

SENATE No. 2961

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

SENATE, October 3, 2024.

The committee on Senate Ways and Means to whom was referred the Senate Bill relative to the uniform child custody jurisdiction and enforcement act (Senate, No. 2754), - reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2961).

For the committee,
Michael J. Rodrigues

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**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to the uniform child custody jurisdiction and enforcement act.

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

1 SECTION 1. The General Laws are hereby amended by striking out chapter 209B, as
2 appearing in the 2022 Official Edition, and inserting in place thereof the following chapter:-

3 CHAPTER 209B

4 UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT

5 ARTICLE 1. GENERAL PROVISIONS

6 Section 1-101. SHORT TITLE

7 This chapter may be cited as the Massachusetts Uniform Child Custody Jurisdiction and
8 Enforcement Act.

9 Section 1-102. DEFINITIONS

10 As used in this chapter, the following words shall have the following meanings unless the
11 context clearly requires otherwise:

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

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

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

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

26 “Commencement”, the filing of the first pleading in a child-custody proceeding.

27 “Court”, an entity authorized under the law of a state to establish, enforce or modify a
28 child-custody determination.

29 “Domestic violence”, abuse as defined in section 1 of chapter 209A.

30 “Home state”, the state in which a child lived with a parent or a person acting as a parent
31 for not less than 6 consecutive months, including, but not limited to, a period of temporary
32 absence, immediately before the commencement of a child-custody proceeding; provided,

33 however, that for a child less than 6 months of age, “home state” shall mean the state in which
34 the child lived from birth with any of the persons mentioned.

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

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

39 “Issuing state”, the state in which a child-custody determination is made.

40 “Modification”, a child-custody determination that changes, replaces, supersedes or is
41 otherwise made after a previous determination concerning the same child, whether or not it is
42 made by the court that made the previous determination.

43 “Person”, an individual, corporation, business trust, estate, trust, partnership, limited
44 liability company, association, joint venture, government, governmental subdivision, agency,
45 instrumentality, public corporation or any other legal or commercial entity.

46 “Person acting as a parent”, a person, other than a parent, who has: (i) physical custody of
47 the child or had physical custody for a period of 6 consecutive months, including any temporary
48 absence, within 1 year immediately before the commencement of a child-custody proceeding;
49 and

50 (ii) been awarded legal custody by a court or claims a right to legal custody under the law
51 of the commonwealth.

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

53 “State”, a state of the United States, the District of Columbia, the Commonwealth of
54 Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the
55 jurisdiction of the United States.

56 “Tribe”, an Indian tribe or band or Alaskan Native village that is recognized by federal
57 law or formally acknowledged by a state.

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

60 Section 1-103. PROCEEDINGS GOVERNED BY OTHER LAW

61 This chapter does not govern an adoption proceeding or a proceeding pertaining to the
62 authorization of emergency medical care for a child.

63 Section 1-104. APPLICATION TO INDIAN TRIBES

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

67 (b) A court of the commonwealth shall treat a tribe as if it were a state of the United
68 States for the purpose of applying articles 1 and 2.

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

72 Section 1-105. INTERNATIONAL APPLICATION OF ACT

73 (a) A court of the commonwealth shall treat a foreign country as if it were a state of the
74 United States for the purpose of applying articles 1 and 2.

75 (b) Except as otherwise provided in subsection (c), a child-custody determination made in
76 a foreign country under factual circumstances in substantial conformity with the jurisdictional
77 standards of this chapter shall be recognized and enforced under article 3.

78 (c) The court of the commonwealth need not apply this chapter if the child custody law of
79 a foreign country violates fundamental principles of human rights.

80 Section 1-106. EFFECT OF CHILD-CUSTODY DETERMINATION

81 A child-custody determination made by a court of the commonwealth that had
82 jurisdiction under this chapter binds all persons who have; (i)(A) been served in accordance with
83 the laws of the commonwealth, (B) been notified in accordance with section 1-108 or (C)
84 submitted to the jurisdiction of the court; and (ii) been given an opportunity to be heard. As to
85 those persons, the determination is conclusive as to all decided issues of law and fact except to
86 the extent the determination is modified.

87 Section 1-107. PRIORITY

88 If a question of existence or exercise of jurisdiction under this chapter is raised in a child-
89 custody proceeding, the question, upon request of a party, shall be given priority on the calendar
90 and handled expeditiously.

