

# SENATE . . . . . No. 806

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## The Commonwealth of Massachusetts

PRESENTED BY:

*Cynthia Stone Creem*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the Uniform Child Custody Jurisdiction and Enforcement Act.

PETITION OF:

NAME:

*Cynthia Stone Creem*

DISTRICT/ADDRESS:

*First Middlesex and Norfolk*

# SENATE . . . . . No. 806

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By Ms. Creem, a petition (accompanied by bill, Senate, No. 806) of Cynthia S. Creem for legislation relative to the Uniform Child Custody Jurisdiction and Enforcement Act. The Judiciary.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 746 OF 2015-2016.]

## The Commonwealth of Massachusetts

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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:*

1           SECTION 1. Chapter 209B of the General Laws is hereby amended by striking out  
2           sections 1 to 14, inclusive, as appearing in the 2014 Official Edition, and inserting in place  
3           thereof the following 4 Articles:-

4           ARTICLE 1. Section 1-101. This act may be cited as the Uniform Child-Custody  
5           Jurisdiction and Enforcement Act.

6           Section1-102. As used in this chapter the following words shall have the following  
7           meanings, unless the context clearly requires otherwise:

8           “Abandoned”, left without provision for reasonable and necessary care or supervision.

9           “Abuse”, (i) attempting to cause or causing physical harm; (ii) placing another in fear of  
10 imminent serious physical harm; (iii) causing another to engage involuntarily in sexual relations  
11 by force, threat or duress or engaging or threatening to engage in sexual activity with a  
12 dependent child; (iv) engaging in mental abuse, which includes threats, intimidation or acts  
13 designed to induce terror; (v) depriving another of medical care, housing, food or other  
14 necessities of life; or (vi) restraining the liberty of another.

15           “Child”, an individual who has not attained 18 years of age.

16           “Child-custody determination”, a judgment, decree or other order of a court providing for  
17 the legal custody, physical custody, parenting time or visitation with respect to a child, which  
18 shall include a permanent, temporary, initial and modification order; provided, however, that  
19 “child-custody determination” shall not include an order relating to child support or other  
20 monetary obligations of an individual.

21           “Child-custody proceeding”, a proceeding in which legal custody, physical custody,  
22 parenting time or visitation with respect to a child is an issue, which shall include a proceeding  
23 for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of  
24 parental rights and protection from domestic violence when child-custody may be an issue;  
25 provided, however, that “child-custody proceeding” shall not include a proceeding involving  
26 juvenile delinquency, contractual emancipation or enforcement under Article 3.

27           “Commencement”, the filing of the first pleading in a proceeding.

28           “Court”, an entity authorized to establish, enforce or modify a child-custody  
29 determination.

“Domestic violence”, abuse committed by a parent or person acting as a parent against the other parent or person acting as a parent or against a child who is the subject of a proceeding, or against a dependent household member of the other parent or person acting as a parent, which shall include a parent, step-parent, child, step-child, sibling, grandparent or grandchild or persons in a guardianship relationship.

“Home state”, the state in which a child lived with a parent or a person acting as a parent for at least 6 consecutive months immediately before the commencement of a child-custody proceeding; provided, however, that in the case of a child less than 6 months of age, “home state” shall be the state in which the child lived from birth with a parent or a person acting as a parent; provided further, that a period of temporary absence of the parent or person acting as a parent shall count as a part the time period.

“Initial determination”, the first child-custody determination concerning a particular child.

“Issuing court”, the court that makes a child-custody determination for which enforcement is sought under this act.

“Issuing state”, the state making a child-custody determination.

“Modification” 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.

“Person”, includes government, governmental subdivision, agency or instrumentality or other legal or commercial entity.

51 “Person acting as a parent”, a person, other than a parent, who has physical custody of the  
52 child or has had physical custody for a period of 6 consecutive months, including any temporary  
53 absence, within 1 year immediately before the commencement of a child-custody proceeding and  
54 has been awarded legal custody by a court or claims a right to legal custody under the law.

55 “Physical custody” the physical care and supervision of a child.

56 “State”, a state of the United States, the District of Columbia, Puerto Rico, the United  
57 States Virgin Islands or any territory or insular possession subject to the jurisdiction of the  
58 United States.

59 “Tribe”, an Indian tribe, band or Alaskan Native village, which is recognized by federal  
60 law or formally acknowledged by a state.

61 “Warrant”, an order issued by a court authorizing law enforcement officers to take  
62 physical custody of a child.

63 Section 1-103. This act shall not govern: (i) an adoption proceeding; or (ii) a proceeding  
64 pertaining to the authorization of emergency medical care for a child.

