201 through 598B.203.

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

26 Sec. 21. NEW SECTION. 598B.209 INFORMATION TO BE
27 SUBMITTED TO COURT.

28 1. In a child-custody proceeding, each party, in its first
29 pleading or in an attached affidavit, shall give information,
30 if reasonably ascertainable, under oath as to the child's
31 present address or whereabouts, the places where the child has
32 lived during the last five years, and the names and present
33 addresses of the persons with whom the child has lived during
34 that period. The pleading or affidavit must state whether the
35 party has or knows all of the following:

1 a. Has participated, as a party or a witness or in any
2 other capacity, in any other proceeding concerning the custody
3 of or visitation with the child and, if so, identify the
4 court, the case number, and the date of the child-custody
5 determination, if any.

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

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

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

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

28 4. Each party has a continuing duty to inform the court of
29 any proceeding in this or any other state that could affect
30 the current proceeding.

31 5. Upon a finding, which may be made ex parte, that the
32 health, safety, or liberty of a party or child would be
33 unreasonably put at risk by the disclosure of identifying
34 information, or if an existing order so provides, the court
35 shall order that the address of the party or child or other

1 identifying information not be disclosed in a pleading or
2 other document filed in a proceeding under this chapter.

3 Sec. 22. NEW SECTION. 598B.210 APPEARANCE OF PARTIES AND
4 CHILD.

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

11 2. If a party to a child-custody proceeding whose presence
12 is desired by the court is outside this state, the court may
13 order that a notice given pursuant to section 598B.108 include
14 a statement directing the party to appear in person with or
15 without the child and informing the party that failure to
16 appear may result in a decision adverse to the party.

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

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

26 ARTICLE III

27 ENFORCEMENT

28 Sec. 23. NEW SECTION. 598B.301 DEFINITIONS.

29 As used in this article, unless the context otherwise
30 requires:

31 1. "Petitioner" means a person who seeks enforcement of an
32 order for return of a child under the Hague convention on the
33 civil aspects of international child abduction or enforcement
34 of a child-custody determination.

35 2. "Respondent" means a person against whom a proceeding

1 has been commenced for enforcement of an order for return of a
2 child under the Hague convention on the civil aspects of
3 international child abduction or enforcement of a child-
4 custody determination.

5 Sec. 24. NEW SECTION. 598B.302 ENFORCEMENT UNDER HAGUE
6 CONVENTION.

7 Under this article, a court of this state may enforce an
8 order for the return of the child made under the Hague
9 convention on the civil aspects of international child
10 abduction as if it were a child-custody determination.

11 Sec. 25. NEW SECTION. 598B.303 DUTY TO ENFORCE.

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

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

25 Sec. 26. NEW SECTION. 598B.304 TEMPORARY VISITATION.

26 1. A court of this state which does not have jurisdiction
27 to modify a child-custody determination, may issue a temporary
28 order enforcing any of the following:

29 a. A visitation schedule made by a court of another state.

30 b. The visitation provisions of a child-custody
31 determination of another state that does not provide for a
32 specific visitation schedule.

33 2. If a court of this state makes an order under
34 subsection 1, paragraph "b", it shall specify in the order a
35 period that it considers adequate to allow the petitioner to

1 obtain an order from a court having jurisdiction under the
2 criteria specified in article II. The order remains in effect
3 until an order is obtained from the other court or the period
4 expires.

5 Sec. 27. NEW SECTION. 598B.305 REGISTRATION OF CHILD-
6 CUSTODY DETERMINATION.

7 1. A child-custody determination issued by a court of
8 another state may be registered in this state, with or without
9 a simultaneous request for enforcement, by sending to the
10 district court in this state all of the following:

11 a. A letter or other document requesting registration.

12 b. Two copies, including one certified copy, of the
13 determination sought to be registered, and a statement under
14 penalty of perjury that to the best of the knowledge and
15 belief of the person seeking registration the order has not
16 been modified.

17 c. Except as otherwise provided in section 598B.209, the
18 name and address of the person seeking registration and any
19 parent or person acting as a parent who has been awarded
20 custody or visitation in the child-custody determination
21 sought to be registered.

22 2. On receipt of the documents required by subsection 1,
23 the registering court shall do all of the following:

24 a. Cause the determination to be filed as a foreign
25 judgment, together with one copy of any accompanying documents
26 and information, regardless of their form.

27 b. Serve notice upon the persons named pursuant to
28 subsection 1, paragraph "c", and provide them with an
29 opportunity to contest the registration in accordance with
30 this section.

31 3. The notice required by subsection 2, paragraph "b",
32 must state all of the following:

33 a. That a registered determination is enforceable as of
34 the date of the registration in the same manner as a
35 determination issued by a court of this state.

1 b. That a hearing to contest the validity of the
2 registered determination must be requested within twenty days
3 after service of notice.

4 c. That failure to contest the registration will result in
5 confirmation of the child-custody determination and preclude
6 further contest of that determination with respect to any
7 matter that could have been asserted.

