

UNIFORM CHILD-CUSTODY JURISDICTION AND ENFORCEMENT ACT (EXCERPT)

Act 195 of 2001

Article 1

GENERAL PROVISIONS

722.1101 Short title.

Sec. 101.

This act shall be known and may be cited as the "uniform child-custody jurisdiction and enforcement act".

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

722.1102 Definitions.

Sec. 102.

As used in this act:

- (a) "Abandoned" means left without provision for reasonable and necessary care or supervision.
- (b) "Child" means an individual who is younger than 18 years of age.
- (c) "Child-custody determination" means a judgment, decree, or other court order providing for legal custody, physical custody, or parenting time with respect to a child. Child-custody determination includes a permanent, temporary, initial, and modification order. Child-custody determination does not include an order relating to child support or other monetary obligation of an individual.
- (d) "Child-custody proceeding" means a proceeding in which legal custody, physical custody, or parenting time with respect to a child is an issue. Child-custody proceeding includes a proceeding for divorce, separate maintenance, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. Child-custody proceeding does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under article 3.
- (e) "Commencement" means the filing of the first pleading in a proceeding.
- (f) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child-custody determination.
- (g) "Home state" means the state in which a child lived with a parent or a person acting as a parent for at least 6 consecutive months immediately before the commencement of a child-custody proceeding. In the case of a child less than 6 months of age, the term means the state in which the child lived from birth with a parent or person acting as a parent. A period of temporary absence of a parent or person acting as a parent is included as part of the period.
- (h) "Initial determination" means the first child-custody determination concerning a particular child.
- (i) "Issuing court" means the court that makes a child-custody determination for which enforcement is sought under this act.
- (j) "Issuing state" means the state in which a child-custody determination is made.
- (k) "Modification" means a child-custody determination that changes, replaces, supersedes, or is otherwise made after a previous child-custody determination concerning the same child, whether or not it is made by the court that made the previous child-custody determination.
- (l) "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.
- (m) "Person acting as a parent" means a person, other than a parent, who meets both of the following criteria:
 - (i) Has physical custody of the child or has had physical custody for a period of 6 consecutive months, including a temporary absence, within 1 year immediately before the commencement of a child-custody proceeding.
 - (ii) Has been awarded legal custody by a court or claims a right to legal custody under the law of this state.
- (n) "Physical custody" means the physical care and supervision of a child.
- (o) "Register" means to comply with the procedures of section 304 to make a child-custody determination enforceable in this state.
- (p) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or a territory or insular possession subject to the jurisdiction of the United States.
- (q) "Tribe" means an Indian tribe or band, or Alaskan native village, that is recognized by federal law or formally

acknowledged by a state.

(r) "Warrant" means a court order authorizing a law enforcement officer to take physical custody of a child.

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

722.1103 Scope of act; limitation.

Sec. 103.

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

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

722.1104 Proceeding pertaining to Indian child.

Sec. 104.

(1) A child-custody proceeding that pertains to an Indian child as defined in the Indian child welfare act of 1978, Public Law 95-608, 25 U.S.C. 1901 to 1903, 1911 to 1923, 1931 to 1934, 1951 to 1952, and 1961 to 1963, is not subject to this act to the extent that the proceeding is governed by the Indian child welfare act of 1978, Public Law 95-608, 25 U.S.C. 1901 to 1903, 1911 to 1923, 1931 to 1934, 1951 to 1952, and 1961 to 1963.

(2) A court of this state shall treat a tribe as a state of the United States for the purposes of articles 1 and 2.

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

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

722.1105 Child-custody law or determination of foreign country.

Sec. 105.

(1) A court of this state shall treat a foreign country as a state of the United States for the purposes of applying articles 1 and 2.

(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 act must be recognized and enforced under article 3.

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

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

722.1106 Child-custody determination of this state.

Sec. 106.

A child-custody determination made by a court of this state that had jurisdiction under this act binds all persons who have been served in accordance with the laws of this state or notified in accordance with section 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 child-custody determination is conclusive as to all decided issues of law and fact except to the extent the child-custody determination is modified.

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

722.1107 Jurisdiction; question; priority.

Sec. 107.

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

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

722.1108 Notice; manner; proof of service; notice not required.

Sec. 108.

(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 must 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.

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

722.1109 Personal jurisdiction.

Sec. 109.

(1) A party to a child-custody proceeding who is not subject to personal jurisdiction in this state and is a responding party under article 2, a party in a proceeding to modify a child-custody determination under article 2, or a petitioner in a proceeding to enforce or register a child-custody determination under article 3 may appear and participate in the proceeding without submitting to personal jurisdiction over the party for another proceeding or purpose.

(2) A party is not subject to personal jurisdiction in this state solely by being physically present for the purpose of participating in a proceeding under this act. If a party is subject to personal jurisdiction in this state on a basis other than physical presence, the party may be served with process in this state. If a party present in this state is subject to the jurisdiction of another state, service of process allowable under the law of that state may be accomplished in this 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 act committed by an individual while present in this state.

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

722.1110 Communication between states; participation of parties; “record” defined.

Sec. 110.

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

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

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

(4) Except as 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. Record includes each of the following:

(a) Notes or transcripts of a court reporter who listened to a conference call between the courts.

(b) An electronic recording of a telephone call.

(c) A memorandum or electronic record of a communication between the courts.

(d) A memorandum or electronic record of a communication between the courts that a court makes after the communication.

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

722.1111 Testimony.

Sec. 111.

(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 a 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 may not be excluded from evidence on an objection based on the means of transmission.

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

722.1112 Request to out-of-state court; expenses; preserving and forwarding records.

Sec. 112.

(1) A court of this state may request the appropriate court of another state to do any of the following:

(a) Hold an evidentiary hearing.

(b) Order a person to produce or give evidence under 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 an evaluation prepared in compliance with the request.
- (e) Order a party to a child-custody proceeding or a 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 subsection (1) or (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 18 years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of these records.

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