

**HOUSE . . . . . No. 28**

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**The Commonwealth of Massachusetts**

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The Honorable Steven James  
*Clerk of the House of Representatives*  
State House, Room 145  
Boston, Massachusetts 02133

*January 3, 2011*

Dear Mr. James:

[Recommendation Header Text]

1.) AN ACT RELATIVE TO THE UNIFORM CHILD CUSTODY JURISDICTION  
AND ENFORCEMENT ACT

[Recommendation Narrative Text]

Sincerely,

[Filer Name]  
*[Filer Title]*

# HOUSE . . . . . No. 28

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So much of the recommendations of the Commission on Uniform State Laws (House, No. 22) as relates to relative to the Uniform Child Custody Jurisdiction and Enforcement Act (accompanied by bill, House, No. 28). The Judiciary.

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## The Commonwealth of Massachusetts

—————  
In the Year Two Thousand Eleven  
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An Act relative to the Uniform Child Custody Jurisdiction and Enforcement Act.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. The General Laws as appearing in the 2004 Official Edition are hereby  
2 amended by inserting after Chapter 208 the following new chapter:-

3

4

Chapter 208A

5

6

ARTICLE 1

7

GENERAL PROVISIONS

8

SECTION 101. SHORT TITLE. This Act may be cited as the Uniform Child-Custody  
9 Jurisdiction and Enforcement Act.

10

SECTION 102. DEFINITIONS. In this Act:

11 (1) "Abandoned" means left without provision for reasonable and necessary care or  
12 supervision.

13 (2) "Child" means an individual who has not attained 18 years of age.

14 (3) "Child-custody determination" means a judgment, decree, or other order of a court  
15 providing for the legal custody, physical custody, or visitation with respect to a child. The term  
16 includes a permanent, temporary, initial, and modification order. The term does not include an  
17 order relating to child support or other monetary obligation of an individual.

18 (4) "Child-custody proceeding" means a proceeding in which legal custody, physical  
19 custody, or visitation with respect to a child is an issue. The term includes a proceeding for  
20 divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental  
21 rights, and protection from domestic violence, in which the issue may appear. The term does not  
22 include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement  
23 under Article 3.

24 (5) "Commencement" means the filing of the first pleading in a proceeding.

25 (6) "Court" means an entity authorized under the law of a State to establish, enforce, or  
26 modify a child-custody determination.

27 (7) "Home State" means the State in which a child lived with a parent or a person acting  
28 as a parent for at least six consecutive months immediately before the commencement of a child-  
29 custody proceeding. In the case of a child less than six months of age, the term means the State  
30 in which the child lived from birth with any of the persons mentioned. A period of temporary  
31 absence of any of the mentioned persons is part of the period.

32 (8) "Initial determination" means the first child-custody determination concerning a  
33 particular child.

34 (9) "Issuing court" means the court that makes a child-custody determination for which  
35 enforcement is sought under this Act.

36 (10) "Issuing State" means the State in which a child-custody determination is made.

37 (11) "Modification" means a child-custody determination that changes, replaces,  
38 supersedes, or is otherwise made after a previous determination concerning the same child,  
39 whether or not it is made by the court that made the previous determination.

40 (12) "Person" includes government, governmental subdivision, agency, or  
41 instrumentality, or any other legal or commercial entity.

42 (13) "Person acting as a parent" means a person, other than a parent, who:

43 (A) has physical custody of the child or has had physical custody for a period of six  
44 consecutive months, including any temporary absence, within one year immediately before the  
45 commencement of a child-custody proceeding; and

46 (B) has been awarded legal custody by a court or claims a right to legal custody under the  
47 law of this State.

48 (14) "Physical custody" means the physical care and supervision of a child.

49 (15) "State" means a State of the United States, the District of Columbia, Puerto Rico, the  
50 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of  
51 the United States.

52 (16) "Tribe" means an Indian tribe, or band, or Alaskan Native village, which is  
53 recognized by federal law or formally acknowledged by a State.

54 (17) "Warrant" means an order issued by a court authorizing law enforcement officers to  
55 take physical custody of a child.

56 SECTION 103. PROCEEDINGS GOVERNED BY OTHER LAW. This Act does not  
57 govern:

58 (1) An adoption proceeding; or

59 (2) A proceeding pertaining to the authorization of emergency medical care for a child.

60 SECTION 104. APPLICATION TO INDIAN TRIBES.

61 (a) A child-custody proceeding that pertains to an Indian child as defined in the Indian  
62 Child Welfare Act, 25 U.S.C. 1901 et seq., is not subject to this Act to the extent it is governed  
63 by the Indian Child Welfare Act.

64 (b) A court of this State shall treat a tribe as a State of the United States for purposes of  
65 Articles 1 and 2.

66 (c) A child-custody determination made by a tribe under factual circumstances in  
67 substantial conformity with the jurisdictional standards of this Act must be recognized and  
68 enforced under the provisions of Article 3.