8 4. A person seeking to contest the validity of a
9 registered order must request a hearing within twenty days
10 after service of the notice. At that hearing, the court shall
11 confirm the registered order unless the person contesting
12 registration establishes any of the following:

13 a. That the issuing court did not have jurisdiction under
14 article II.

15 b. That the child-custody determination sought to be
16 registered has been vacated, stayed, or modified by a court
17 having jurisdiction to do so under article II.

18 c. That the person contesting registration was entitled to
19 notice, but notice was not given in accordance with the
20 standards of section 598B.108, in the proceedings before the
21 court that issued the order for which registration is sought.

22 5. If a timely request for a hearing to contest the
23 validity of the registration is not made, the registration is
24 confirmed as a matter of law and the person requesting
25 registration and all persons served must be notified of the
26 confirmation.

27 6. Confirmation of a registered order, whether by
28 operation of law or after notice and hearing, precludes
29 further contest of the order with respect to any matter that
30 could have been asserted at the time of registration.

31 Sec. 28. NEW SECTION. 598B.306 ENFORCEMENT OF REGISTERED
32 DETERMINATION.

33 1. A court of this state may grant any relief normally
34 available under the law of this state to enforce a registered
35 child-custody determination made by a court of another state.

1 2. A court of this state shall recognize and enforce, but
2 shall not modify, except in accordance with article II, a
3 registered child-custody determination of a court of another
4 state.

5 Sec. 29. NEW SECTION. 598B.307 SIMULTANEOUS PROCEEDINGS.

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

15 Sec. 30. NEW SECTION. 598B.308 EXPEDITED ENFORCEMENT OF
16 CHILD-CUSTODY DETERMINATION.

17 1. A petition under this article must be verified.
18 Certified copies of all orders sought to be enforced and of
19 any order confirming registration must be attached to the
20 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 all of the following:

24 a. Whether the court that issued the determination
25 identified the jurisdictional basis it relied upon in
26 exercising jurisdiction and, if so, what the basis was.

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 chapter and, if so,
30 identify the court, the case number, and the nature of the
31 proceeding.

32 c. Whether any proceeding has been commenced that could
33 affect the current proceeding, including proceedings relating
34 to domestic violence, protective orders, termination of
35 parental rights, and adoptions and, if so, identify the court,

1 the case number, and the nature of the proceeding.

2 d. The present physical address of the child and the
3 respondent, if known.

4 e. Whether relief in addition to the immediate physical
5 custody of the child and attorney fees is sought, including a
6 request for assistance from law enforcement officials and, if
7 so, the relief sought.

8 f. If the child-custody determination has been registered
9 and confirmed under section 598B.305, the date and place of
10 registration.

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

20 4. An order issued under subsection 3 must state the time
21 and place of the hearing and advise the respondent that at the
22 hearing the court will order that the petitioner may take
23 immediate physical custody of the child and the payment of
24 fees, costs, and expenses under section 598B.312, and may
25 schedule a hearing to determine whether further relief is
26 appropriate, unless the respondent appears and establishes
27 either of the following:

28 a. The child-custody determination has not been registered
29 and confirmed under section 598B.305 and that all of the
30 following apply:

31 (1) The issuing court did not have jurisdiction under
32 article II.

33 (2) The child-custody determination for which enforcement
34 is sought has been vacated, stayed, or modified by a court
35 having jurisdiction to do so under article II.

1 (3) The respondent was entitled to notice, but notice was
2 not given in accordance with the standards of section
3 598B.108, in the proceedings before the court that issued the
4 order for which enforcement is sought.

5 b. The child-custody determination for which enforcement
6 is sought was registered and confirmed under section 598B.305,
7 but has been vacated, stayed, or modified by a court of a
8 state having jurisdiction to do so under article II.

9 Sec. 31. NEW SECTION. 598B.309 SERVICE OF PETITION AND
10 ORDER.

11 Except as otherwise provided in section 598B.311, the
12 petition and order must be served, by any method authorized by
13 the law of this state, upon respondent and any person who has
14 physical custody of the child.

15 Sec. 32. NEW SECTION. 598B.310 HEARING AND ORDER.

16 1. Unless the court issues a temporary emergency order
17 pursuant to section 598B.204, upon a finding that a petitioner
18 is entitled to immediate physical custody of the child, the
19 court shall order that the petitioner may take immediate
20 physical custody of the child unless the respondent
21 establishes that any of the following applies:

22 a. The child-custody determination has not been registered
23 and confirmed under section 598B.305, and that any of the
24 following applies:

25 (1) The issuing court did not have jurisdiction under
26 article II.

27 (2) The child-custody determination for which enforcement
28 is sought has been vacated, stayed, or modified by a court of
29 a state having jurisdiction to do so under article II.

30 (3) The respondent was entitled to notice, but notice was
31 not given in accordance with the standards of section
32 598B.108, in the proceedings before the court that issued the
33 order for which enforcement is sought.

