

SENATE No. 2754

The Commonwealth of Massachusetts

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

SENATE, May 2, 2024.

The committee on The Judiciary, to whom was referred the petitions (accompanied by bill, Senate, No. 923) of Cynthia Stone Creem for legislation relative to the uniform child custody jurisdiction and enforcement act, report the accompanying bill (Senate, No. 2754).

For the committee,
James B. Eldridge

SENATE No. 2754

The Commonwealth of Massachusetts

**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. Chapter 209B of the General Laws is hereby amended by striking out
2 sections 1 to 14, inclusive, and inserting in place thereof the following articles:-

3 ARTICLE 1. GENERAL PROVISIONS

4 Section 1-101. SHORT TITLE

5 This act may be cited as the Massachusetts Uniform Child-Custody Jurisdiction and
6 Enforcement Act.

7 Section 1-102. DEFINITIONS

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

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

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

12 “Child-custody determination”, a judgment, decree or other order of a court providing for
13 legal custody, physical custody, parenting time or visitation with respect to a child. The term
14 shall include a permanent, temporary, initial and modification order. The term shall not include
15 an order relating to child support or other monetary obligations of an individual.

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

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

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

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

26 “Home state”, the state in which a child lived with a parent or a person acting as a parent
27 for not less than 6 consecutive months immediately before the commencement of a child-custody
28 proceeding. For a child less than 6 months of age, “home state” shall mean the state in which the
29 child lived from birth with any of the persons mentioned. A period of temporary absence of any
30 of the mentioned persons is part of the period.

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

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

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

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

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

42 “Person acting as a parent”, a person, other than a parent, who:

43 (A) has physical custody of the child or has had physical custody for a period of 6
44 consecutive months, including any temporary absence, within 1 year immediately before the
45 commencement of a child-custody proceeding; and

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

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

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

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

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

56 Section 1-103. PROCEEDINGS GOVERNED BY OTHER LAW

57 This act does not govern an adoption proceeding or a proceeding pertaining to the
58 authorization of emergency medical care for a child.

59 Section 1-104. APPLICATION TO INDIAN TRIBES

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

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

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

68 Section 1-105. INTERNATIONAL APPLICATION OF ACT

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

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

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

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

77 A child-custody determination made by a court of the commonwealth that had
78 jurisdiction under this act binds all persons who have been served in accordance with the laws of
79 the commonwealth or notified in accordance with section 1-108 or who have submitted to the
80 jurisdiction of the court, and who have been given an opportunity to be heard. As to those
81 persons, the determination is conclusive as to all decided issues of law and fact except to the
82 extent the determination is modified.

83 Section 1-107. PRIORITY

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

87 Section 1-108. NOTICE TO PERSONS OUTSIDE STATE

88 (a) Notice required for the exercise of jurisdiction when a person is outside the
89 commonwealth may be given in a manner prescribed by the law of the commonwealth for the
90 service of process or by the law of the state in which the service is made. Notice shall be given in

91 a manner reasonably calculated to give actual notice but may be by publication if other means
92 are not effective.

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

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

97 Section 1-109. APPEARANCE AND LIMITED IMMUNITY

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

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

108 (c) The immunity granted by subsection (a) does not extend to civil litigation based on
109 acts unrelated to the participation in a proceeding under this act committed by an individual
110 while present in the commonwealth.

111 Section 1-110. COMMUNICATION BETWEEN COURTS

112 (a) A court of the commonwealth may communicate with a court in another state
113 concerning a proceeding arising under this act.

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

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

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

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

126 Section 1-111. TAKING TESTIMONY IN ANOTHER STATE

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

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

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

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

144 Section 1-112. COOPERATION BETWEEN COURTS; PRESERVATION OF
145 RECORDS

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

147 (1) hold an evidentiary hearing;

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

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

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

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

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

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

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

164 ARTICLE 2. JURISDICTION

165 Section 2-201. INITIAL CHILD-CUSTODY JURISDICTION

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

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

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

175 (A) the child and the child's parents, or the child and at least 1 parent or a person acting
176 as a parent, have a significant connection with the commonwealth other than mere physical
177 presence; and

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

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

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

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

187 (c) Physical presence of, or personal jurisdiction over, a party or a child is not necessary
188 or sufficient to make a child-custody determination.

189 Section 2-202. EXCLUSIVE, CONTINUING JURISDICTION

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

193 (1) a court of the commonwealth determines that neither the child, nor the child and 1
194 parent, nor the child and a person acting as a parent have a significant connection with the

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

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

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

202 Section 2-203. JURISDICTION TO MODIFY DETERMINATION

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

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

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

212 Section 2-204. TEMPORARY EMERGENCY JURISDICTION

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

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

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

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

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

237 other court. A court of the commonwealth that is exercising jurisdiction pursuant to sections 2-
238 201 to 2-203, inclusive, upon being informed that a child-custody proceeding has been
239 commenced in, or a child-custody determination has been made by, a court of another state under
240 a statute similar to this section shall immediately communicate with the court of that state to
241 resolve the emergency, protect the safety of the parties and the child and determine a period for
242 the duration of the temporary order.

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

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

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

251 (c) The obligation to join a party and the right to intervene as a party in a child-custody
252 proceeding under this act are governed by the law of the commonwealth as in child-custody
253 proceedings between residents of the commonwealth.