65 Section 1-104. (a) A child-custody proceeding that pertains to an Indian child as defined  
66 in the Indian Child Welfare Act, 25 U.S.C. 1901 et seq., is not subject to this act to the extent it  
67 is governed by the Indian Child Welfare Act.

68 (b) For the purposes of Articles 1 and 2, a court shall treat a tribe as a state of the United  
69 States.

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

Section 1-105. (a) For the purposes of Articles 1 and 2, a court shall treat a foreign country as a state of the United States.

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

(c) The court shall not apply this act when the child custody law of a foreign country violates fundamental principles of human rights.

Section 1-106. A child-custody determination made by a court that has jurisdiction under this act shall bind persons who have been served in accordance with the laws or notified in accordance with section 1-108 or who have submitted to the jurisdiction of the court and who have been given an opportunity to be heard. The child-custody determination shall be conclusive as to that person and decided issues of law and fact except to the extent the determination is modified.

Section 1-107. 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, shall be given priority on the calendar and handled expeditiously. A hearing on the matter, allowing for telephonic appearance by the out-of-state party, if requested under subsection (d) of section 1-111, shall occur not later than 60 days from the date of request. This court shall issue a written decision on the question of jurisdiction not later than 15 calendar days from the date of the hearing.

92           Section 1-108. (a) Notice required for the exercise of jurisdiction when a person is outside  
93   the commonwealth may be given in a manner prescribed by the law in the commonwealth for the  
94   service of process or by the law of the state in which the service is made. Notice shall be given in  
95   a manner reasonably calculated to give actual notice, but may be by publication if other means  
96   are not effective.

97           (b) Proof of service may be made in the manner prescribed by the law of the  
98   commonwealth or by the law of the state in which the service is made.

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

101          Section 1-109. (a) A party to a child-custody proceeding who is not subject to personal  
102   jurisdiction in the commonwealth and is a responding party under Article 2, a party in a  
103   proceeding to modify a child-custody determination under Article 2, or a plaintiff or petitioner in  
104   a proceeding to enforce or register a child-custody determination under Article 3, may appear  
105   and participate in the proceeding without submitting to personal jurisdiction over the party for  
106   another proceeding or purpose.

107          (b) A party is not subject to personal jurisdiction in the commonwealth solely by being  
108   physically present to participate in a proceeding under this act. If a party is subject to personal  
109   jurisdiction in the commonwealth on a basis other than physical presence, the party may be  
110   served with process in the commonwealth. If a party present in the commonwealth is subject to  
111   the jurisdiction of another state, service of process allowable under the laws of that state may be  
112   accomplished in the commonwealth.

(c) The immunity granted by this section shall 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 the commonwealth.

Section 1-110. (a) A court of the 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 shall be made of the communication. The parties shall be informed promptly of the communication and granted access to the record.

(e) For the purposes of this section, "record" shall mean 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.

Section 1-111. (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 the commonwealth for testimony taken in another state. The court, on its own motion, may order that



133 the testimony of a person be taken in another state and may prescribe the manner in which and  
134 the terms upon which the testimony is taken.

135 (b) A court in the commonwealth may permit an individual residing in another state to be  
136 deposed or to testify by telephone, audiovisual means or other electronic means before a  
137 designated court or at another location in that state. A court in the commonwealth shall cooperate  
138 with courts of other states in designating an appropriate location for the deposition or testimony.

139 (c) Documentary evidence transmitted from another state to a court in the commonwealth  
140 by technological means that do not produce an original writing may not be excluded from  
141 evidence on an objection based on the means of transmission.

142 (d) If at any time, an out-of-state party contests the jurisdiction of the court under section  
143 2-202 or 2-208 or raises a claim that the court is an inconvenient forum under section 2-207, the  
144 party may request to participate electronically or by telephone in a hearing on the issue of  
145 jurisdiction or the inconvenience of the forum. In making the request for the electronic or  
146 telephonic participation, the party shall provide a reason for the request, which shall include, but  
147 not be limited to, whether domestic violence or financial hardship prohibits that party from  
148 attending a hearing in the commonwealth.

149 If an out-of-state party contests the jurisdiction of the court under section 2-202 or 2-208  
150 or raises a claim that the court is an inconvenient forum under section 2-207, the court shall first  
151 hold a preliminary hearing at which the requesting party shall be permitted to appear  
152 electronically or by telephone to present evidence about the reasons for the inability to attend a  
153 hearing in person and whether there are remedial orders that the court may issue that would  
154 enable the person to attend a hearing in person.