34 b. The child-custody determination for which enforcement
35 is sought was registered and confirmed under section 598B.305,

1 but has been vacated, stayed, or modified by a court of a
2 state having jurisdiction to do so under article II.

3 2. The court shall award the fees, costs, and expenses
4 authorized under section 598B.312, and may grant additional
5 relief, including a request for the assistance of law
6 enforcement officials, and set a further hearing to determine
7 whether additional relief is appropriate.

8 3. If a party called to testify refuses to answer on the
9 ground that the testimony may be self-incriminating, the court
10 may draw an adverse inference from the refusal.

11 4. A privilege against disclosure of communications
12 between spouses and a defense of immunity based on the
13 relationship of husband and wife or parent and child shall not
14 be invoked in a proceeding under this article.

15 Sec. 33. NEW SECTION. 598B.311 WARRANT TO TAKE PHYSICAL
16 CUSTODY OF CHILD.

17 1. Upon the filing of a petition seeking enforcement of a
18 child-custody determination, the petitioner may file a
19 verified application for the issuance of a warrant to take
20 physical custody of the child if the child is imminently
21 likely to suffer serious physical harm or be removed from this
22 state.

23 2. If the court, upon the testimony of the petitioner or
24 other witness, finds that the child is imminently likely to
25 suffer serious physical harm or be removed from this state, it
26 may issue a warrant to take physical custody of the child.
27 The petition must be heard on the next judicial day after the
28 warrant is executed unless that date is impossible. In that
29 event, the court shall hold the hearing on the first judicial
30 day possible. The application for the warrant must include
31 the statements required by section 598B.308, subsection 2.

32 3. A warrant to take physical custody of a child must
33 provide all of the following:

34 a. Recite the facts upon which a conclusion of imminent
35 serious physical harm or removal from the jurisdiction is

1 based.

2 b. Direct law enforcement officers to take physical
3 custody of the child immediately.

4 c. Provide for the placement of the child pending final
5 relief.

6 4. The respondent must be served with the petition,
7 warrant, and order immediately after the child is taken into
8 physical custody.

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

17 6. The court may impose conditions upon placement of a
18 child to ensure the appearance of the child and the child's
19 custodian.

20 Sec. 34. NEW SECTION. 598B.312 COSTS, FEES, AND
21 EXPENSES.

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

30 2. The court shall not assess fees, costs, or expenses
31 against a state unless authorized by law other than this
32 chapter.

33 Sec. 35. NEW SECTION. 598B.313 RECOGNITION AND
34 ENFORCEMENT.

35 A court of this state shall accord full faith and credit to

1 an order issued by another state and consistent with this
2 chapter which enforces a child-custody determination by a
3 court of another state unless the order has been vacated,
4 stayed, or modified by a court having jurisdiction to do so
5 under article II.

6 Sec. 36. NEW SECTION. 598B.314 APPEALS.

7 An appeal may be taken from a final order in a proceeding
8 under this article in accordance with expedited appellate
9 procedures in other civil cases. Unless the court enters a
10 temporary emergency order under section 598B.204, the
11 enforcing court shall not stay an order enforcing a child-
12 custody determination pending appeal.

13 Sec. 37. NEW SECTION. 598B.315 ROLE OF PROSECUTOR.

14 1. In a case arising under this chapter or involving the
15 Hague convention on the civil aspects of international child
16 abduction, the prosecutor may take any lawful action,
17 including resort to a proceeding under this article or any
18 other available civil proceeding to locate a child, obtain the
19 return of a child, or enforce a child-custody determination if
20 there is any of the following:

21 a. An existing child-custody determination.

22 b. A request to do so from a court in a pending child-
23 custody proceeding.

24 c. A reasonable belief that a criminal statute has been
25 violated.

26 d. A reasonable belief that the child has been wrongfully
27 removed or retained in violation of the Hague convention on
28 the civil aspects of international child abduction.

29 2. A prosecutor acting under this section acts on behalf
30 of the court and shall not represent any party.

31 Sec. 38. NEW SECTION. 598B.316 ROLE OF LAW ENFORCEMENT.

32 At the request of a prosecutor acting under 598B.315, a law
33 enforcement officer may take any lawful action reasonably
34 necessary to locate a child or a party and assist a prosecutor
35 with responsibilities under section 598B.315.

1 Sec. 39. NEW SECTION. 598B.317 COSTS AND EXPENSES.

2 If the respondent is not the prevailing party, the court
3 may assess against the respondent all direct expenses and
4 costs incurred by the prosecutor and law enforcement officers
5 under section 598B.315 or 598B.316.

6 ARTICLE IV
7 MISCELLANEOUS PROVISIONS

8 Sec. 40. NEW SECTION. 598B.401 APPLICATION AND
9 CONSTRUCTION.

10 In applying and construing this uniform Act, consideration
11 must be given to the need to promote uniformity of the law
12 with respect to its subject matter among states that enact it.