69 SECTION 105. INTERNATIONAL APPLICATION OF ACT.

70 (a) A court of this State shall treat a foreign country as a State of the United States for  
71 purposes of applying Articles 1 and 2.

72 (b) A child-custody determination made in a foreign country under factual circumstances  
73 in substantial conformity with the jurisdictional standards of this Act must be recognized and  
74 enforced under Article 3 of this Act.

75 (c) The court need not apply the provisions of this Act when the child custody law of the  
76 other country violates fundamental principles of human rights.

77

78 SECTION 106. BINDING FORCE OF CHILD-CUSTODY DETERMINATION. A  
79 child-custody determination made by a court of this State that had jurisdiction under this Act  
80 binds all persons who have been served in accordance with the laws of this State or notified in  
81 accordance with Section 108 or who have submitted to the jurisdiction of the court, and who  
82 have been given an opportunity to be heard. The determination is conclusive as to them as to all  
83 decided issues of law and fact except to the extent the determination is modified.

84

85 SECTION 107. PRIORITY. If a question of existence or exercise of jurisdiction under  
86 this Act is raised in a child-custody proceeding, the question, upon request of a party, must be  
87 given priority on the calendar and handled expeditiously.

88

89 SECTION 108. NOTICE TO PERSONS OUTSIDE STATE.

90 (a) Notice required for the exercise of jurisdiction when a person is outside this State may  
91 be given in a manner prescribed by the law of this State for the service of process or by the law

92 of the State in which the service is made. Notice must be given in a manner reasonably  
93 calculated to give actual notice, but may be by publication if other means are not effective.

94 (b) Proof of service may be made in the manner prescribed by the law of this State or by  
95 the law of the State in which the service is made.

96 (c) Notice is not required for the exercise of jurisdiction with respect to a person who  
97 submits to the jurisdiction of the court.

98 SECTION 109. APPEARANCE AND LIMITED IMMUNITY.

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

104 (b) A party is not subject to personal jurisdiction in this State solely by being physically  
105 present for the purpose of participating in a proceeding under this Act. If a party is subject to  
106 personal jurisdiction in this State on a basis other than physical presence, the party may be  
107 served with process in this State. If a party present in this State is subject to the jurisdiction of  
108 another State, service of process allowable under the laws of that State may be accomplished in  
109 this State.

110 (c) The immunity granted by this section does not extend to civil litigation based on acts  
111 unrelated to the participation in a proceeding under this Act committed by an individual while  
112 present in this State.

113

114 SECTION 110. COMMUNICATION BETWEEN COURTS.

115 (a) A court of this State may communicate with a court in another State concerning a  
116 proceeding arising under this Act.

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

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

123 (d) Except as provided in subsection (c), a record must be made of the communication.  
124 The parties must be informed promptly of the communication and granted access to the record.

125 (e) For the purposes of this section, "record" means information that is inscribed on a  
126 tangible medium or that which is stored in an electronic or other medium and is retrievable in  
127 perceivable form. A record includes notes or transcripts of a court reporter who listened to a  
128 conference call between the courts, an electronic recording of a telephone call, a memorandum or  
129 an electronic record of the communication between the courts, or a memorandum or an  
130 electronic record made by a court after the communication.

131

132 SECTION 111. TAKING TESTIMONY IN ANOTHER STATE.



133 (a) In addition to other procedures available to a party, a party to a child- custody  
134 proceeding may offer testimony of witnesses who are located in another State, including  
135 testimony of the parties and the child, by deposition or other means allowable in this State for  
136 testimony taken in another State. The court on its own motion may order that the testimony of a  
137 person be taken in another State and may prescribe the manner in which and the terms upon  
138 which the testimony is taken.

139 (b) A court of this State may permit an individual residing in another State to be deposed  
140 or to testify by telephone, audiovisual means, or other electronic means before a designated court  
141 or at another location in that State. A court of this State shall cooperate with courts of other  
142 States in designating an appropriate location for the deposition or testimony.

143 (c) Documentary evidence transmitted from another State to a court of this State by  
144 technological means that do not produce an original writing may not be excluded from evidence  
145 on an objection based on the means of transmission.

146

147 SECTION 112. COOPERATION BETWEEN COURTS; PRESERVATION OF  
148 RECORDS.

149 (a) A court of this State may request the appropriate court of another State to:

150 (1) hold an evidentiary hearing;

151 (2) order a person to produce or give evidence under procedures of that State;

152 (3) order that an evaluation be made with respect to the custody of a child  
153 involved in a pending proceeding;

154 (4) forward to the court of this State a certified copy of the transcript of the record  
155 of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance  
156 with the request; and

157 (5) order a party to a child-custody proceeding or any person having physical  
158 custody of the child to appear in the proceeding with or without the child.

159 (b) Upon request of a court of another State, a court of this State may hold a hearing or  
160 enter an order described in subsection (a).

161 (c) Travel and other necessary and reasonable expenses incurred under subsections (a)  
162 and (b) may be assessed against the parties according to the law of this State.