91 Section 1-108. NOTICE TO PERSONS OUTSIDE STATE

92 (a) Notice required for the exercise of jurisdiction when a person is outside the
93 commonwealth may be given in a manner prescribed by the law of 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 shall not be required for the exercise of jurisdiction with respect to a person
100 who submits to the jurisdiction of the court.

101 Section 1-109. APPEARANCE AND LIMITED IMMUNITY

102 (a) A party to a child-custody proceeding, including a modification proceeding, or a
103 petitioner or respondent in a proceeding to enforce or register a child-custody determination shall
104 not be subject to personal jurisdiction in the commonwealth solely by reason of: (i) being
105 physically present to participate in a proceeding under this chapter; or (ii) having participated, or
106 having been physically present for the purpose of participating, in another proceeding.

107 (b) A person who is subject to personal jurisdiction in the commonwealth on a basis
108 other than physical presence is not immune from service of process in the commonwealth. A
109 party present in the commonwealth who is subject to the jurisdiction of another state shall not be
110 immune from service of process allowable under the laws of that state.

111 (c) The immunity granted by subsection (a) shall not extend to civil litigation based on
112 acts unrelated to the participation in a proceeding under this chapter committed by an individual
113 while present in the commonwealth.

114 Section 1-110. COMMUNICATION BETWEEN COURTS

115 (a) A court of the commonwealth may communicate with a court in another state
116 concerning a proceeding arising under this chapter.

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

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

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

126 (e) For the purposes of this section, “record” shall mean information that is inscribed on a
127 tangible medium or that is stored in an electronic or other medium and is retrievable in
128 perceivable form.

129 Section 1-111. TAKING TESTIMONY IN ANOTHER STATE

130 (a) In addition to other procedures available to a party, a party to a child-custody
131 proceeding may participate by telephonic, audiovisual or other electronic means and may offer
132 testimony of witnesses who are located in another state, including testimony of the parties and
133 the child, by deposition or other means allowable in the commonwealth for testimony taken in
134 another state. In making a request for telephonic, audiovisual or electronic participation, the
135 party shall provide a reason for the request, which may include, but shall not be limited to,

136 whether domestic violence or financial hardship prohibits that party from attending a hearing in
137 the commonwealth. The court, on its own motion, may order that the testimony of a person to be
138 taken in another state and may prescribe the manner in which and the terms upon which the
139 testimony is taken.

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

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

147 Section 1-112. COOPERATION BETWEEN COURTS; PRESERVATION OF
148 RECORDS

149 (a) A court of the commonwealth may request the appropriate court of another state to:

150 (1) hold an evidentiary hearing;

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

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

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

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

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

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

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

167 ARTICLE 2. JURISDICTION

168 Section 2-201. INITIAL CHILD-CUSTODY JURISDICTION

169 (a) Except as otherwise provided in section 2-204, a court of the commonwealth shall
170 have jurisdiction to make an initial child-custody determination only if:

171 (1) the commonwealth (i) is the home state of the child on the date of the commencement
172 of the proceeding or (ii) was the home state of the child within 6 months before the
173 commencement of the proceeding and the child is absent from the commonwealth but a parent or
174 person acting as a parent continues to live in the commonwealth;

175 (2) a court of another state does not have jurisdiction under paragraph (1) or a court of the
176 home state of the child has declined to exercise jurisdiction on the ground that the
177 commonwealth is the more appropriate forum under section 2-207 or 2-208 and:

178 (i) the child and the child's parents, or the child and at least 1 parent or a person acting as
179 a parent, have a significant connection with the commonwealth other than mere physical
180 presence; and

181 (ii) substantial evidence is available in the commonwealth concerning the child's care,
182 protection, training and personal relationships;

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

186 (4) no court of any other state would have jurisdiction under the criteria specified in
187 paragraph (1), (2) or (3).

188 (b) Subsection (a) shall be the exclusive jurisdictional basis for making a child-custody
189 determination by a court of the commonwealth.

190 (c) Physical presence of, or personal jurisdiction over a party or a child shall not be
191 necessary or sufficient to make a child-custody determination.

