HOUSE DOCKET, NO. 47 FILED ON: 1/23/2017

HOUSE . . . . . No. 47

So much of the recommendations of the Commission on Uniform State Laws (House, No. 42) as relates to the Uniform Child-Custody Jurisdiction and Enforcement Act. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

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:

SECTION 1. Chapter 209A of the General Laws is hereby amended by striking the existing text and substituting the following:—

Chapter 209A

ARTICLE 1

GENERAL PROVISIONS

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

SECTION 102. DEFINITIONS. In this Act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) An adoption proceeding; or

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

SECTION 104. APPLICATION TO INDIAN TRIBES.

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

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

(c) 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 the provisions of article 3.

SECTION 105. INTERNATIONAL APPLICATION OF ACT.

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

(b) 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 of this Act.

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

SECTION 106. BINDING FORCE OF CHILD-CUSTODY DETERMINATION. A child-custody determination made by a court of this Commonwealth that had jurisdiction under this Act binds all persons who have been served in accordance with the laws of this Commonwealth 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. The determination is conclusive as to them as to all decided issues of law and fact except to the extent the determination is modified.

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

SECTION 108. NOTICE TO PERSONS OUTSIDE COMMONWEALTH.

(a) Notice required for the exercise of jurisdiction when a person is outside this Commonwealth may be given in a manner prescribed by the law of this Commonwealth for the

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.

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

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

SECTION 109. APPEARANCE AND LIMITED IMMUNITY.

(a) A party to a child-custody proceeding who is not subject to personal jurisdiction in this Commonwealth 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.

(b) A party is not subject to personal jurisdiction in this Commonwealth 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 Commonwealth on a basis other than physical presence, the party may be served with process in this Commonwealth. If a party present in this Commonwealth is subject to the jurisdiction of another State, service of process allowable under the laws of that State may be accomplished in this Commonwealth.

(c) The immunity granted by this section 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 Commonwealth.

SECTION 110. COMMUNICATION BETWEEN COURTS.

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

(b) 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.

(c) 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.

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

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

SECTION 111. TAKING TESTIMONY IN ANOTHER STATE.

(a) 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 Commonwealth 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.

(b) A court of this Commonwealth 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 Commonwealth shall cooperate with courts of other States in designating an appropriate location for the deposition or testimony.

(c) Documentary evidence transmitted from another State to a court of this Commonwealth 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.

SECTION 112. COOPERATION BETWEEN COURTS; PRESERVATION OF RECORDS.

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

(1) hold an evidentiary hearing;

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

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

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

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

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

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

(d) A court of this Commonwealth 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.

ARTICLE 2

JURISDICTION

SECTION 201. INITIAL CHILD-CUSTODY JURISDICTION.

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

(1) this Commonwealth 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 six months before the commencement of the proceeding and the child is absent from this Commonwealth but a parent or person acting as a parent continues to live in this Commonwealth;

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

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

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

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

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

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

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

SECTION 202. EXCLUSIVE, CONTINUING JURISDICTION.

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

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

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

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

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

(b) A court of this Commonwealth 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.

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

SECTION 203. JURISDICTION TO MODIFY CHILD CUSTODY DETERMINATION. Except as otherwise provided in section 204, a court of this Commonwealth may not modify a child-custody determination made by a court of another State unless a court of this Commonwealth has jurisdiction to make an initial determination under section 201(a)(1) or (2) and:

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

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

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

SECTION 204. TEMPORARY EMERGENCY JURISDICTION.

(a) A court of this Commonwealth has temporary emergency jurisdiction if the child is present in this Commonwealth 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.

(b) If there is no previous child-custody determination that is entitled to be enforced under this Act, and if no child-custody proceeding has been commenced in a court of a State having jurisdiction under sections 201 through 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 through 203. If a child-custody proceeding has not been or is not commenced in a court of a State having jurisdiction under sections 201 through 203, a child-custody determination made under this section becomes a final determination, if:

(1) it so provides; and

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

(c) If there is a previous child-custody determination that is entitled to be enforced under this Act, or a child-custody proceeding has been commenced in a court of a State having jurisdiction under sections 201 through 203, any order issued by a court of this Commonwealth

under this section must specify in the order a period of time which the court considers adequate to allow the person seeking an order to obtain an order from the State having jurisdiction under sections 201 through 203. The order issued in this Commonwealth remains in effect until an order is obtained from the other State within the period specified or the period expires.

(d) A court of this Commonwealth that has been asked to make a child-custody determination under this section, upon being informed that a child-custody proceeding has been commenced, or a child-custody determination has been made, by a court of a State having jurisdiction under sections 201 through 203, shall immediately communicate with the other court. A court of this Commonwealth that is exercising jurisdiction pursuant to sections 201 through 203, upon being informed that a child-custody proceeding has been commenced, or a child-custody determination has been made by a court of another State under a statute similar to this section shall immediately communicate with the court of that State. The purpose of the communication 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.

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

(a) 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 all persons entitled to notice under the law of this Commonwealth as in child-custody proceedings between residents of this Commonwealth, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

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

(c) 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 Commonwealth as in child-custody proceedings between residents of this Commonwealth.

SECTION 206. SIMULTANEOUS PROCEEDINGS.

(a) Except as otherwise provided in section 204, a court of this Commonwealth may not exercise its jurisdiction under this article if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child had been previously 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 Commonwealth is a more convenient forum under section 207.