13 Sec. 41. NEW SECTION. 598B.402 TRANSITIONAL PROVISION.

14 A motion or other request for relief made in a child-
15 custody proceeding or to enforce a child-custody determination
16 which was commenced before the effective date of this Act, is
17 governed by the law in effect at the time the motion or other
18 request was made.

19 Sec. 42. Section 232.3, subsection 1, Code 1999, is
20 amended to read as follows:

21 1. During the pendency of an action under this chapter, a
22 party to the action is estopped from litigating concurrently
23 the custody, guardianship, or placement of a child who is the
24 subject of the action, in a court other than the juvenile
25 court. A district judge, district associate judge,
26 magistrate, or judicial hospitalization referee, upon notice
27 of the pendency of an action under this chapter, shall not
28 issue an order, finding, or decision relating to the custody,
29 guardianship, or placement of the child who is the subject of
30 the action, under any law, including but not limited to
31 chapter 598, 598A 598B, or 633.

32 Sec. 43. Section 597.15, unnumbered paragraph 1, Code
33 1999, is amended to read as follows:

34 If one spouse abandons the other spouse, the abandoned
35 spouse is entitled to the custody of the minor children,

1 unless the district court, upon application for that purpose,
2 otherwise directs, or unless a custody decree is entered in
3 accordance with chapter 598A 598B. In this section "abandon"
4 does not include:

5 Sec. 44. Section 598.21, subsection 6, Code 1999, is
6 amended to read as follows:

7 6. The court may provide for joint custody of the children
8 by the parties pursuant to section 598.41. All orders
9 relating to custody of a child are subject to chapter 598A
10 598B.

11 Sec. 45. Section 598.21, subsection 8, unnumbered
12 paragraph 2, Code 1999, is amended to read as follows:

13 Unless otherwise provided pursuant to 28 U.S.C. § 1738B, a
14 modification of a support order entered under chapter 234,
15 252A, 252C, 600B, this chapter, or any other support chapter
16 or proceeding between parties to the order is void unless the
17 modification is approved by the court, after proper notice and
18 opportunity to be heard is given to all parties to the order,
19 and entered as an order of the court. If support payments
20 have been assigned to the department of human services
21 pursuant to section 234.39, 239B.6, or 252E.11, or if services
22 are being provided pursuant to chapter 252B, the department is
23 a party to the support order. Modifications of orders
24 pertaining to child custody shall be made pursuant to chapter
25 598A 598B. If the petition for a modification of an order
26 pertaining to child custody asks either for joint custody or
27 that joint custody be modified to an award of sole custody,
28 the modification, if any, shall be made pursuant to section
29 598.41.

30 Sec. 46. Section 602.8102, subsection 85, Code 1999, is
31 amended to read as follows:

32 85. Carry out duties relating to the custody of children
33 as provided in chapter 598A 598B.

34 Sec. 47. Chapter 598A, Code 1999, is repealed.

35

AN ACT

ADOPTING THE UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

ARTICLE I
GENERAL PROVISIONSSection 1. NEW SECTION. 598B.101 SHORT TITLE.

This chapter shall be known and may be cited as the "Uniform Child-custody Jurisdiction and Enforcement Act".

Sec. 2. NEW SECTION. 598B.102 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Abandoned" means left without provision for reasonable and necessary care or supervision.
2. "Child" means an individual who has not attained eighteen years of age.
3. "Child-custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, initial, and modification order. The term does not include an order relating to child support or other monetary obligation of an individual.
4. "Child-custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for dissolution of marriage, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or

enforcement under article III.

5. "Commencement" means the filing of the first pleading in a proceeding.

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

7. "Home state" means the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child-custody proceeding. In the case of a child less than six months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.

8. "Initial determination" means the first child-custody determination concerning a particular child.

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

10. "Issuing state" means the state in which a child-custody determination is made.

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

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

13. "Person acting as a parent" means a person, other than a parent, to whom both of the following apply:

- a. The person has physical custody of the child or has had physical custody for a period of six consecutive months,

including any temporary absence, within one year immediately before the commencement of a child-custody proceeding.

b. The person has been awarded legal custody by a court or claims a right to legal custody under the law of this state.

14. "Physical custody" means the physical care and supervision of a child.

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

16. "Tribe" means an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a state.

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

Sec. 3. NEW SECTION. 598B.103 PROCEEDINGS GOVERNED BY OTHER LAW.

This chapter does not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

Sec. 4. NEW SECTION. 598B.104 APPLICATION TO INDIAN TRIBES.

1. A child-custody proceeding that pertains to an Indian child as defined in the federal Indian Child Welfare Act, 25 U.S.C. § 1901 et seq., is not subject to this chapter to the extent that it is governed by the federal Indian Child Welfare Act.

2. A court of this state shall treat a tribe as if it were a state of the United States for the purpose of applying this article and article II.

3. A child-custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this chapter must be recognized and enforced under article III.

Sec. 5. NEW SECTION. 598B.105 INTERNATIONAL APPLICATION.