192 Section 2-202. EXCLUSIVE, CONTINUING JURISDICTION

193 (a) Except as otherwise provided in section 2-204, a court of the commonwealth that has
194 made a child-custody determination consistent with section 2-201 or 2-203 shall have exclusive,
195 continuing jurisdiction over the determination until:

196 (1) a court of the commonwealth determines that neither the child nor a parent or any a
197 person acting as a parent have a significant connection with the commonwealth and that

198 substantial evidence is no longer available in the commonwealth concerning the child's care,
199 protection, training and personal relationships; or

200 (2) a court of the commonwealth or a court of another state determines that neither the
201 child nor a parent or any person acting as a parent presently resides in the commonwealth.

202 (b) a court of the commonwealth that has made a child-custody determination and does
203 not have exclusive, continuing jurisdiction under this section may modify that determination
204 only if it has jurisdiction to make an initial determination under section 2-201.

205 Section 2-203. JURISDICTION TO MODIFY DETERMINATION

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

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

213 (2) a court of the commonwealth or a court of the other state determines that the child, the
214 child's parents and any person acting as a parent do not presently reside in the other state.

215 Section 2-204. TEMPORARY EMERGENCY JURISDICTION

216 (a) A court of the commonwealth shall have temporary emergency jurisdiction if the
217 child is present in the commonwealth and the child has been abandoned or it is necessary in an

218 emergency to protect the child because the child, or a sibling or parent of the child, is subjected
219 to or threatened with mistreatment or abuse as defined in section 1 of chapter 209A.

220 (b) If there is no previous child-custody determination that is entitled to be enforced
221 under this chapter and a child-custody proceeding has not been commenced in a court of a state
222 having jurisdiction under sections 2-201 to 2-203, inclusive, a child-custody determination made
223 under this section shall remain in effect until an order is obtained from a court of a state having
224 jurisdiction under said sections 2-201 to 2-203, inclusive. If a child-custody proceeding has not
225 been or is not commenced in a court of a state having jurisdiction under said sections 2-201 to 2-
226 203, inclusive, a child-custody determination made under this section shall become a final
227 determination if it so provides and the commonwealth becomes the home state of the child.

228 (c) If there is a previous child-custody determination that is entitled to be enforced under
229 this chapter or a child-custody proceeding has been commenced in a court of a state having
230 jurisdiction under sections 2-201 to 2-203, inclusive, any order issued by a court of the
231 commonwealth under this section shall specify in the order a period that the court considers
232 adequate to allow the person seeking an order to obtain an order from the state having
233 jurisdiction under said sections 2-201 to 2-203, inclusive. The order issued in the commonwealth
234 shall remain in effect until an order is obtained from the other state within the period specified or
235 said period expires.

236 (d) A court of the commonwealth that has been asked to make a child-custody
237 determination under this section, upon being informed that a child-custody proceeding has been
238 commenced in, or a child-custody determination has been made by, a court of a state having
239 jurisdiction under sections 2-201 to 2-203, inclusive, shall immediately communicate with the

240 other court. A court of the commonwealth that is exercising jurisdiction pursuant to said sections
241 2-201 to 2-203, inclusive, upon being informed that a child-custody proceeding has been
242 commenced in, or a child-custody determination has been made by, a court of another state under
243 a statute similar to this section, shall immediately communicate with the court of that state to
244 resolve the emergency, protect the safety of the parties and the child and determine a period for
245 the duration of the temporary order.

246 Section 2-205. NOTICE; OPPORTUNITY TO BE HEARD; JOINDER

247 (a) Before a child-custody determination is made under this chapter, notice and an
248 opportunity to be heard in accordance with the standards of section 1-108 shall be given to all
249 persons entitled to notice under the law of the commonwealth as in child-custody proceedings
250 between residents of the commonwealth, any parent whose parental rights have not been
251 previously terminated and any person having physical custody of the child.

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

254 (c) The obligation to join a party and the right to intervene as a party in a child-custody
255 proceeding under this chapter are governed by the law of the commonwealth as in child-custody
256 proceedings between residents of the commonwealth.

257 Section 2-206. SIMULTANEOUS PROCEEDINGS

258 (a) Except as otherwise provided in section 2-204, a court of the commonwealth shall not
259 exercise its jurisdiction under article 2 if, at the time of the commencement of the proceeding, a
260 proceeding concerning the custody of the child has been commenced in a court of another state

261 having jurisdiction substantially in conformity with this chapter, unless the proceeding has been
262 terminated or is stayed by the court of the other state because a court of the commonwealth is a
263 more convenient forum under section 2-207.