163 (d) A court of this State shall preserve the pleadings, orders, decrees, records of hearings,  
164 evaluations, and other pertinent records with respect to a child-custody proceeding until the child  
165 attains 18 years of age. Upon appropriate request by a court or law enforcement official of  
166 another State, the court shall forward a certified copy of these records.

167

168 ARTICLE 2

169

170 JURISDICTION

171

172 SECTION 201. INITIAL CHILD-CUSTODY JURISDICTION.

173

174 (a) Except as otherwise provided in Section 204, a court of this State has jurisdiction to  
175 make an initial child-custody determination only if:

176 (1) this State is the home State of the child on the date of the commencement of  
177 the proceeding, or was the home State of the child within six months before the commencement  
178 of the proceeding and the child is absent from this State but a parent or person acting as a parent  
179 continues to live in this State;

180 (2) a court of another State does not have jurisdiction under paragraph (1), or a  
181 court of the home State of the child has declined to exercise jurisdiction on the ground that this  
182 State is the more appropriate forum under Section 207 or 208, and:

183 (A) the child and the child's parents, or the child and at least one parent or  
184 a person acting as a parent have a significant connection with this State other than mere physical  
185 presence; and

186 (B) substantial evidence is available in this State concerning the child's  
187 care, protection, training, and personal relationships;

188 (3) all courts having jurisdiction under paragraph (1) or (2) have declined to  
189 exercise jurisdiction on the ground that a court of this State is the more appropriate forum to  
190 determine the custody of the child under Section 207 or 208; or

191 (4) no State would have jurisdiction under paragraph (1), (2), or (3).

192 (b) Subsection (a) is the exclusive jurisdictional basis for making a child- custody  
193 determination by a court of this State.

194 (c) Physical presence of, or personal jurisdiction over, a party or a child is neither  
195 necessary nor sufficient to make a child-custody determination.

196

197 SECTION 202. EXCLUSIVE, CONTINUING JURISDICTION.

198 (a) Except as otherwise provided in Section 204, a court of this State that has made a  
199 child-custody determination consistent with Section 201 or 203 has exclusive, continuing  
200 jurisdiction over the determination until:

201 (1) a court of this State determines that neither the child, the child and one parent,  
202 nor the child and a person acting as a parent have a significant connection with this State and that  
203 substantial evidence is no longer available in this State concerning the child's care, protection,  
204 training, and personal relationships; or

205 (2) a court of this State or a court of another State determines that neither the  
206 child, nor a parent, nor any person acting as a parent presently resides in this State; or

207 (3) the court finds that a parent or person acting as a parent who resides in  
208 Massachusetts has engaged in a serious incident or pattern of abuse as defined by c. 208, §28A  
209 against the other parent or person acting as a parent, or against a child who is the subject of the  
210 proceeding. If the court so finds, it shall be presumed that this state does not have continuing,  
211 exclusive jurisdiction over the determination unless the victim or the victim's custodial parent or  
212 guardian consents to continuing, exclusive jurisdiction; or

213 (4) the parties mutually agree in writing that this state shall no longer have  
214 continuing, exclusive jurisdiction and said agreement has been approved by the court.

215 (b) A court of this State that has exclusive, continuing jurisdiction under this section may  
216 decline to exercise its jurisdiction if the court determines that it is an inconvenient forum under  
217 Section 207.

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

221

222 SECTION 203. JURISDICTION TO MODIFY CHILD CUSTODY

223 DETERMINATION. Except as otherwise provided in Section 204, a court of this State may not  
224 modify a child-custody determination made by a court of another State unless a court of this  
225 State has jurisdiction to make an initial determination under Section 201(a)(1) or (2) and:

226 (1) the court of the other State determines it no longer has exclusive, continuing  
227 jurisdiction under Section 202 or that a court of this State would be a more convenient forum  
228 under Section 207;

229 (2) a court of this State or a court of the other State determines that neither the child, nor  
230 a parent, nor any person acting as a parent presently resides in the other State; or

231 (3) the parents or all persons acting as parents have mutually agreed in writing that this  
232 state shall have the authority to modify a determination and such agreement has been approved  
233 by the court.

234

235 SECTION 204. TEMPORARY EMERGENCY JURISDICTION.

236 (a) A court of this State has temporary emergency jurisdiction if the child is present in  
237 this State and the child has been abandoned or it is necessary in an emergency to protect the child  
238 because the child, or a sibling or parent of the child, is subjected to or threatened with  
239 mistreatment or abuse.

240 (b) If there is no previous child-custody determination that is entitled to be enforced  
241 under this Act, and if no child-custody proceeding has been commenced in a court of a State  
242 having jurisdiction under Sections 201 through 203, a child-custody determination made under  
243 this section remains in effect until an order is obtained from a court of a State having jurisdiction  
244 under Sections 201 through 203. If a child-custody proceeding has not been or is not commenced  
245 in a court of a State having jurisdiction under Sections 201 through 203, a child-custody  
246 determination made under this section becomes a final determination, if:

247 (1) it so provides; and

248 (2) this State becomes the home State of the child.

