

UNIFORM CHILD-CUSTODY JURISDICTION AND ENFORCEMENT ACT (EXCERPT)
Act 195 of 2001
Article 3
ENFORCEMENT

722.1301 “Petitioner” and “respondent” defined.

Sec. 301.

As used in this article:

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

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

History: 2001, Act 195, Eff. Apr. 1, 2002

722.1302 Enforcement; temporary order.

Sec. 302.

(1) This article may be invoked to enforce 1 or both of the following:

(a) A child-custody determination.

(b) An order for the return of a child made under the Hague convention on the civil aspects of international child abduction.

(2) A court of this state that does not have jurisdiction to modify a child-custody determination may issue a temporary order enforcing either of the following:

(a) A parenting time schedule made by a court of another state.

(b) The parenting time provisions of a child-custody determination of another state that does not provide for a specific parenting time schedule.

(3) If a court of this state makes an order under subsection (2)(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 2. The order remains in effect until an order is obtained from the other court or the period expires.

History: 2001, Act 195, Eff. Apr. 1, 2002

722.1303 Child custody determination by out-of-state court; enforcement; remedy.

Sec. 303.

(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 that was in substantial conformity with this act or the child-custody determination was made under factual circumstances meeting the jurisdictional standards of this act and the child-custody determination has not been modified in accordance with this act.

(2) A court of this state may utilize a remedy available under another law of this state to enforce a child-custody determination made by a court of another state. The procedure provided by this article does not affect the availability of other remedies to enforce a child-custody determination.

History: 2001, Act 195, Eff. Apr. 1, 2002

722.1304 Registered child-custody determination; requirements.

Sec. 304.

(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 all of the following to the circuit court in this state:

(a) A letter or other document requesting registration.

(b) Two copies, including 1 certified copy, of the child-custody 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 child-custody determination has not been modified.

(c) Except as otherwise provided in section 209, the name and address of the person seeking registration and of each parent or person acting as a parent who has been awarded custody or parenting time in the child-custody determination sought to be registered.

(2) On receipt of the documents required by subsection (1), the registering court shall do both of the following:

(a) Cause the child-custody determination to be filed as a foreign judgment, together with 1 copy of any accompanying documents and information, regardless of form.

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

(3) The notice required by subsection (2)(b) must state all of the following:

(a) A registered child-custody determination is enforceable as of the date of the registration in the same manner as a child-custody determination issued by a court of this state.

(b) A hearing to contest the validity of the registered child-custody determination must be requested within 21 days after service of notice.

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

(4) A person seeking to contest the validity of a registered child-custody determination must request a hearing within 21 days after service of the notice under subsection (2). At that hearing, the court shall confirm the registered child-custody determination unless the person contesting registration establishes 1 of the following:

(a) The issuing court did not have jurisdiction under article 2.

(b) The child-custody determination sought to be registered has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under article 2.

(c) The person contesting registration was entitled to notice in the proceedings before the court that issued the child-custody determination for which registration is sought, but notice of those proceedings was not given in accordance with the standards of section 108.

(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 each person served must be notified of the confirmation.

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

History: 2001, Act 195, Eff. Apr. 1, 2002

722.1305 Registered child-custody determination; enforcement.

Sec. 305.

(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 2, a registered child-custody determination of another state.

History: 2001, Act 195, Eff. Apr. 1, 2002

722.1306 Commencement of in-state enforcement proceeding; out-of-state modification proceeding; communication of enforcing court with modifying court.

Sec. 306.

If a proceeding for enforcement under this article is commenced in this state and a court of this state determines that a proceeding to modify the child-custody determination has been commenced in another state having jurisdiction to modify the child-custody determination under article 2, 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.

History: 2001, Act 195, Eff. Apr. 1, 2002

722.1307 Petition for enforcement of child-custody determination; contents; filing; hearing.

Sec. 307.

(1) A petition under this article must be verified. A certified copy of a child-custody determination sought to be enforced and of the order confirming registration, if any, 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 child-custody determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was.

(b) Whether the child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this act or federal law and, if so, identify the court, the case number of the proceeding, and the action taken.

(c) Whether a proceeding has been commenced that could affect the current proceeding, including a proceeding relating to domestic violence, a protective order, termination of parental rights, or adoption and, if so, identify the court and the case number and 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 304, the date and place of registration.

