

UNIFORM CHILD-CUSTODY JURISDICTION AND ENFORCEMENT ACT (EXCERPT)
Act 195 of 2001
Article 2
JURISDICTION

722.1201 Initial child-custody determination; jurisdiction.

Sec. 201.

(1) Except as otherwise provided in section 204, a court of this state has jurisdiction to make an initial child-custody determination only in the following situations:

(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 6 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 subdivision (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 207 or 208, and the court finds both of the following:

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

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

(c) All courts having jurisdiction under subdivision (a) or (b) have declined to exercise jurisdiction on the grounds that a court of this state is the more appropriate forum to determine the custody of the child under section 207 or 208.

(d) No court of another state would have jurisdiction under subdivision (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 neither necessary nor sufficient to make a child-custody determination.

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

722.1202 Exclusive, continuing jurisdiction; condition; determination to decline jurisdiction; modification of child-custody determination.

Sec. 202.

(1) Except as otherwise provided in section 204, a court of this state that has made a child-custody determination consistent with section 201 or 203 has exclusive, continuing jurisdiction over the child-custody determination until either of the following occurs:

(a) A court of this state determines that neither the child, nor the child and 1 parent, nor the child and a person acting as a parent 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 neither the child, nor a parent of the child, nor a person acting as the child's parent presently resides in this state.

(2) A court of this state that has exclusive, continuing jurisdiction under this section may decline to exercise its jurisdiction if the court determines that it is an inconvenient forum under section 207.

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

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

722.1203 Modification of out-of-state child-custody determination; requirements.

Sec. 203.

Except as otherwise provided in section 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 child-custody determination under section 201(1)(a) or (b) and either of the following applies:

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

(b) A court of this state or a court of the other state determines that neither the child, nor a parent of the child, nor a person acting as a parent presently resides in the other state.

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

722.1204 Temporary emergency jurisdiction; communication with out-of-state court; duration of order.

Sec. 204.

(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 act and if a child-custody proceeding has not been commenced in a court of a state having jurisdiction under sections 201 to 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 201 to 203. If a child-custody proceeding has not been or is not commenced in a court of a state having jurisdiction under sections 201 to 203, a child-custody determination made under this section becomes a final child-custody determination, if that is what the determination 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 act or if a child-custody proceeding has been commenced in a court of a state having jurisdiction under sections 201 to 203, an order issued by a court of this state under this section must specify in the order a period of time that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under sections 201 to 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) If a court of this state that has been asked to make a child-custody determination under this section is informed that a child-custody proceeding has been commenced in, or that a child-custody determination has been made by, a court of a state having jurisdiction under sections 201 to 203, the court of this state shall immediately communicate with the other court. If a court of this state that is exercising jurisdiction under sections 201 to 203 is informed that a child-custody proceeding has been commenced in, or a child-custody determination has been made by, a court of another state under a statute similar to this section, the court of this state shall immediately communicate with the court of the other state. The purpose of a communication under this subsection is to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

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

722.1205 Notice and hearing.

Sec. 205.

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

(2) This act does not govern the enforceability of a child-custody determination made without notice and 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 act are governed by the law of this state as in child-custody proceedings between residents of this state.

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

722.1206 Commencement of out-of-state proceeding; jurisdiction; communication; dismissal of proceeding by in-state court; modification.

Sec. 206.

(1) Except as otherwise provided in section 204, a court of this state may not exercise its jurisdiction under this article if, at the time of the commencement of the proceeding, a child-custody proceeding has been commenced in a court of another state having jurisdiction substantially in conformity with this act, 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 207.

(2) Except as otherwise provided in section 204, before hearing a child-custody proceeding, a court of this state shall examine the court documents and other information supplied by the parties as required by section 209. If the court determines that, at the time of the commencement of the proceeding, a child-custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with this act, 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 act does not determine that the court of this state is a more appropriate forum, the court of this state shall dismiss the child-custody proceeding.

(3) In a proceeding to modify a child-custody determination, a court of this state shall determine whether a proceeding to enforce the child-custody 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.

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

722.1207 Determination of inconvenient forum.

Sec. 207.

(1) A court of this state that has jurisdiction under this act 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 the motion of a party, the court's own motion, or the 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 parties' relative financial circumstances.
- (e) An agreement by the parties as to which state should assume jurisdiction.
- (f) The nature and location of the evidence required to resolve the pending litigation, including the child's testimony.
- (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 of 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 jurisdiction under this act if a child-custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

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

722.1208 Unjustifiable conduct of parties; decision to decline exercise of jurisdiction; dismissal or stay; expenses.

Sec. 208.

(1) Except as otherwise provided in section 204 or by other law of this state, if a court of this state has jurisdiction under this act because a person invoking the court's jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless the court finds 1 or more of the following:

(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 201 to 203 determines that this state is a more appropriate forum under section 207.

(c) No court of another state would have jurisdiction under sections 201 to 203.

(2) If a court of this state declines to exercise its jurisdiction under subsection (1), the court 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 201 to 203.

(3) If a court dismisses a petition or stays a proceeding because it declines to exercise jurisdiction under subsection (1), it shall charge the party invoking the jurisdiction of the court with necessary and reasonable expenses 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 expenses and fees are sought establishes that the award would be clearly inappropriate. The court may not assess fees, costs, or expenses against this state unless authorized by law other than this act.

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

722.1209 Pleading or sworn statement; information.

Sec. 209.

(1) Subject to the law of this state providing for confidentiality of procedures, addresses, and other identifying information, in a child-custody proceeding, each party, in its first pleading or in an attached sworn statement, shall give information, if reasonably ascertainable, under oath as to the child's present address, the places where the child has lived during the last 5 years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or sworn statement must state all of the following:

(a) Whether the party has participated, as a party or witness or in another capacity, in another child-custody proceeding with the child and, if so, identify the court, the case number of the child-custody proceeding, and the date of the child-custody determination, if any.

(b) Whether the party knows of a proceeding that could affect the current child-custody proceeding, including a proceeding for enforcement or a proceeding relating to domestic violence, a protective order, termination of parental rights, or adoption, and, if so, identify the court, the case number, and the nature of the proceeding.

(c) The name and address of each person that the party knows who is not a party to the child-custody proceeding and who has physical custody of the child or claims rights of legal custody or physical custody of, or parenting time with, the child.

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

(3) If the declaration as to an item described in subsection (1) 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 a proceeding in this or another state that could affect the current child-custody proceeding.

(5) If a party alleges in a sworn statement or a pleading under oath that a party's or child's health, safety, or liberty would be put at risk by the disclosure of identifying information, the court shall seal and not disclose that information to the other party or the public unless the court orders the disclosure after a hearing in which the court considers the party's or child's health, safety, and liberty and determines that the disclosure is in the interest of justice.

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

722.1210 Order to appear with or without child.

Sec. 210.

(1) A court of this state may order a party to a child-custody proceeding who is in this state to appear before the court personally with or without the child. The court may order a person who is in this state and who has physical custody or control of the child to appear physically 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 in accordance with section 108 include a statement directing the party to appear personally with or without the child and declaring 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 or of a 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 directed or desiring to appear and of the child.

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