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SENATE FILE 367  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 129)

Passed Senate, <sup>(p.646)</sup> Date 3-16-99 Passed House, <sup>(p.1518)</sup> 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

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, 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.

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MARY E. KRAMER  
President of the Senate

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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.

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MICHAEL E. MARSHALL  
Secretary of the Senate

Approved  1999

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THOMAS J. VILSACK  
Governor