(3) Upon the filing of a petition under this article, the court shall issue an order directing the respondent to appear 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 court shall hold the hearing 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 must advise the respondent that at the hearing the court will order the delivery of the child and the payment of fees, costs, and expenses under section 311, and may schedule an additional 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 304 and 1 or more of the following:

(i) The issuing court did not have jurisdiction under article 2.

(ii) 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 2 or federal law.

(iii) The respondent was entitled to notice, but notice was not given in accordance with the standards of section 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 304, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under article 2 or federal law.

History: 2001, Act 195, Eff. Apr. 1, 2002

722.1308 Petition and order; service.

Sec. 308.

Except as otherwise provided in section 310, the petition and order must be served, by a method authorized by the law of this state, upon respondent and any person who has physical custody of the child.

History: 2001, Act 195, Eff. Apr. 1, 2002

722.1309 Delivery of child to petitioner; grounds for exception; expenses; additional relief; refusal to testify; inference; privilege against disclosure.

Sec. 309.

(1) Unless the court issues a temporary emergency order as provided in section 204, upon a finding that a petitioner is immediately entitled to the physical custody of the child, the court shall order the child delivered to the petitioner unless the respondent establishes either of the following:

(a) The child-custody determination has not been registered and confirmed under section 304 and 1 or more of the following:

(i) The issuing court did not have jurisdiction under article 2.

(ii) 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 2 or federal law.

(iii) The respondent was entitled to notice, but notice was not given in accordance with the standards of section 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 304, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under article 2 or federal law.

(2) The court shall award the fees, costs, and expenses authorized under section 311 and may grant additional relief, including a request for the assistance of law enforcement officials, and schedule a further hearing to determine whether additional relief is appropriate.

(3) If a party called to testify refuses to answer on the grounds 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 cannot be invoked in a proceeding under this article.

History: 2001, Act 195, Eff. Apr. 1, 2002

722.1310 Warrant to take physical custody of child.

Sec. 310.

(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 likely to suffer serious imminent 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 likely to suffer serious imminent physical harm or be imminently removed from this state, the court may issue a warrant to take physical custody of the child. The court shall hold a hearing on the petition on the next judicial day after the warrant is executed. A warrant issued under this section must include the statements required in an enforcement petition by

section 307.

(3) A warrant to take physical custody of a child must include at least the following:

(a) A recitation of the facts upon which a conclusion of serious imminent physical harm or imminent removal from the jurisdiction is based.

(b) An order directing law enforcement officers to take physical custody of the child immediately.

(c) Provisions 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 another witness that a less intrusive remedy is not effective, the court may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances, 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.

History: 2001, Act 195, Eff. Apr. 1, 2002

722.1311 Assessment of expenses.

Sec. 311.

(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, witness expenses, travel expenses, and child care expenses 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 except as otherwise provided by law other than this act.

History: 2001, Act 195, Eff. Apr. 1, 2002

722.1312 Full faith and credit.

Sec. 312.

A court of this state shall accord full faith and credit to an order issued by another state and consistent with this act that 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 2.

History: 2001, Act 195, Eff. Apr. 1, 2002

722.1313 Appeal.

Sec. 313.

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 204, the enforcing court may not stay an order enforcing a child-custody determination pending appeal.

History: 2001, Act 195, Eff. Apr. 1, 2002

722.1314 International child abduction; actions by prosecutor or attorney general.

Sec. 314.

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

- (a) An existing child-custody determination.
- (b) A request 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 or the attorney general acting under this section acts on behalf of the court and shall not represent a party to a child-custody determination.

History: 2001, Act 195, Eff. Apr. 1, 2002

722.1315 Actions by law enforcement officer.

Sec. 315.

At the request of a prosecutor or the attorney general acting under section 314, a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and to assist the prosecutor or attorney general with responsibilities under section 314.

History: 2001, Act 195, Eff. Apr. 1, 2002

722.1316 Expenses of prosecutor or attorney general and law enforcement officers; assessment against respondent.

Sec. 316.

If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the prosecutor or attorney general and law enforcement officers under section 314 or 315.

History: 2001, Act 195, Eff. Apr. 1, 2002