264 (b) Except as otherwise provided in section 2-204, a court of the commonwealth, before
265 hearing a child-custody proceeding, shall examine the court documents and other information
266 supplied by the parties pursuant to section 2-209. If the court determines that a child-custody
267 proceeding has been commenced in a court in another state having jurisdiction substantially in
268 conformity with this chapter, the court of the commonwealth shall stay its proceeding and
269 communicate with the court of the other state. If the court of the state having jurisdiction
270 substantially in conformity with this chapter does not determine that the court of the
271 commonwealth is a more appropriate forum, the court of the commonwealth shall dismiss the
272 proceeding.

273 (c) In a proceeding to modify a child-custody determination, a court of the
274 commonwealth shall determine whether a proceeding to enforce the determination has been
275 commenced in another state. If a proceeding to enforce a child-custody determination has been
276 commenced in another state, the court may:

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

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

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

281 SECTION 2-207. INCONVENIENT FORUM

282 (a) A court of the commonwealth that has jurisdiction under this chapter to make a child-
283 custody determination may decline to exercise its jurisdiction at any time if the court determines
284 that it is an inconvenient forum under the circumstances and that a court of another state is a
285 more appropriate forum. The issue of inconvenient forum may be raised upon motion of a party,
286 the court's own motion or request of another court.

287 (b) Before determining whether it is an inconvenient forum, a court of the commonwealth
288 shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For
289 this purpose, the court shall allow the parties to submit information and shall consider all
290 relevant factors including:

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

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

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

296 (4) the relative financial circumstances of the parties;

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

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

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

302 (8) the familiarity of the court of each state with the facts and issues of the pending
303 litigation.

304 (c) If a court of the commonwealth determines that it is an inconvenient forum and that a
305 court of another state is a more appropriate forum, the court shall stay the proceedings upon
306 condition that a child-custody proceeding be promptly commenced in another designated state
307 and may impose any other condition the court considers just and proper.

308 (d) A court of the commonwealth may decline to exercise its jurisdiction under this
309 chapter if a child-custody determination is incidental to an action for divorce or another
310 proceeding while still retaining jurisdiction over the divorce or other proceeding.

311 Section 2-208. JURISDICTION DECLINED BY REASON OF CONDUCT

312 (a) Except as otherwise provided in section 2-204 or by another law of the
313 commonwealth, if a court of the commonwealth has jurisdiction under this chapter because a
314 person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall
315 decline to exercise its jurisdiction unless:

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

318 (2) a court of the state otherwise having jurisdiction under sections 2-201 to 2-203,
319 inclusive, determines that the commonwealth is a more appropriate forum under section 2-207;
320 or

321 (3) no court of another state would have jurisdiction under the criteria specified in
322 sections 2-201 to 2-203, inclusive.

323 (b) If a court of the commonwealth declines to exercise its jurisdiction pursuant to
324 subsection (a), the court may fashion an appropriate remedy to ensure the safety of the child and
325 prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child-
326 custody proceeding is commenced in a court having jurisdiction under sections 2-201 to 2-203,
327 inclusive.

328 (c) If a court dismisses a complaint or a petition or stays a proceeding because it declines
329 to exercise its jurisdiction under subsection (a), the court shall assess against the party seeking to
330 invoke its jurisdiction necessary and reasonable expenses including costs, communication
331 expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses and child
332 care during the course of the proceedings, unless the party from whom fees are sought
333 establishes that the assessment would be clearly inappropriate. The court shall not assess fees,
334 costs or expenses against the commonwealth unless authorized by law other than this chapter.

335 Section 2-209. INFORMATION TO BE SUBMITTED TO COURT

336 (a) Subject to local law providing for the confidentiality of procedures, addresses and
337 other identifying information, in a child-custody proceeding, each party, in its first pleading or in
338 an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the
339 child's present address or whereabouts, the places where the child has lived during the last 5
340 years and the names and present addresses of the persons with whom the child has lived during
341 that period. The pleading or affidavit shall state whether the party:

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

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

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

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

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

359 (d) Each party shall have a continuing duty to inform the court of any proceeding in the
360 commonwealth or any other state that could affect the current proceeding.

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

367 Section 2-210. APPEARANCE OF PARTIES AND CHILD

368 (a) In a child-custody proceeding in the commonwealth, the court may order a party to
369 the proceeding who is in the commonwealth to appear before the court in person with or without
370 the child; provided however, that the court may order any person who is in the commonwealth
371 and who has physical custody or control of the child to appear in person with the child.