249 (c) If there is a previous child-custody determination that is entitled to be enforced under  
250 this Act, or a child-custody proceeding has been commenced in a court of a State having  
251 jurisdiction under Sections 201 through 203, any order issued by a court of this State under this  
252 section must specify in the order a period of time which the court considers adequate to allow the  
253 person seeking an order to obtain an order from the State having jurisdiction under Sections 201  
254 through 203. The order issued in this State remains in effect until an order is obtained from the  
255 other State within the period specified or the period expires.

256 (d) A court of this State that has been asked to make a child-custody determination under  
257 this section, upon being informed that a child-custody proceeding has been commenced, or a

258 child-custody determination has been made, by a court of a State having jurisdiction under  
259 Sections 201 through 203, shall immediately communicate with the other court. A court of this  
260 State that is exercising jurisdiction pursuant to Sections 201 through 203, upon being informed  
261 that a child-custody proceeding has been commenced, or a child-custody determination has been  
262 made by a court of another State under a statute similar to this section shall immediately  
263 communicate with the court of that State. The purpose of the communication is to resolve the  
264 emergency, protect the safety of the parties and the child, and determine a period for the duration  
265 of the temporary order.

266

267 SECTION 205. NOTICE; OPPORTUNITY TO BE HEARD; JOINDER.

268 (a) Before a child-custody determination is made under this Act, notice and an  
269 opportunity to be heard in accordance with the standards of Section 108 must be given to all  
270 persons entitled to notice under the law of this State as in child-custody proceedings between  
271 residents of this State, any parent whose parental rights have not been previously terminated, and  
272 any person having physical custody of the child.

273 (b) This Act does not govern the enforceability of a child-custody determination made  
274 without notice and an opportunity to be heard.

275 (c) The obligation to join a party and the right to intervene as a party in a child-custody  
276 proceeding under this Act are governed by the law of this State as in child-custody proceedings  
277 between residents of this State.

278

279 SECTION 206. SIMULTANEOUS PROCEEDINGS.

280 (a) Except as otherwise provided in Section 204, a court of this State may not exercise its  
281 jurisdiction under this Article if, at the time of the commencement of the proceeding, a  
282 proceeding concerning the custody of the child had been previously commenced in a court of  
283 another State having jurisdiction substantially in conformity with this Act, unless the proceeding  
284 has been terminated or is stayed by the court of the other State because a court of this State is a  
285 more convenient forum under Section 207.

286 (b) Except as otherwise provided in Section 204, a court of this State, before hearing a  
287 child-custody proceeding, shall examine the court documents and other information supplied by  
288 the parties pursuant to Section 209. If the court determines that a child-custody proceeding was  
289 previously commenced in a court in another State having jurisdiction substantially in accordance  
290 with this Act, the court of this State shall stay its proceeding and communicate with the court of  
291 the other State. If the court of the State having jurisdiction substantially in accordance with this  
292 Act does not determine that the court of this State is a more appropriate forum, the court of this  
293 State shall dismiss the proceeding.

294 (c) In a proceeding to modify a child-custody determination, a court of this State shall  
295 determine whether a proceeding to enforce the determination has been commenced in another  
296 State. If a proceeding to enforce a child-custody determination has been commenced in another  
297 State, the court may:

298 (1) stay the proceeding for modification pending the entry of an order of a court  
299 of the other State enforcing, staying, denying, or dismissing the proceeding for enforcement;

300 (2) enjoin the parties from continuing with the proceeding for enforcement; or



301 (3) proceed with the modification under conditions it considers appropriate.

302

303 SECTION 207. INCONVENIENT FORUM.

304 (a) A court of this State that has jurisdiction under this Act to make a child-custody  
305 determination may decline to exercise its jurisdiction at any time if it determines that it is an  
306 inconvenient forum under the circumstances and that a court of another State is a more  
307 appropriate forum. The issue of inconvenient forum may be raised upon the court's own motion,  
308 request of another court, or motion of a party.

309 (b) Before determining whether it is an inconvenient forum, a court of this State shall  
310 consider whether it is appropriate that a court of another State exercise jurisdiction. For this  
311 purpose, the court shall allow the parties to submit information and shall consider all relevant  
312 factors, including:

313 (1) whether domestic violence has occurred and is likely to continue in the future  
314 and which State could best protect the parties and the child;

315 (2) the length of time the child has resided outside this State;

316 (3) the distance between the court in this State and the court in the State that  
317 would assume jurisdiction;

318 (4) the relative financial circumstances of the parties and the effect of such  
319 circumstance on the ability to litigate in a foreign jurisdiction;

320 (5) any agreement of the parties as to which State should assume jurisdiction;

321 (6) the nature and location of the evidence required to resolve the pending  
322 litigation, including the testimony of the child;

323 (7) the ability of the court of each State to decide the issue expeditiously and the  
324 procedures necessary to present the evidence; and

325 (8) the familiarity of the court of each State with the facts and issues of the  
326 pending litigation.