254 Section 2-206. SIMULTANEOUS PROCEEDINGS

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

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

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

269 (c) In a proceeding to modify a child-custody determination, a court of the
270 commonwealth shall determine whether a proceeding to enforce the determination has been
271 commenced in another state. If a proceeding to enforce a child-custody determination has been
272 commenced in another state, the court may:

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

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

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

277 SECTION 2-207. INCONVENIENT FORUM

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

317 (3) no court of any other state would have jurisdiction under the criteria specified in
318 sections 2-201 to 2-203, inclusive.

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

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

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

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

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

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

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

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

349 (c) If the declaration as to any of the items described in clauses (1) to (3), inclusive, of
350 subsection (a) is in the affirmative, the declarant shall give additional information under oath as
351 required by the court. The court may examine the parties under oath as to details of the
352 information furnished and other matters pertinent to the court's jurisdiction and the disposition of
353 the case.

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

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

362 Section 2-210. APPEARANCE OF PARTIES AND CHILD

363 (a) In a child-custody proceeding in the commonwealth, the court may order a party to
364 the proceeding who is in the commonwealth to appear before the court in person with or without
365 the child. The court may order any person who is in the commonwealth and who has physical
366 custody or control of the child to appear in person with the child.

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

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

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

377 ARTICLE 3. ENFORCEMENT

378 Section 3-301. DEFINITIONS

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

381 “Plaintiff” or “Petitioner”, a person who seeks enforcement of an order for return of a
382 child under the Hague Convention on the Civil Aspects of International Child Abduction or
383 enforcement of a child-custody determination.

384 “Defendant” or “Respondent”, a person against whom a proceeding has been commenced
385 for enforcement of an order for return of a child under the Hague Convention on the Civil
386 Aspects of International Child Abduction or enforcement of a child-custody determination.

387 Section 3-302. ENFORCEMENT UNDER HAGUE CONVENTION.

388 Under article 3, a court of the commonwealth may enforce an order for the return of the
389 child made under the Hague Convention on the Civil Aspects of International Child Abduction
390 as if it were a child-custody determination.

391 Section 3-303. DUTY TO ENFORCE

392 (a) A court of the commonwealth shall recognize and enforce a child-custody
393 determination of a court of another state if the latter court exercised jurisdiction in substantial
394 conformity with this act or the determination was made under factual circumstances meeting the
395 jurisdictional standards of this act and the determination has not been modified in accordance
396 with this act.

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

401 Section 3-304. TEMPORARY VISITATION

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

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

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

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

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

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

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

416 (2) 2 copies, including 1 certified copy, of the determination sought to be registered and a
417 statement under penalty of perjury that to the best of the knowledge and belief of the person
418 seeking registration the order has not been modified; and

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

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

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

428 (c) The notice required by clause (2) of subsection (b) shall state that:

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

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

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

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

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

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

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

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

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

451 Section 3-306. ENFORCEMENT OF REGISTERED DETERMINATION

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

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

458 Section 3-307. SIMULTANEOUS PROCEEDINGS

459 If a proceeding for enforcement under article 3 is commenced in a court of the
460 commonwealth and the court determines that a proceeding to modify the determination is
461 pending in a court of another state having jurisdiction to modify the determination under article
462 2, the enforcing court shall immediately communicate with the modifying court. The proceeding

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

465 Section 3-308. EXPEDITED ENFORCEMENT OF CHILD-CUSTODY
466 DETERMINATION

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

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

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

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

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

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

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

484 (6) if the child-custody determination has been registered and confirmed under section 3-
485 305, the date and place of registration.

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

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

497 (1) the child-custody determination has not been registered and confirmed under section
498 3-305 and that:

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

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

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

505 (2) the child-custody determination for which enforcement is sought was registered and
506 confirmed under section 3-304, but has been vacated, stayed or modified by a court of a state
507 having jurisdiction to do so under article 2.

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

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

512 Section 3-310. HEARING AND ORDER

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

517 (1) the child-custody determination has not been registered and confirmed under section
518 3-305 and that:

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

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

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

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

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

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

533 (d) A privilege against disclosure of communications between spouses and a defense of
534 immunity based on the spousal relationship or parent and child relationship shall not be invoked
535 in a proceeding under article 3.

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

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

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

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

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

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

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

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

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

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

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

563 Section 3-312. COSTS, FEES, AND EXPENSES

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

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

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

571 Section 3-313. RECOGNITION AND ENFORCEMENT

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

576 Section 3-314. APPEALS

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

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

582 (a) In a case arising under this act or involving the Hague Convention on the Civil
583 Aspects of International Child Abduction, the prosecutor or other appropriate public official may
584 take any lawful action, including resort to a proceeding under article 3 or any other available
585 civil proceeding to locate a child, to obtain the return of a child or enforce a child-custody
586 determination if there is:

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

592 (b) A prosecutor or appropriate public official acting under this section acts on behalf of

593 the court and shall not represent any party.

594 Section 3-316. ROLE OF LAW ENFORCEMENT

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

596 315, a law enforcement officer may take any lawful action reasonably necessary to locate a child

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

598 section 3-315.

599 Section 3-317. COSTS AND EXPENSES

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

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

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

603 ARTICLE 4. MISCELLANEOUS PROVISIONS

604 Section 4-401. APPLICATION AND CONSTRUCTION

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

607 Section 4-402. SEVERABILITY CLAUSE

608 If any provision of this act or its application to any person or circumstance is held invalid,
609 the invalidity does not affect other provisions or applications of this act that can be given effect
610 without the invalid provision or application, and to this end the provisions of this act are
611 severable.

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

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