372 (b) If a party to a child-custody proceeding whose presence is desired by the court is
373 outside the commonwealth, the court may order that a notice given pursuant to section 1-108
374 include a statement directing the party to appear in person with or without the child and
375 informing the party that failure to appear may result in a decision adverse to that party.

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

378 (d) If a party to a child-custody proceeding who is outside the commonwealth is directed
379 to appear under subsection (b) or desires to appear personally before the court with or without
380 the child, the court may require another party to pay reasonable and necessary travel and other
381 expenses of the party so appearing and of the child.

382 ARTICLE 3. ENFORCEMENT

383 Section 3-301. DEFINITIONS

384 As used in article 3, the following words shall have the following meanings unless the
385 context clearly requires otherwise:

386 “Plaintiff” or “Petitioner”, a person who seeks enforcement of (i) an order for return of a
387 child under the Hague Convention on the Civil Aspects of International Child Abduction or (ii) a
388 child-custody determination.

389 “Defendant” or “Respondent”, a person against whom a proceeding has been commenced
390 for enforcement of (i) an order for return of a child under the Hague Convention on the Civil
391 Aspects of International Child Abduction or (ii) a child-custody determination.

392 Section 3-302. ENFORCEMENT UNDER HAGUE CONVENTION.

393 A court of the commonwealth may enforce an order for the return of the child made
394 under the Hague Convention on the Civil Aspects of International Child Abduction as if the
395 order were a child-custody determination.

396 Section 3-303. DUTY TO ENFORCE

397 (a) A court of the commonwealth shall recognize and enforce a child-custody
398 determination of a court of another state if the latter court exercised jurisdiction in substantial
399 conformity with this chapter or the determination was made under factual circumstances meeting
400 the jurisdictional standards of this chapter and the determination has not been modified in
401 accordance with this chapter.

402 (b) A court of the commonwealth may utilize any remedy available under the law of the
403 commonwealth to enforce a child-custody determination made by a court of another state. The
404 remedies provided in article 3 are cumulative and shall not affect the availability of other
405 remedies to enforce a child-custody determination.

406 Section 3-304. TEMPORARY VISITATION

407 (a) A court of the commonwealth that does not have jurisdiction to modify a child-
408 custody determination may issue a temporary order enforcing:

409 (1) a parenting plan or visitation schedule made by a court of another state; or

410 (2) the parenting plan or visitation provisions of a child-custody determination of another
411 state that does not provide for a specific visitation schedule.

412 (b) If a court of the commonwealth makes an order under paragraph (2) of subsection (a),
413 the court shall specify in the order a period that it considers adequate to allow the petitioner to
414 obtain an order from a court having jurisdiction under the criteria specified in article 2. The order
415 remains in effect until an order is obtained from the other state or the period expires.

416 Section 3-305. REGISTRATION OF CHILD-CUSTODY DETERMINATION

417 (a) A child-custody determination issued by a court of another state may be registered in
418 the commonwealth, with or without a simultaneous request for enforcement, by sending the
419 following to the appropriate court in the commonwealth:

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

421 (2) 2 copies, including 1 certified copy, of the determination sought to be registered and a
422 statement under penalty of perjury that to the best of the knowledge and belief of the person
423 seeking registration the order has not been modified; and

424 (3) except as otherwise provided in section 2-209, the name and address of the person
425 seeking registration and any parent or person acting as a parent who has been awarded custody,
426 parenting time or visitation in the child-custody determination sought to be registered.

427 (b) (1) On receipt of the documents required by subsection (a), the registering court shall
428 cause the determination to be filed as a foreign judgment, together with 1 copy of any
429 accompanying documents and information, regardless of their form.

430 (2) The person seeking registration shall serve notice upon the persons named pursuant to
431 paragraph (3) of subsection (a) and provide them with an opportunity to contest the registration
432 in accordance with this section.

433 (c) The notice required by paragraph (2) of subsection (b) shall state that:

434 (1) a registered determination is enforceable as of the date of the registration in the same
435 manner as a determination issued by a court of the commonwealth;

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

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

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

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

445 (2) the child-custody determination sought to be registered has been vacated, stayed or
446 modified by a court of a state having jurisdiction to do so under article 2; or

447 (3) the person contesting registration was entitled to notice, but notice was not given in
448 accordance with the standards of section 1-108, in the proceedings before the court that issued
449 the order for which registration is sought.

