UNIFORM CHILD-CUSTODY JURISDICTION AND ENFORCEMENT ACT

Act 195 of 2001

AN ACT to adopt the uniform child-custody jurisdiction and enforcement act prescribing the powers and duties of the court in a child-custody proceeding involving this state and a proceeding or party outside of this state; and to repeal acts and parts of acts.

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

The People of the State of Michigan enact:

Article 1

GENERAL PROVISIONS

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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

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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

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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

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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

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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

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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

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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.

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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.

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(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

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

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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.

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(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

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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

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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

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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

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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

Article 4
MISCELLANEOUS

722.1401 Application and construction of act; promotion of uniformity.

Sec. 401.

In applying and construing this uniform act, the court shall give consideration to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

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

722.1405 Proceedings commenced before effective date of act.

Sec. 405.

A motion or other request for relief made in a child-custody or enforcement proceeding that 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.

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

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722.1406 Repeal of MCL 600.651 to 600.673; effective date of act.

Sec. 406.

(1) Sections 651 to 673 of the revised judicature act of 1961, 1961 PA 236, MCL 600.651 to 600.673, are repealed.

(2) This act takes effect April 1, 2002.

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