1. A court of this state shall treat a foreign country as if it were a state of the United States for the purpose of applying this article and article II.

2. Except as otherwise provided in subsection 3, a child-custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this chapter must be recognized and enforced under article III.

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

Sec. 6. NEW SECTION. 598B.106 EFFECT OF CHILD-CUSTODY DETERMINATION.

A child-custody determination made by a court of this state that had jurisdiction under this chapter binds all persons who have been served in accordance with the laws of this state, or notified in accordance with section 598B.108, or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to those persons, the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified.

Sec. 7. NEW SECTION. 598B.107 PRIORITY.

If a question of existence or exercise of jurisdiction under this chapter is raised in a child-custody proceeding, the question, upon request of a party, must be given priority on the calendar and handled expeditiously.

Sec. 8. NEW SECTION. 598B.108 NOTICE TO PERSONS OUTSIDE STATE.

1. Notice required for the exercise of jurisdiction when a person is outside this state may be given in a manner prescribed by the law of this state for service of process or by the law of the state in which the service is made. Notice shall be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

2. Proof of service may be made in the manner prescribed by the law of this state or by the law of the state in which the service is made.

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

Sec. 9. NEW SECTION. 598B.109 APPEARANCE AND LIMITED IMMUNITY.

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

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

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

Sec. 10. NEW SECTION. 598B.110 COMMUNICATION BETWEEN COURTS.

1. A court of this state may communicate with a court in another state concerning a proceeding arising under this chapter.

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

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

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

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

Sec. 11. NEW SECTION. 598B.111 TAKING TESTIMONY IN ANOTHER STATE.

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

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

3. Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing shall not be excluded from evidence on an objection based on the means of transmission.

Sec. 12. NEW SECTION. 598B.112 COOPERATION BETWEEN COURTS -- PRESERVATION OF RECORDS.

1. A court of this state may request the appropriate court of another state to do any or all of the following:

- a. Hold an evidentiary hearing.
- b. Order a person to produce or give evidence pursuant to procedures of that state.
- c. Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding.
- d. Forward to the court of this state a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request.

e. Order a party to a child-custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

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

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

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

ARTICLE II
JURISDICTION

Sec. 13. NEW SECTION. 598B.201 INITIAL CHILD-CUSTODY JURISDICTION.

1. Except as otherwise provided in section 598B.204, a court of this state has jurisdiction to make an initial child-custody determination only if any of the following applies:

a. This state is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state.

b. A court of another state does not have jurisdiction under paragraph "a", or a court of the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under section 598B.207 or 598B.208 and both of the following apply:

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

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

c. All courts having jurisdiction under paragraph "a" or "b" have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the child under section 598B.207 or 598B.208.

d. No court of any other state would have jurisdiction under the criteria specified in paragraph "a", "b", or "c".

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

3. Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child-custody determination.

Sec. 14. NEW SECTION. 598B.202 EXCLUSIVE, CONTINUING JURISDICTION.

1. Except as otherwise provided in section 598B.204, a court of this state which has made a child-custody determination consistent with section 598B.201 or 598B.203 has

exclusive, continuing jurisdiction over the determination until any of the following occurs:

a. A court of this state determines that the child does not have, the child and one parent do not have, or the child and a person acting as a parent do not have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child's care, protection, training, and personal relationships.

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

2. A court of this state which has made a child-custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under section 598B.201.

Sec. 15. NEW SECTION. 598B.203 JURISDICTION TO MODIFY DETERMINATION.

Except as otherwise provided in section 598B.204, a court of this state shall not modify a child-custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under section 598B.201, subsection 1, paragraph "a" or "b", and either of the following applies:

1. The court of the other state determines it no longer has exclusive, continuing jurisdiction under section 598B.202 or that a court of this state would be a more convenient forum under section 598B.207.

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

Sec. 16. NEW SECTION. 598B.204 TEMPORARY EMERGENCY JURISDICTION.

1. A court of this state has temporary emergency jurisdiction if the child is present in this state and the

child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

2. If there is no previous child-custody determination that is entitled to be enforced under this chapter and a child-custody proceeding has not been commenced in a court of a state having jurisdiction under sections 598B.201 through 598B.203, a child-custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under sections 598B.201 through 598B.203. If a child-custody proceeding has not been or is not commenced in a court of a state having jurisdiction under sections 598B.201 through 598B.203, a child-custody determination made under this section becomes a final determination, if it so provides and this state becomes the home state of the child.

3. If there is a previous child-custody determination that is entitled to be enforced under this chapter, or a child-custody proceeding has been commenced in a court of a state having jurisdiction under sections 598B.201 through 598B.203, any order issued by a court of this state under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under sections 598B.201 through 598B.203. The order issued in this state remains in effect until an order is obtained from the other state within the period specified or the period expires.