327 (c) If a court of this State determines that it is an inconvenient forum and that a court of  
328 another State is a more appropriate forum, it shall stay the proceedings upon condition that a  
329 child-custody proceeding be promptly commenced in another designated State and may impose  
330 any other condition the court considers just and proper.

331 (d) A court of this State may decline to exercise its jurisdiction under this Act if a child-  
332 custody determination is incidental to an action for divorce or another proceeding while still  
333 retaining jurisdiction over the divorce or other proceeding.

334

335 SECTION 208. JURISDICTION DECLINED BY REASON OF CONDUCT.

336 (a) Except as otherwise provided in Section 204 or by other law of this State, if a court of  
337 this State has jurisdiction under this Act because a person invoking the jurisdiction has engaged  
338 in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

339 (1) the parents and all persons acting as parents have acquiesced in the exercise of  
340 jurisdiction;

341 (2) a court of the State otherwise having jurisdiction under Sections 201 through  
342 203 determines that this State is a more appropriate forum under Section 207; or

343 (3) no other State would have jurisdiction under Sections 201 through 203.

344 (b) If a court of this State declines to exercise its jurisdiction pursuant to subsection (a), it  
345 may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of  
346 the wrongful conduct, including staying the proceeding until a child-custody proceeding is  
347 commenced in a court having jurisdiction under Sections 201 through 203.

348 (c) If a court dismisses a petition or stays a proceeding because it declines to exercise its  
349 jurisdiction pursuant to subsection (a), it shall charge the party invoking the jurisdiction of the  
350 court with necessary and reasonable expenses including costs, communication expenses,  
351 attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during  
352 the course of the proceedings, unless the party from whom fees are sought establishes that the  
353 award would be clearly inappropriate. The court may not assess fees, costs, or expenses against  
354 this State except as otherwise provided by law other than this Act.

355

356 SECTION 209. INFORMATION TO BE SUBMITTED TO COURT.

357 (a) Subject to local law providing for the confidentiality of procedures, addresses, and  
358 other identifying information, in a child-custody proceeding, each party, in its first pleading or in  
359 an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the  
360 child's present address, the places where the child has lived during the last five years, and the

361 names and present addresses of the persons with whom the child has lived during that period.

362 The pleading or affidavit must state whether the party:

363 (1) has participated, as a party or witness or in any other capacity, in any other  
364 proceeding concerning the custody of or visitation with the child and, if so, identify the court, the  
365 case number of the proceeding, and the date of the child-custody determination, if any;

366 (2) knows of any proceeding that could affect the current proceeding, including  
367 proceedings for enforcement and proceedings relating to domestic violence, protective orders,  
368 termination of parental rights, and adoptions and, if so, identify the court and the case number  
369 and the nature of the proceeding; and

370 (3) knows the names and addresses of any person not a party to the proceeding  
371 who has physical custody of the child or claims rights of legal custody or physical custody of, or  
372 visitation with, the child and, if so, the names and addresses of those persons.

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

375 (c) If the declaration as to any of the items described in subsection (a)(1) through (3) is in  
376 the affirmative, the declarant shall give additional information under oath as required by the  
377 court. The court may examine the parties under oath as to details of the information furnished  
378 and other matters pertinent to the court's jurisdiction and the disposition of the case.

379 (d) Each party has a continuing duty to inform the court of any proceeding in this or any  
380 other State that could affect the current proceeding.

381 (e) If a party alleges in an affidavit or a pleading under oath that the health, safety, or  
382 liberty of a party or child would be put at risk by the disclosure of identifying information, that  
383 information shall be sealed and not disclosed to the other party or the public unless the court  
384 orders the disclosure to be made after a hearing in which the court takes into consideration the  
385 health, safety, or liberty of the party or child and determines that the disclosure is in the interest  
386 of justice.

387

388 SECTION 210. APPEARANCE OF PARTIES AND CHILD.

389 (a) A court of this State may order a party to a child-custody proceeding who is in this  
390 State to appear before the court personally with or without the child. The court may order any  
391 person who is in this State and who has physical custody or control of the child to appear  
392 physically with the child.

393 (b) If a party to a child-custody proceeding whose presence is desired by the court is  
394 outside this State, the court may order that a notice given pursuant to Section 108 include a  
395 statement directing the party to appear personally with or without the child and declaring that  
396 failure to appear may result in a decision adverse to the party.

397 (c) The court may enter any orders necessary to ensure the safety of the child and of any  
398 person ordered to appear under this section.

399 (d) If a party to a child-custody proceeding who is outside this State is directed to appear  
400 under subsection (b) or desires to appear personally before the court with or without the child,

401 the court may require another party to pay reasonable and necessary travel and other expenses of  
402 the party so appearing and of the child.