155 If after a preliminary hearing, the court denies the request made under subsection (d), the  
156 court may enter orders necessary to ensure the safety of the child and of the party who made the  
157 request. The court may also require another party to pay reasonable and necessary travel and  
158 other expenses of the party who made the request.

159 Section 1-112. (a) A court in the commonwealth may request the appropriate court of  
160 another state: (1) hold an evidentiary hearing; (2) order a person to produce or give evidence  
161 under procedures of that state; (3) order that an evaluation be made with respect to the custody of  
162 a child involved in a pending proceeding; (4) forward to the court in the commonwealth a  
163 certified copy of the transcript of the record of the hearing, the evidence otherwise presented and  
164 any evaluation prepared in compliance with the request; and (5) order a party to a child-custody  
165 proceeding or a person having physical custody of the child to appear in the proceeding with or  
166 without the child.

167 (b) Upon request of a court of another state, a court in the commonwealth may hold a  
168 hearing or enter an order described in subsection (a).

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

171 (d) A court in the commonwealth shall preserve the pleadings, orders, decrees, records of  
172 hearings, evaluations and other pertinent records with respect to a child-custody proceeding until  
173 the child attains 18 years of age. Upon appropriate request by a court or law enforcement official  
174 of another state, the court shall forward a certified copy of these records.

175 ARTICLE 2. Section 2-201. (a) Except as otherwise provided in section 2-204, a court  
176 in the commonwealth shall have jurisdiction to make an initial child-custody determination if:

177                   (1) the commonwealth is the home state of the child on the date of the  
178 commencement of the proceeding or was the home state of the child within 6 months before the  
179 commencement of the proceeding and the child is absent from the commonwealth but a parent or  
180 person acting as a parent continues to live in the commonwealth;

181                   (2) a court of another state does not have jurisdiction under paragraph (1), or a  
182 court of the home state of the child has declined to exercise jurisdiction on the ground that the  
183 commonwealth is the more appropriate forum under section 2-207 or 2-208 and the child and the  
184 child's parents, or the child and at least 1 parent or a person acting as a parent, have a significant  
185 connection with the commonwealth other than mere physical presence; and substantial evidence  
186 is available in the commonwealth concerning the child's care, protection, training and personal  
187 relationships;

188                   (3) all courts having jurisdiction under paragraphs (1) or (2) have declined to  
189 exercise jurisdiction on the ground that a court in the commonwealth is the more appropriate  
190 forum to determine the custody of the child under section 2-207 or 2-208; or

191                   (4) no state would have jurisdiction under paragraphs (1), (2) or (3).

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

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.

Section 2-202. (a) Except as otherwise provided in section 2-204, a court in the commonwealth that has made a child-custody determination consistent with section 2-201 or 2-203 has exclusive, continuing jurisdiction over the determination until:

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

(2) a court in the 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 the commonwealth;

(3) the court finds that a parent or person acting as a parent who resides in the commonwealth has engaged in domestic violence against the other parent or person acting as a parent or against the child who is the subject of the proceeding or against a dependent household member of the parent or person acting as a parent, which if the court so finds, it shall be presumed that the commonwealth does not have continuing, exclusive jurisdiction over the determination unless the victim or victim's custodial parent or guardian consents to continuing, exclusive jurisdiction; or

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

(b) A court in the 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 2-207.

(c) A court in the 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 2-201.

Section 2-203. Except as otherwise provided in section 2-204, a court in the commonwealth shall not modify a child-custody determination made by a court of another state unless the court in the commonwealth has jurisdiction to make an initial determination under paragraphs (1) or (2) of subsection (a) of section 2-201 and:

(1) the court of the other state determines it no longer has exclusive, continuing jurisdiction under section 2-202 or that a court in the commonwealth would be a more convenient forum under section 2-207;

(2) a court in the 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 the commonwealth shall have the authority to modify a determination and the agreement has been approved by the court.

Section 2-204. (a) A court in the commonwealth shall have temporary emergency jurisdiction if the child is present in in the commonwealth and the child has been abandoned or it is necessary in an emergency to protect the child because the other parent or person acting as a parent or a child who is the subject of the proceeding or a dependent household member of the other parent or person acting as a parent 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 2-201 to 2-203, inclusive, 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 said sections 2-201 to 2-203, inclusive. If a child-custody proceeding has not been or is not commenced in a court of a state having jurisdiction under said sections 2-201 to 2-203, inclusive, a child-custody determination made under this section becomes a final determination, if: (1) it so provides; and (2) the 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 2-201 to 2-203, inclusive, any order issued by a court in the commonwealth under this section shall 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 said sections 2-201 to 2-203, inclusive. The order issued in the commonwealth shall remain in effect until an order is obtained from the other state within the period specified or the period expires.