4. A court of this state which has been asked to make a child-custody determination under this section, upon being informed that a child-custody proceeding has been commenced in, or a child-custody determination has been made by, a court of a state having jurisdiction under sections 598B.201 through 598B.203, shall immediately communicate with the other court. A court of this state which is exercising jurisdiction

pursuant to sections 598B.201 through 598B.203, upon being informed that a child-custody proceeding has been commenced in, or a child-custody determination has been made by, a court or another state under a statute similar to this section shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

Sec. 17. NEW SECTION. 598B.205 NOTICE -- OPPORTUNITY TO BE HEARD -- JOINDER.

1. Before a child-custody determination is made under this chapter, notice and an opportunity to be heard in accordance with the standards of section 598B.108 must be given to all persons entitled to notice under the law of this state as in child-custody proceedings between residents of this state, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

2. This chapter does not govern the enforceability of a child-custody determination made without notice or an opportunity to be heard.

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

Sec. 18. NEW SECTION. 598B.206 SIMULTANEOUS PROCEEDINGS.

1. Except as otherwise provided in section 598B.204, a court of this state shall not exercise its jurisdiction under this article if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with this chapter, unless the proceeding has been terminated or is stayed by the court of the other state because a court of this state is a more convenient forum under section 598B.207.

2. Except as otherwise provided in section 598B.204, a court of this state, before hearing a child-custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to section 598B.209. If the court determines that a child-custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with this chapter, the court of this state shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with this chapter does not determine that the court of this state is a more appropriate forum, the court of this state shall dismiss the proceeding.

3. In a proceeding to modify a child-custody determination, a court of this state shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child-custody determination has been commenced in another state, the court may do any of the following:

a. Stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement.

b. Enjoin the parties from continuing with the proceeding for enforcement.

c. Proceed with the modification under conditions it considers appropriate.

Sec. 19. NEW SECTION. 598B.207 INCONVENIENT FORUM.

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

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

a. Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child.

b. The length of time the child has resided outside this state.

c. The distance between the court in this state and the court in the state that would assume jurisdiction.

d. The relative financial circumstances of the parties.

e. Any agreement of the parties as to which state should assume jurisdiction.

f. The nature and location of the evidence required to resolve the pending litigation, including testimony of the child.

g. The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence.

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

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

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

Sec. 20. NEW SECTION. 598B.208 JURISDICTION DECLINED BY REASON OF CONDUCT.

1. Except as otherwise provided in section 598B.204 or by any other law of this state, if a court of this state has jurisdiction under this chapter because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless any of the following applies:

a. The parents and all persons acting as parents have acquiesced in the exercise of jurisdiction.

b. A court of the state otherwise having jurisdiction under sections 598B.201 through 598B.203 determines that this state is a more appropriate forum under section 598B.207.

c. No court of any other state would have jurisdiction under the criteria specified in sections 598B.201 through 598B.203.

2. If a court of this state declines to exercise its jurisdiction pursuant to subsection 1, it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child-custody proceeding is commenced in a court having jurisdiction under sections 598B.201 through 598B.203.

3. If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection 1, it shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses including costs, communication expenses, attorney fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court shall not assess fees, costs, or expenses against this state unless authorized by law other than this chapter.

Sec. 21. NEW SECTION. 598B.209 INFORMATION TO BE SUBMITTED TO COURT.

1. In a child-custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the last five years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit must state whether the party has or knows all of the following:

a. Has participated, as a party or a witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, identify the court, the case number, and the date of the child-custody determination, if any.

b. Knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding.

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

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

3. If the declaration as to any of the items described in subsection 1, paragraphs "a" through "c", is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information

furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

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

5. Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, the court shall order that the address of the party or child or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this chapter.

Sec. 22. NEW SECTION. 598B.210 APPEARANCE OF PARTIES AND CHILD.

1. In a child-custody proceeding in this state, the court may order a party to the proceeding who is in this state to appear before the court in person with or without the child. The court may order any person who is in this state and who has physical custody or control of the child to appear in person with the child.

2. If a party to a child-custody proceeding whose presence is desired by the court is outside this state, the court may order that a notice given pursuant to section 598B.108 include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party.

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

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

ARTICLE III
ENFORCEMENT

Sec. 23. NEW SECTION. 598B.301 DEFINITIONS.

As used in this article, unless the context otherwise requires:

1. "Petitioner" means a person who seeks enforcement of an order for return of a child under the Hague convention on the civil aspects of international child abduction or enforcement of a child-custody determination.

2. "Respondent" means a person against whom a proceeding has been commenced for enforcement of an order for return of a child under the Hague convention on the civil aspects of international child abduction or enforcement of a child-custody determination.

Sec. 24. NEW SECTION. 598B.302 ENFORCEMENT UNDER HAGUE CONVENTION.

Under this article, a court of this state may enforce an order for the return of the child made under the Hague convention on the civil aspects of international child abduction as if it were a child-custody determination.

Sec. 25. NEW SECTION. 598B.303 DUTY TO ENFORCE.