(b) Except as otherwise provided in section 204, a court of this Commonwealth, before hearing a child-custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to section 209. If the court determines that a child-custody proceeding was previously commenced in a court in another State having jurisdiction substantially in accordance with this Act, the court of this Commonwealth 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 Commonwealth is a more appropriate forum, the court of this Commonwealth shall dismiss the proceeding.

(c) In a proceeding to modify a child-custody determination, a court of this Commonwealth shall determine whether a proceeding to enforce the 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:

(1) 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;

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

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

SECTION 207. INCONVENIENT FORUM.

(a) A court of this Commonwealth 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 court's own motion, request of another court, or motion of a party.

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

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

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

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

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

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

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

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

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

(c) If a court of this Commonwealth 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.

(d) A court of this Commonwealth may decline to exercise its 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.

SECTION 208. JURISDICTION DECLINED BY REASON OF CONDUCT.

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

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

(2) a court of the State otherwise having jurisdiction under sections 201 through 203 determines that this Commonwealth is a more appropriate forum under section 207; or

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

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

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

SECTION 209. INFORMATION TO BE SUBMITTED TO COURT.

(a) Subject to local law providing for the confidentiality of procedures, addresses, and other identifying information, in a child-custody proceeding, each party, in its first pleading or in an attached affidavit, 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 five years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit must state whether the party:

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

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

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

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

(c) If the declaration as to any of the items described in subsection (a)(1) through (3) 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.

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

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

SECTION 210. APPEARANCE OF PARTIES AND CHILD.

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

(b) If a party to a child-custody proceeding whose presence is desired by the court is outside this Commonwealth, the court may order that a notice given pursuant to 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.

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

(d) If a party to a child-custody proceeding who is outside this Commonwealth is directed to appear under subsection (b) 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 so appearing and of the child.

ARTICLE 3

ENFORCEMENT

SECTION 301. DEFINITIONS. In this article:

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

(2) "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 the child under the Hague Convention on the Civil Aspects of International Child Abduction.

SECTION 302. SCOPE; TEMPORARY VISITATION.

(a) This article may be invoked to enforce:

(1) a child-custody determination; and

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

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

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

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

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

SECTION 303. DUTY TO ENFORCE.

(a) A court of this Commonwealth 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 determination was made under factual circumstances meeting the jurisdictional standards of this Act and the determination has not been modified in accordance with this Act.

(b) A court may utilize any remedy available under other law of this Commonwealth 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.

SECTION 304. REGISTRATION OF CHILD-CUSTODY DETERMINATION.

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

(1) a letter or other document requesting registration;

(2) two copies, including one certified copy, of the 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 order has not been modified; and

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

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

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

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

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

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

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

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

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

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

(2) 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; or

(3) the person contesting registration 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 registration is sought.

(e) 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 all persons served must be notified of the confirmation.

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

SECTION 305. ENFORCEMENT OF REGISTERED DETERMINATION.

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

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

SECTION 306. SIMULTANEOUS PROCEEDINGS. If a proceeding for enforcement under this article has been or is commenced in this Commonwealth and a court of this Commonwealth determines that a proceeding to modify the determination has been commenced in another State having jurisdiction to modify the 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.

SECTION 307. EXPEDITED ENFORCEMENT OF CHILD-CUSTODY DETERMINATION.

(a) A petition under this article must be verified. Certified copies of all orders 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.

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

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

(2) whether the 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;

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

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

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

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

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

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

(f) The order 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 set an additional hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

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

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

(B) 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; or

(C) 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; or

(2) 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.

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

SECTION 309. HEARING AND ORDER.

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

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

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

(B) 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; or

(C) 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; or

(2) 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.

(b) 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 set a further hearing to determine whether additional relief is appropriate.

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

(d) 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 may not be invoked in a proceeding under this article.

SECTION 310. WARRANT TO TAKE PHYSICAL CUSTODY OF CHILD.

(a) 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 removal from this Commonwealth.

(b) 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 Commonwealth, it may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed. The warrant must include the statements required by section 307(b).

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

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

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

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

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

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

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

SECTION 311. COSTS, FEES, AND EXPENSES.

(a) 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's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

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

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

SECTION 313. APPEALS. 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.

SECTION 314. ROLE OF PROSECUTOR OR PUBLIC OFFICIAL.

(a) In a case arising under this Act or involving the Hague Convention on the Civil Aspects of International Child Abduction, the prosecutor or other appropriate public official may take any lawful action, including resort to a proceeding under this article or any other available

civil proceeding to locate a child, obtain the return of a child, or enforce a child-custody determination if there is:

(1) an existing child-custody determination;

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

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

(4) 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.

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

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

SECTION 316. COSTS AND EXPENSES. 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 other appropriate public official and law enforcement officers under section 314 or 315.

ARTICLE 4

MISCELLANEOUS PROVISIONS

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

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

SECTION 2. Chapter 208, section 28 of the General Laws is amended by adding at the end thereof:--- "The jurisdiction of any court to modify an existing judgment as to care and custody of a minor child and shall be subject to the provisions of the Uniform Child-Custody Jurisdiction and Enforcement Act, chapter 209A."

SECTION 3. This Act takes effect on July first, two thousand and seventeen. 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.