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

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

456 Section 3-306. ENFORCEMENT OF REGISTERED DETERMINATION

457 (a) A court of the commonwealth may grant any relief normally available under the law
458 of the commonwealth to enforce a registered child-custody determination made by a court of
459 another state.

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

463 Section 3-307. SIMULTANEOUS PROCEEDINGS

464 If a proceeding for enforcement under this article is commenced in a court of the
465 commonwealth and the court determines that a proceeding to modify the determination is
466 pending in a court of another state having jurisdiction to modify the determination under article
467 2, the enforcing court shall immediately communicate with the modifying court. The proceeding

468 for enforcement continues unless the enforcing court, after consultation with the modifying
469 court, stays or dismisses the proceeding.

470 Section 3-308. EXPEDITED ENFORCEMENT OF CHILD-CUSTODY
471 DETERMINATION

472 (a) A complaint or petition under this article shall be verified. Certified copies of all
473 orders sought to be enforced and of any order confirming registration shall be attached to the
474 petition. A copy of a certified copy of an order may be attached instead of the original.

475 (b) A complaint or petition for enforcement of a child-custody determination shall state:

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

478 (2) whether the determination for which enforcement is sought has been vacated, stayed
479 or modified by a court whose decision shall be enforced under this chapter and, if so, identify the
480 court, case number and nature of the proceeding;

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

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

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

489 (6) if the child-custody determination has been registered and confirmed under section 3-
490 305, the date and place of registration.

491 (c) Upon the filing of a complaint or petition, the court shall issue an order directing the
492 defendant or respondent to appear with or without the child at a hearing and may enter any
493 orders necessary to ensure the safety of the parties and the child. The hearing shall be held on the
494 next judicial day after service of the order unless that date is impossible. In that event, the court
495 shall hold the hearing on the first judicial day possible. The court may extend the date of the
496 hearing at the request of the plaintiff or petitioner.

497 (d) An order issued under subsection (c) shall state the time and place of the hearing and
498 shall advise the defendant or respondent that at the hearing the court will order that the plaintiff
499 or petitioner may take immediate physical custody of the child and the payment of fees, costs
500 and expenses under section 3-312 and may schedule a hearing to determine whether further relief
501 is appropriate, unless the defendant or respondent appears and establishes that:

502 (1) the child-custody determination has not been registered and confirmed under section
503 3-305 and that:

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

505 (ii) the child-custody determination for which enforcement is sought has been vacated,
506 stayed or modified by a court having jurisdiction to do so under article 2; or

507 (iii) the defendant or respondent was entitled to notice, but notice was not given in
508 accordance with the standards of section 1-108, in the proceedings before the court that issued
509 the order for which enforcement is sought; or

510 (2) the child-custody determination for which enforcement is sought was registered and
511 confirmed under section 3-305, but has been vacated, stayed or modified by a court of a state
512 having jurisdiction to do so under article 2.

513 Section 3-309. SERVICE OF COMPLAINT OR PETITION AND ORDER

514 Except as otherwise provided in section 3-311, the complaint or petition and order shall
515 be served, by any method authorized by the law of the commonwealth, upon the respondent and
516 any person who has physical custody of the child.

517 Section 3-310. HEARING AND ORDER

518 (a) Unless the court enters a temporary emergency order pursuant to section 2-204, upon
519 a finding that a plaintiff or petitioner is entitled to immediate physical custody of the child, the
520 court shall order that the plaintiff or petitioner may take immediate physical custody of the child
521 unless the defendant or respondent establishes that:

522 (1) the child-custody determination has not been registered and confirmed under section
523 3-305 and that:

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

525 (ii) the child-custody determination for which enforcement is sought has been vacated,
526 stayed or modified by a court of a state having jurisdiction to do so under article 2; or

527 (iii) the defendant or respondent was entitled to notice, but notice was not given in
528 accordance with the standards of section 1-108, in the proceedings before the court that issued
529 the order for which enforcement is sought; or

530 (2) the child-custody determination for which enforcement is sought was registered and
531 confirmed under section 3-305 but has been vacated, stayed or modified by a court of a state
532 having jurisdiction to do so under article 2 or federal law.

533 (b) The court shall award the fees, costs and expenses authorized under section 3-312 and
534 may grant additional relief, including a request for the assistance of law enforcement officials,
535 and set a further hearing to determine whether additional relief is appropriate.