1. A court of this state shall recognize and enforce a child-custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with this chapter or the determination was made under factual circumstances meeting the jurisdictional standards of this chapter and the determination has not been modified in accordance with this chapter.

2. A court of this state may utilize any remedy available under other law of this state to enforce a child-custody determination made by a court of another state. The remedies provided in this article are cumulative and do not affect the availability of other remedies to enforce a child-custody determination.

Sec. 26. NEW SECTION. 598B.304 TEMPORARY VISITATION.

1. A court of this state which does not have jurisdiction to modify a child-custody determination, may issue a temporary order enforcing any of the following:

a. A visitation schedule made by a court of another state.
b. The visitation provisions of a child-custody determination of another state that does not provide for a specific visitation schedule.

2. If a court of this state makes an order under subsection 1, paragraph "b", it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in article II. The order remains in effect until an order is obtained from the other court or the period expires.

Sec. 27. NEW SECTION. 598B.305 REGISTRATION OF CHILD-CUSTODY DETERMINATION.

1. A child-custody determination issued by a court of another state may be registered in this state, with or without a simultaneous request for enforcement, by sending to the district court in this state all of the following:

a. A letter or other document requesting registration.
b. Two copies, including one certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified.

c. Except as otherwise provided in section 598B.209, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child-custody determination sought to be registered.

2. On receipt of the documents required by subsection 1, the registering court shall do all of the following:

a. Cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form.

b. Serve notice upon the persons named pursuant to subsection 1, paragraph "c", and provide them with an opportunity to contest the registration in accordance with this section.

3. The notice required by subsection 2, paragraph "b", must state all of the following:

a. That a registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this state.

b. That a hearing to contest the validity of the registered determination must be requested within twenty days after service of notice.

c. That failure to contest the registration will result in confirmation of the child-custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

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

a. That the issuing court did not have jurisdiction under article II.

b. That the child-custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under article II.

c. That the person contesting registration was entitled to notice, but notice was not given in accordance with the standards of section 598B.108, in the proceedings before the court that issued the order for which registration is sought.

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

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

Sec. 28. NEW SECTION. 598B.306 ENFORCEMENT OF REGISTERED DETERMINATION.

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

2. A court of this state shall recognize and enforce, but shall not modify, except in accordance with article II, a registered child-custody determination of a court of another state.

Sec. 29. NEW SECTION. 598B.307 SIMULTANEOUS PROCEEDINGS.

If a proceeding for enforcement under this article is commenced in a court of this state and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under article II, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

Sec. 30. NEW SECTION. 598B.308 EXPEDITED ENFORCEMENT OF CHILD-CUSTODY DETERMINATION.

1. A petition under this article must be verified. Certified copies of all orders sought to be enforced and of any order confirming registration must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

2. A petition for enforcement of a child-custody determination must state all of the following:

a. Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was.

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

c. Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding.

d. The present physical address of the child and the respondent, if known.

e. Whether relief in addition to the immediate physical custody of the child and attorney fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought.

f. If the child-custody determination has been registered and confirmed under section 598B.305, the date and place of registration.

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

4. An order issued under subsection 3 must state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under section 598B.312, and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes either of the following:

a. The child-custody determination has not been registered and confirmed under section 598B.305 and that all of the following apply:

(1) The issuing court did not have jurisdiction under article II.

(2) The child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under article II.

(3) The respondent was entitled to notice, but notice was not given in accordance with the standards of section 598B.108, in the proceedings before the court that issued the order for which enforcement is sought.

b. The child-custody determination for which enforcement is sought was registered and confirmed under section 598B.305, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under article II.

Sec. 31. NEW SECTION. 598B.309 SERVICE OF PETITION AND ORDER.

Except as otherwise provided in section 598B.311, the petition and order must be served, by any method authorized by the law of this state, upon respondent and any person who has physical custody of the child.

Sec. 32. NEW SECTION. 598B.310 HEARING AND ORDER.

1. Unless the court issues a temporary emergency order pursuant to section 598B.204, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that any of the following applies:

a. The child-custody determination has not been registered and confirmed under section 598B.305, and that any of the following applies:

(1) The issuing court did not have jurisdiction under article II.

(2) The child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under article II.

(3) The respondent was entitled to notice, but notice was not given in accordance with the standards of section 598B.108, in the proceedings before the court that issued the order for which enforcement is sought.

b. The child-custody determination for which enforcement is sought was registered and confirmed under section 598B.305, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under article II.

2. The court shall award the fees, costs, and expenses authorized under section 598B.312, and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

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

4. A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child shall not be invoked in a proceeding under this article.

Sec. 33. NEW SECTION. 598B.311 WARRANT TO TAKE PHYSICAL CUSTODY OF CHILD.

1. Upon the filing of a petition seeking enforcement of a child-custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is imminently likely to suffer serious physical harm or be removed from this state.

2. If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from this state, it may issue a warrant to take physical custody of the child.

The petition must be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by section 598B.308, subsection 2.