403

404 ARTICLE 3

405

406 ENFORCEMENT

407

408 SECTION 301. DEFINITIONS. In this Article:

409 (1) "Petitioner" means a person who seeks enforcement of a child-custody determination  
410 or enforcement of an order for the return of the child under the Hague Convention on the Civil  
411 Aspects of International Child Abduction.

412 (2) "Respondent" means a person against whom a proceeding has been commenced for  
413 enforcement of a child-custody determination or enforcement of an order for the return of the  
414 child under the Hague Convention on the Civil Aspects of International Child Abduction.

415

416 SECTION 302. SCOPE; TEMPORARY VISITATION.

417 (a) This Article may be invoked to enforce:

418 (1) a child-custody determination; and

419 (2) an order for the return of the child made under the Hague Convention on the Civil  
420 Aspects of International Child Abduction.

421 (b) A court of this State which does not have jurisdiction to modify a child-custody  
422 determination, may issue a temporary order enforcing

423 (1) a visitation schedule made by a court of another State; or

424 (2) the visitation provisions of a child-custody determination of another State that does  
425 not provide for a specific visitation schedule.

426 (c) If a court of this State makes an order under subparagraph (b)(2), it shall specify in the  
427 order a period of time which it considers adequate to allow the person seeking the order to obtain  
428 an order from the State having jurisdiction under Article 2. The order remains in effect until an  
429 order is obtained from the other State or the period expires.

430

### 431 SECTION 303. DUTY TO ENFORCE.

432 (a) A court of this State shall recognize and enforce a child-custody determination of a  
433 court of another State if the latter court exercised jurisdiction that was in substantial conformity  
434 with this Act or the determination was made under factual circumstances meeting the  
435 jurisdictional standards of this Act and the determination has not been modified in accordance  
436 with this Act.

437 (b) A court may utilize any remedy available under other law of this State to enforce a  
438 child-custody determination made by a court of another State. The procedure provided by this

439 Article does not affect the availability of other remedies to enforce a child-custody  
440 determination.

441

442 SECTION 304. REGISTRATION OF CHILD-CUSTODY DETERMINATION.

443 (a) A child-custody determination issued by a court of another State may be registered in  
444 this State, with or without a simultaneous request for enforcement, by sending to the appropriate  
445 court in this State:

446 (1) a letter or other document requesting registration;

447 (2) two copies, including one certified copy, of the determination sought to be registered,  
448 and a statement under penalty of perjury that to the best of the knowledge and belief of the  
449 person seeking registration the order has not been modified; and

450 (3) except as otherwise provided in Section 209, the name and address of the person  
451 seeking registration and any parent or person acting as a parent who has been awarded custody or  
452 visitation in the child-custody determination sought to be registered.

453 (b) On receipt of the documents required by subsection (a), the registering court shall:

454 (1) cause the determination to be filed as a foreign judgment, together with one copy of  
455 any accompanying documents and information, regardless of their form; and

456 (2) serve notice upon the persons named pursuant to (a)(3) and provide them with an  
457 opportunity to contest the registration in accordance with this section.

458 (c) The notice required by subsection (b)(2) must state:



459 (1) that a registered determination is enforceable as of the date of the registration in the  
460 same manner as a determination issued by a court of this State;

461 (2) that a hearing to contest the validity of the registered determination must be requested  
462 within 20 days after service of notice; and

463 (3) that failure to contest the registration will result in confirmation of the child-custody  
464 determination and preclude further contest of that determination with respect to any matter that  
465 could have been asserted.

466 (d) A person seeking to contest the validity of a registered order must request a hearing  
467 within 20 days after service of the notice. At that hearing, the court shall confirm the registered  
468 order unless the person contesting registration establishes that:

469 (1) the issuing court did not have jurisdiction under Article 2;

470 (2) the child-custody determination sought to be registered has been vacated, stayed, or  
471 modified by a court of a State having jurisdiction to do so under Article 2; or

472 (3) the person contesting registration was entitled to notice, but notice was not given in  
473 accordance with the standards of Section 108 in the proceedings before the court that issued the  
474 order for which registration is sought.

475 (e) If a timely request for a hearing to contest the validity of the registration is not made,  
476 the registration is confirmed as a matter of law and the person requesting registration and all  
477 persons served must be notified of the confirmation.

478 (f) Confirmation of a registered order, whether by operation of law or after notice and  
479 hearing, precludes further contest of the order with respect to any matter which could have been  
480 asserted at the time of registration.

481

482 SECTION 305. ENFORCEMENT OF REGISTERED DETERMINATION.

483 (a) A court of this State may grant any relief normally available under the law of this  
484 State to enforce a registered child-custody determination made by a court of another State.

485 (b) A court of this State shall recognize and enforce, but may not modify except in  
486 accordance with Article 2, a registered child-custody determination of another State.