(d) A court in the 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 2-201 to 2-203, inclusive, shall immediately communicate with the other court. A court in the commonwealth that is exercising jurisdiction pursuant to said sections 2-201 to 2-203, inclusive, 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 2-205. (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 1-108 shall be given to persons entitled to notice under the law of the commonwealth as in child-custody proceedings between residents of the commonwealth, a parent whose parental rights have not been previously terminated and a person having physical custody of the child.

(b) This act shall 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 shall be governed by the law of the commonwealth as in child-custody proceedings between residents of the commonwealth.

Section 2-206. (a) Except as otherwise provided in section 2-204, a court in the commonwealth shall not exercise its jurisdiction under Article 2 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 in the commonwealth is a more convenient forum under section 2-207.

(b) Except as otherwise provided in section 2-204, a court in the commonwealth, before hearing a child-custody proceeding, shall examine the court documents and other information

282 supplied by the parties pursuant to section 2-209. If the court determines that a child-custody  
283 proceeding was previously commenced in a court in another state having jurisdiction  
284 substantially in accordance with this act, the court in the commonwealth shall stay its proceeding  
285 and communicate with the court of the other state. If the court of the state having jurisdiction  
286 substantially in accordance with this act does not determine that the court in the commonwealth  
287 is a more appropriate forum, the court in the commonwealth shall dismiss the proceeding.

288 (c) In a proceeding to modify a child-custody determination, a court in the  
289 commonwealth shall determine whether a proceeding to enforce the determination has been  
290 commenced in another state. If a proceeding to enforce a child-custody determination has been  
291 commenced in another state, the court may:

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

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

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

296 SECTION 2-207. (a) A court in the commonwealth that has jurisdiction under this act to  
297 make a child-custody determination may decline to exercise its jurisdiction at any time if it  
298 determines that it is an inconvenient forum under the circumstances and that a court of another  
299 state is a more appropriate forum. The issue of inconvenient forum may be raised upon the  
300 court's own motion, request of another court or motion of a party.

301 (b) Before determining whether it is an inconvenient forum, a court in the commonwealth  
302 shall consider whether it is appropriate that a court of another state exercise jurisdiction. For this



303 purpose, the court shall allow the parties to submit information and shall consider all relevant  
304 factors, including:

305 (1) whether domestic violence has occurred and which state could best protect the  
306 parties and the child;

307 (2) the length of time the child has resided outside the commonwealth;

308 (3) the distance between the court in the commonwealth and the court in the state  
309 that would assume jurisdiction;

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

312 (5) an agreement of the parties as to which state should assume jurisdiction;

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

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

317 (8) the familiarity of the court of each state with the facts and issues of the  
318 pending litigation; and

319 (9) whether the health, safety and liberty of a party or the child is put at risk.

320 (c) If a court in the commonwealth determines that it is an inconvenient forum and that a  
321 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 in the 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 2-208. (a) Except as otherwise provided in section 2-204 or by another law of the commonwealth, if a court in the 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 2-201 to 2-203, inclusive, determines that the commonwealth is a more appropriate forum under section 2-207; or

(3) no other state would have jurisdiction under said sections 2-201 to 2-203, inclusive.

(b) If a court in the 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 2-201 to 2-203, inclusive.

(c) If a court dismisses a complaint or a petition or stays a proceeding because it declines to exercise its jurisdiction under 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 the commonwealth except as otherwise provided by law.

Section 2-209. (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 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 5 years and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit shall 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

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

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

367 (c) If the declaration as to any of the items described in paragraphs (1) to (3), inclusive of  
368 subsection (a) is in the affirmative, the declarant shall give additional information under oath as  
369 required by the court. The court may examine the parties under oath as to details of the  
370 information furnished and other matters pertinent to the court's jurisdiction and the disposition of  
371 the case.

372 (d) Each party has a continuing duty to inform the court of any proceeding in the  
373 commonwealth or any other state that could affect the current proceeding.

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

380 Section 2-210. (a) A court in the commonwealth may order a party to a child-custody  
381 proceeding who is in the commonwealth to appear before the court personally with or without  
382 the child. The court may order any person who is in the commonwealth and who has physical  
383 custody or control of the child to appear physically with the child.

(b) Subject to subsection (d) of section 1-111, if a party to a child-custody proceeding whose presence is desired by the court is outside the commonwealth, the court may order that a notice given pursuant to section 1-108 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 the 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. Section 3-301. As used in Article 3, the following words shall have the following meanings unless the context requires otherwise:

“Plaintiff” or “Petitioner”, 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.