3. A warrant to take physical custody of a child must provide all of the following:

a. Recite the facts upon which a conclusion of imminent serious physical harm or removal from the jurisdiction is based.

b. Direct law enforcement officers to take physical custody of the child immediately.

c. Provide for the placement of the child pending final relief.

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

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

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

Sec. 34. NEW SECTION. 598B.312 COSTS, FEES, AND EXPENSES.

1. The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the

proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

2. The court shall not assess fees, costs, or expenses against a state unless authorized by law other than this chapter.

Sec. 35. NEW SECTION. 598B.313 RECOGNITION AND ENFORCEMENT.

A court of this state shall accord full faith and credit to an order issued by another state and consistent with this chapter which enforces a child-custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under article II.

Sec. 36. NEW SECTION. 598B.314 APPEALS.

An appeal may be taken from a final order in a proceeding under this article in accordance with expedited appellate procedures in other civil cases. Unless the court enters a temporary emergency order under section 598B.204, the enforcing court shall not stay an order enforcing a child-custody determination pending appeal.

Sec. 37. NEW SECTION. 598B.315 ROLE OF PROSECUTOR.

1. In a case arising under this chapter or involving the Hague convention on the civil aspects of international child abduction, the prosecutor may take any lawful action, including resort to a proceeding under this article or any other available civil proceeding to locate a child, obtain the return of a child, or enforce a child-custody determination if there is any of the following:

- a. An existing child-custody determination.
- b. A request to do so from a court in a pending child-custody proceeding.
- c. A reasonable belief that a criminal statute has been violated.

d. A reasonable belief that the child has been wrongfully removed or retained in violation of the Hague convention on the civil aspects of international child abduction.

2. A prosecutor acting under this section acts on behalf of the court and shall not represent any party.

Sec. 38. NEW SECTION. 598B.316 ROLE OF LAW ENFORCEMENT.

At the request of a prosecutor acting under 598B.315, a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and assist a prosecutor with responsibilities under section 598B.315.

Sec. 39. NEW SECTION. 598B.317 COSTS AND EXPENSES.

If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the prosecutor and law enforcement officers under section 598B.315 or 598B.316.

ARTICLE IV

MISCELLANEOUS PROVISIONS

Sec. 40. NEW SECTION. 598B.401 APPLICATION AND CONSTRUCTION.

In applying and construing this uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Sec. 41. NEW SECTION. 598B.402 TRANSITIONAL PROVISION.

A motion or other request for relief made in a child-custody proceeding or to enforce a child-custody determination which was commenced before the effective date of this Act, is governed by the law in effect at the time the motion or other request was made.

Sec. 42. Section 232.3, subsection 1, Code 1999, is amended to read as follows:

1. During the pendency of an action under this chapter, a party to the action is estopped from litigating concurrently the custody, guardianship, or placement of a child who is the subject of the action, in a court other than the juvenile court. A district judge, district associate judge,

magistrate, or judicial hospitalization referee, upon notice of the pendency of an action under this chapter, shall not issue an order, finding, or decision relating to the custody, guardianship; or placement of the child who is the subject of the action, under any law, including but not limited to chapter 598, 598A 598B, or 633.

Sec. 43. Section 597.15, unnumbered paragraph 1, Code 1999, is amended to read as follows:

If one spouse abandons the other spouse, the abandoned spouse is entitled to the custody of the minor children, unless the district court, upon application for that purpose, otherwise directs, or unless a custody decree is entered in accordance with chapter 598A 598B. In this section "abandon" does not include:

Sec. 44. Section 598.21, subsection 6, Code 1999, is amended to read as follows:

6. The court may provide for joint custody of the children by the parties pursuant to section 598.41. All orders relating to custody of a child are subject to chapter 598A 598B.

Sec. 45. Section 598.21, subsection 8, unnumbered paragraph 2, Code 1999, is amended to read as follows:

Unless otherwise provided pursuant to 28 U.S.C. § 1738B, a modification of a support order entered under chapter 234, 252A, 252C, 600B, this chapter, or any other support chapter or proceeding between parties to the order is void unless the modification is approved by the court, after proper notice and opportunity to be heard is given to all parties to the order, and entered as an order of the court. If support payments have been assigned to the department of human services pursuant to section 234.39, 239B.6, or 252E.11, or if services are being provided pursuant to chapter 252B, the department is a party to the support order. Modifications of orders pertaining to child custody shall be made pursuant to chapter 598A 598B. If the petition for a modification of an order

pertaining to child custody asks either for joint custody or that joint custody be modified to an award of sole custody, the modification, if any, shall be made pursuant to section 598.41.

Sec. 46. Section 602.8102, subsection 85, Code 1999, is amended to read as follows:

85. Carry out duties relating to the custody of children as provided in chapter 598A 598B.

Sec. 47. Chapter 598A, Code 1999, is repealed.

MARY E. KRAMER
President of the Senate

BRENT SIEGRIST
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 367, Seventy-eighth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved  1999

THOMAS J. VILSACK
Governor