487 SECTION 306. SIMULTANEOUS PROCEEDINGS. If a proceeding for enforcement  
488 under this Article has been or is commenced in this State and a court of this State determines that  
489 a proceeding to modify the determination has been commenced in another State having  
490 jurisdiction to modify the determination under Article 2, the enforcing court shall immediately  
491 communicate with the modifying court. The proceeding for enforcement continues unless the  
492 enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

493

494 SECTION 307. EXPEDITED ENFORCEMENT OF CHILD-CUSTODY  
495 DETERMINATION.

496 (a) A petition under this Article must be verified. Certified copies of all orders sought to  
497 be enforced and of the order confirming registration, if any, must be attached to the petition. A  
498 copy of a certified copy of an order may be attached instead of the original.

499 (b) A petition for enforcement of a child-custody determination must state:

500 (1) whether the court that issued the determination identified the jurisdictional basis it  
501 relied upon in exercising jurisdiction and, if so, what the basis was;

502 (2) whether the determination for which enforcement is sought has been vacated, stayed,  
503 or modified by a court whose decision must be enforced under this Act or federal law and, if so,  
504 identify the court, the case number of the proceeding, and the action taken;

505 (3) whether any proceeding has been commenced that could affect the current  
506 proceeding, including proceedings relating to domestic violence, protective orders, termination  
507 of parental rights, and adoptions and, if so, identify the court and the case number and the nature  
508 of the proceeding;

509 (4) the present physical address of the child and the respondent, if known; and

510 (5) whether relief in addition to the immediate physical custody of the child and  
511 attorney's fees is sought, including a request for assistance from law enforcement officials and, if  
512 so, the relief sought.

513 (c) If the child-custody determination has been registered and confirmed under Section  
514 304, the petition must also state the date and place of registration.

515 (d) The court shall issue an order directing the respondent to appear with or without the  
516 child at a hearing and may enter any orders necessary to ensure the safety of the parties and the  
517 child.

518 (e) The hearing must be held on the next judicial day following service of process unless  
519 that date is impossible. In that event, the court must hold the hearing on the first day possible.  
520 The court may extend the date of hearing at the request of the petitioner.

521 (f) The order must state the time and place of the hearing and must advise the respondent  
522 that at the hearing the court will order the delivery of the child and the payment of fees, costs,  
523 and expenses under Section 311, and may set an additional hearing to determine whether further  
524 relief is appropriate, unless the respondent appears and establishes that:

525 (1) the child-custody determination has not been registered and confirmed under Section  
526 304, and that

527 (A) the issuing court did not have jurisdiction under Article 2;

528 (B) the child-custody determination for which enforcement is sought has been vacated,  
529 stayed, or modified by a court of a State having jurisdiction to do so under Article 2 or federal  
530 law; or

531 (C) the respondent was entitled to notice, but notice was not given in accordance with the  
532 standards of Section 108 in the proceedings before the court that issued the order for which  
533 enforcement is sought; or

534 (2) the child-custody determination for which enforcement is sought was registered and  
535 confirmed under Section 304, but has been vacated, stayed or modified by a court of a State  
536 having jurisdiction to do so under Article 2 or federal law.

537

538 SECTION 308. SERVICE OF PETITION AND ORDER. Except as otherwise provided  
539 in Section 310, the petition and order must be served, by any method authorized by the law of  
540 this State, upon respondent and any person who has physical custody of the child.

541

542 SECTION 309. HEARING AND ORDER.

543 (a) Unless the court enters a temporary emergency order pursuant to Section 204, upon a  
544 finding that a petitioner is entitled to the physical custody of the child immediately, the court  
545 shall order the child delivered to the petitioner unless the respondent establishes that:

546 (1) the child-custody determination has not been registered and confirmed under Section  
547 304, and that

548 (A) the issuing court did not have jurisdiction under Article 2;

549 (B) the child-custody determination for which enforcement is sought has been vacated,  
550 stayed or modified by a court of a State having jurisdiction to do so under Article 2 or federal  
551 law; or

552 (C) the respondent was entitled to notice, but notice was not given in accordance with the  
553 standards of Section 108 in the proceedings before the court that issued the order for which  
554 enforcement is sought; or

555 (2) the child-custody determination for which enforcement is sought was registered and  
556 confirmed under Section 304, but has been vacated, stayed or modified by a court of a State  
557 having jurisdiction to do so under Article 2 or federal law.

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

561 (c) If a party called to testify refuses to answer on the ground that the testimony may be  
562 self-incriminating, the court may draw an adverse inference from the refusal.

563 (d) A privilege against disclosure of communications between spouses and a defense of  
564 immunity based on the relationship of husband and wife or parent and child may not be invoked  
565 in a proceeding under this Article.

566

567 SECTION 310. WARRANT TO TAKE PHYSICAL CUSTODY OF CHILD.

568 (a) Upon the filing of a petition seeking enforcement of a child-custody determination,  
569 the petitioner may file a verified application for the issuance of a warrant to take physical  
570 custody of the child if the child is likely to suffer serious imminent physical harm or removal  
571 from this State.