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

538 (d) A privilege against disclosure of communications between spouses and a defense of
539 immunity based on the spousal relationship or parent and child relationship does not apply in a
540 proceeding under article 3.

541 Section 3-311. WARRANT TO TAKE PHYSICAL CUSTODY OF CHILD

542 (a) Upon the filing of a complaint or petition seeking enforcement of a child-custody
543 determination, the plaintiff or petitioner may file a verified application for the issuance of a
544 warrant to take physical custody of the child if the child is immediately likely to suffer serious
545 physical harm or be removed from the commonwealth.

546 (b) If the court, upon the testimony of the plaintiff or petitioner or other witness, finds
547 that the child is imminently likely to suffer serious physical harm or be removed from the
548 commonwealth, it may issue a warrant to take physical custody of the child. The complaint or
549 petition shall be heard on the next judicial day after the warrant is executed unless it is
550 impossible on that date. In that event, the court shall hold the hearing on the first judicial day

551 possible. The application for the warrant shall include the statements required by subsection (b)
552 of section 3-308.

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

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

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

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

558 (d) The defendant or respondent shall be served with the complaint or petition, warrant
559 and order immediately after the child is taken into physical custody.

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

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

568 Section 3-312. COSTS, FEES AND EXPENSES

569 (a) The court shall award the prevailing party, including a state, necessary and reasonable
570 expenses incurred by or on behalf of the party, including costs, communication expenses,

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

574 (b) The court shall not assess fees, costs or expenses against a state unless authorized by
575 law other than this chapter.

576 Section 3-313. RECOGNITION AND ENFORCEMENT

577 A court of the commonwealth shall accord full faith and credit to an order issued by
578 another state and consistent with this chapter that enforces a child-custody determination by a
579 court of another state unless the order has been vacated, stayed or modified by a court having
580 jurisdiction to do so under article 2.

581 Section 3-314. APPEALS

582 An appeal may be taken from a final order in a proceeding under this article in
583 accordance with expedited appellate procedures in other civil cases. Unless the court enters a
584 temporary emergency order under section 2-204, the enforcing court shall not stay an order
585 enforcing a child-custody determination pending appeal.

586 Section 3-315. ROLE OF PROSECUTOR OR PUBLIC OFFICIAL

587 (a) In a case arising under this chapter or involving the Hague Convention on the Civil
588 Aspects of International Child Abduction, the prosecutor or other appropriate public official may
589 take any lawful action, including resort to a proceeding under this article or any other available
590 civil proceeding to locate a child, obtain the return of a child or enforce a child-custody
591 determination if there is:

- 592 (1) an existing child-custody determination;
- 593 (2) a request to do so from a court in a pending child-custody proceeding;
- 594 (3) a reasonable belief that a criminal statute has been violated; or
- 595 (4) a reasonable belief that the child has been wrongfully removed or retained in violation
- 596 of the Hague Convention on the Civil Aspects of International Child Abduction.

597 (b) A prosecutor or appropriate public official acting under this section shall represent the

598 commonwealth and shall not represent any other party to the proceeding.

599 Section 3-316. ROLE OF LAW ENFORCEMENT

600 At the request of a prosecutor or other appropriate public official acting under section 3-

601 315, a law enforcement officer may take any lawful action reasonably necessary to locate a child

602 or a party and assist a prosecutor or appropriate public official with responsibilities under said

603 section 3-315.

604 Section 3-317. COSTS AND EXPENSES

605 If the defendant or respondent is not the prevailing party, the court may assess against the

606 defendant or respondent all direct expenses and costs incurred by the prosecutor or other

607 appropriate public official and law enforcement officers under section 3-315 or 3-316.

608 ARTICLE 4. MISCELLANEOUS PROVISIONS

609 Section 4-401. APPLICATION AND CONSTRUCTION

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

612 Section 4-402. SEVERABILITY CLAUSE

613 If any provision of this chapter or its application to any person or circumstance is held
614 invalid, the invalidity shall not affect other provisions or applications of this chapter that can be
615 given effect without the invalid provision or application, and to this end the provisions of this
616 chapter are severable.

617 SECTION 2. A motion or other request for relief made in a child-custody proceeding or
618 to enforce a child-custody determination that was commenced before the effective date of this
619 chapter shall be governed by the law in effect at the time the motion or other request was made.

620 SECTION 3. This act shall take effect on December 31, 2024.