“Defendant” or “Respondent”, 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 3-302. (a) Article 3 may be invoked to enforce: (1) a child-custody determination of another state; 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 in the commonwealth that does not have jurisdiction to modify a child-custody determination, may issue a temporary order enforcing: (1) a parenting plan or visitation schedule made by a court of another state; or (2) the parenting plan or 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 state 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 3-303. (a) A court in the 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 the laws of the commonwealth to enforce a child-custody determination made by a court of another state. The procedure provided by Article 3 does not affect the availability of other remedies to enforce a child-custody determination.

Section 3-304. (a) A child-custody determination issued by a court of another state may be registered in the commonwealth, with or without a simultaneous request for enforcement, by sending to the appropriate court in the commonwealth: (1) a letter or other document requesting registration; (2) 2 copies, including 1 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 2-209, 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 1 copy of any accompanying documents and information, regardless of their form; and (2) serve notice upon the persons named pursuant to paragraph (3) of subsection (a) and provide them with an opportunity to contest the registration in accordance with this section.

(c) The notice required by paragraph (2) of subsection (b) shall 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 in the commonwealth; (2) that a hearing to contest the validity of the registered determination shall be requested within 20 days after service of notice; and (3) that failure to contest the registration shall 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 shall 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 1-108 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 shall 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 3-305. (a) A court in the commonwealth may grant any relief normally available under the law of the commonwealth to enforce a registered child-custody determination made by a court of another state.

(b) A court in the commonwealth shall recognize and enforce, but shall not modify except in accordance with Article 2, a registered child-custody determination of another state.

Section 3-306. If a proceeding for enforcement under Article 3 has been or is commenced in the commonwealth and a court in the 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 3-307. (a) A complaint or petition under this Article shall be verified. Certified copies of all orders sought to be enforced and of the order confirming registration, if any, shall be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(b) A complaint or petition for enforcement of a child-custody determination shall 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 shall 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 defendant or 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 3-304, the complaint or petition shall also state the date and place of registration.

(d) The court shall issue an order directing the defendant or 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 shall be held on the next judicial day following service of process unless that date is impossible. In that event, the court shall hold the hearing on the first day possible. The court may extend the date of the hearing at the request of the plaintiff or petitioner.

(f) The order shall state the time and place of the hearing and shall advise the defendant or respondent that at the hearing the court will order the delivery of the child and the payment of fees, costs and expenses under section 3-311 and may set an additional hearing to determine whether further relief is appropriate, unless the defendant or respondent appears and establishes that:

(1) the child-custody determination has not been registered and confirmed under section 3-304 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 1-108 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 3-304, 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 3-308. Except as otherwise provided in section 3-310, the petition and order shall be served, by any method authorized by the law of the commonwealth, upon the respondent and any person who has physical custody of the child.

Section 3-309. (a) Unless the court enters a temporary emergency order pursuant to section 2-204, 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 3-304, 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 defendant or respondent was entitled to notice, but notice was not given in accordance with the standards of section 1-108 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 3-304, 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 3-311 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 shall not be invoked in a proceeding under Article 3.

Section 3-310. (a) Upon the filing of a complaint or petition seeking enforcement of a child-custody determination, the plaintiff or 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 the commonwealth.

(b) If the court, upon the testimony of the plaintiff or petitioner or other witness, finds that the child is likely to suffer serious imminent physical harm or be imminently removed from the commonwealth, it may issue a warrant to take physical custody of the child. The complaint or petition shall be heard on the next judicial day after the warrant is executed. The warrant shall include the statements required by subsection (b) of section 3-307.

(c) A warrant to take physical custody of a child shall: (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 defendant or respondent shall be served with the complaint or 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 the 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 3-311. (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 shall not assess fees, costs or expenses against a state except as otherwise provided by law.

Section 3-312. A court in the 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 3-313. An appeal may be taken from a final order in a proceeding under Article 3 in accordance with expedited appellate procedures in other civil cases. Unless the court enters a temporary emergency order under section 2-204, the enforcing court shall not stay an order enforcing a child-custody determination pending appeal.

Section 3-314. (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 Article 3 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 3-315. At the request of a prosecutor or other appropriate public official acting under section 3-314, 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 said section 3-314.

Section 3-316. If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the prosecutor or other appropriate public official and law enforcement officers under sections 3-314 or 3-315.

ARTICLE 4. Section 4-401. In applying and construing this act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 4-402. 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.

595           SECTION 2. A motion or other request for relief made in a child-custody or enforcement  
596 proceeding that was commenced before the effective date of this act is governed by the law in  
597 effect at the time the motion or other request was made.

598           SECTION 3. This act shall take effect on July 1, 2017.