572 (b) If the court, upon the testimony of the petitioner or other witness, finds that the child  
573 is likely to suffer serious imminent physical harm or be imminently removed from this State, it  
574 may issue a warrant to take physical custody of the child. The petition must be heard on the next  
575 judicial day after the warrant is executed. The warrant must include the statements required by  
576 Section 307(b).

577 (c) A warrant to take physical custody of a child must:

578 (1) recite the facts upon which a conclusion of serious imminent physical harm or  
579 removal from the jurisdiction is based;

580 (2) direct law enforcement officers to take physical custody of the child immediately; and

581 (3) provide for the placement of the child pending final relief.

582 (d) The respondent must be served with the petition, warrant, and order immediately after  
583 the child is taken into physical custody.

584 (e) A warrant to take physical custody of a child is enforceable throughout this State. If  
585 the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive  
586 remedy is not effective, it may authorize law enforcement officers to enter private property to  
587 take physical custody of the child. If required by the exigency of the case, the court may  
588 authorize law enforcement officers to make a forcible entry at any hour.

589 (f) The court may impose conditions upon placement of a child to ensure the appearance  
590 of the child and the child's custodian.

591 SECTION 311. COSTS, FEES, AND EXPENSES.

592 (a) The court shall award the prevailing party, including a State, necessary and reasonable  
593 expenses incurred by or on behalf of the party, including costs, communication expenses,  
594 attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during  
595 the course of the proceedings, unless the party from whom fees or expenses are sought  
596 establishes that the award would be clearly inappropriate.

597 (b) The court may not assess fees, costs, or expenses against a State except as otherwise  
598 provided by law other than this Act.

599 SECTION 312. RECOGNITION AND ENFORCEMENT. A court of this State shall  
600 accord full faith and credit to an order made consistently with this Act which enforces a child-  
601 custody determination by a court of another State unless the order has been vacated, stayed, or  
602 modified by a court authorized to do so under Article 2.

603

604 SECTION 313. APPEALS. An appeal may be taken from a final order in a proceeding  
605 under this Article in accordance with expedited appellate procedures in other civil cases. Unless  
606 the court enters a temporary emergency order under Section 204, the enforcing court may not  
607 stay an order enforcing a child-custody determination pending appeal.

608

609 SECTION 314. ROLE OF PROSECUTOR OR PUBLIC OFFICIAL.

610 (a) In a case arising under this Act or involving the Hague Convention on the Civil  
611 Aspects of International Child Abduction, the prosecutor or other appropriate public official may  
612 take any lawful action, including resort to a proceeding under this Article or any other available  
613 civil proceeding to locate a child, obtain the return of a child, or enforce a child-custody  
614 determination if there is:

615 (1) an existing child-custody determination;

616 (2) a request from a court in a pending child-custody case;

617 (3) a reasonable belief that a criminal statute has been violated; or



618 (4) a reasonable belief that the child has been wrongfully removed or retained in violation  
619 of the Hague Convention on the Civil Aspects of International Child Abduction.

620 (b) A prosecutor or appropriate public official acts on behalf of the court and may not  
621 represent any party to a child-custody determination.

622

623 SECTION 315. ROLE OF LAW ENFORCEMENT. At the request of a prosecutor or  
624 other appropriate public official acting under Section 314, a law enforcement officer may take  
625 any lawful action reasonably necessary to locate a child or a party and assist a prosecutor or  
626 appropriate public official with responsibilities under Section 314.

627

628 SECTION 316. COSTS AND EXPENSES. If the respondent is not the prevailing party,  
629 the court may assess against the respondent all direct expenses and costs incurred by the  
630 prosecutor or other appropriate public official and law enforcement officers under Section 314 or  
631 315.

632

633 ARTICLE 4

634

635 MISCELLANEOUS PROVISIONS

636

637 SECTION 401. APPLICATION AND CONSTRUCTION. In applying and construing  
638 this Uniform Act, consideration must be given to the need to promote uniformity of the law with  
639 respect to its subject matter among States that enact it.

640

641 SECTION 402. SEVERABILITY CLAUSE. If any provision of this Act or its  
642 application to any person or circumstance is held invalid, the invalidity does not affect other  
643 provisions or applications of this Act which can be given effect without the invalid provision or  
644 application, and to this end the provisions of this Act are severable.

645 SECTION 2. The Uniform Child Custody Jurisdiction Act, G. L. c. 209B, is hereby  
646 repealed.

647 SECTION 3. G.L. c. 208, §28 is amended by adding at the end thereof the jurisdiction of  
648 any court to modify an existing judgment as to care and custody of a minor child and shall be  
649 subject to the provisions of the Massachusetts Uniform Child Custody Jurisdiction Act.

650 SECTION 4. This Act takes effect on July first, two thousand and twelve. A motion or  
651 other request for relief made in a child-custody or enforcement proceeding that was commenced  
652 before the effective date of this Act is governed by the law in effect at the time the motion or  
653 other request was made.