

THE UNIFORM CHILD CUSTODY JURISDICTION ACT (UCCJA)

AND

**THE UNIFORM CHILD CUSTODY JURISDICTION
AND ENFORCEMENT ACT(UCCJEA)**

A SIDE-BY-SIDE COMPARISON

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**UNIFORM CHILD CUSTODY
JURISDICTION ACT
(1968)**

UCCJA SECTION 1. PURPOSES.

Purposes of act; construction of provisions.

- (a) The general purposes of this act are to:
- (1) Avoid jurisdictional competition and conflict with courts of other states in matters of child custody which have in the past resulted in the shifting of children from state to state with harmful effects on their well-being;
 - (2) promote cooperation with the courts of other states to the end that a custody decree is rendered in that state which can best decide the case in the interest of the child;
 - (3) assure that litigation concerning the custody of a child take place ordinarily in the state with which the child and the child's family have the closest connection and where significant evidence concerning the child's care, protection, training, and personal relationships is most readily available, and that courts of this state decline the exercise of jurisdiction when the child and the child's family have a closer connection with another state;
 - (4) discourage continuing controversies over child custody in the interest of greater stability of home environment and of secure family relationships for the child;
 - (5) deter abductions and other unilateral removals of children undertaken to obtain custody awards;
 - (6) avoid re-litigation of custody decisions of other states in this state insofar as feasible;
 - (7) facilitate the enforcement of custody decrees of other states;
 - (8) promote and expand the exchange of information and other forms of mutual assistance between the courts of this state and those of other states concerned with the same child; and
 - (9) make uniform the law of those states which enact it.

**UNIFORM CHILD-CUSTODY JURISDICTION
AND ENFORCEMENT ACT
(1997)
GENERAL PROVISIONS**

[ARTICLE] 1

THE UCCJEA DOES NOT INCLUDE A "PURPOSE" SECTION BECAUSE THE UNIFORM LAWS COMMISSION DETERMINED THAT "PURPOSES" SECTIONS ARE NOT NECESSARY IN UNIFORM LEGISLATION. THE "PURPOSES" SECTION IS OMITTED FROM THE UCCJEA AS A MATTER OF STYLE. COMMENTS TO THE UCCJEA INDICATE, HOWEVER, THAT NOTWITHSTANDING ABSENCE OF A "PURPOSES" SECTION, COURTS SHOULD INTERPRETE THE UCCJEA IN ACCORD WITH THE PURPOSES STATED IN THE UCCJA.

<p>(b) This act shall be construed to promote the general purposes stated in this section.</p>	
<p>THE UCCJA “SHORT TITLE” IS INCLUDED AT UCCJA SECTION 26. THE “SHORT TITLE” OF THE UCCJEA IS MOVED TO THE BEGINNING OF THE ACT FOR STYLE REASONS. THE UCCJEA IS RENAMED TO EMPHASIZE THE ADDED ENFORCEMENT PROCEDURE PROVISIONS. <i>{{UCCJA SECTION 26 SHORT TITLE. SECTIONS 1 TO 26, inclusive, may be cited as the uniform child custody jurisdiction act.}}</i></p>	<p>UCCJEA SECTION 101. SHORT TITLE.</p> <p>This [Act] may be cited as the Uniform Child-Custody Jurisdiction and Enforcement Act.</p>
<p>UCCJA SECTION 2. DEFINITIONS.</p> <p>As used in the uniform child custody Jurisdiction act:</p> <p>THE UCCJA DOES NOT INCLUDE A PROVISION COMPARABLE TO UCCJEA 102(1). THE UCCJEA INCLUDES A DEFINITION FOR “ABANDONED” BECAUSE UNIFORM LAWS REQUIRE UNIFORM DEFINITIONS.</p> <p>THE UCCJA DOES NOT INCLUDE A PROVISION COMPARABLE TO UCCJEA 102(2). THE UCCJEA INCLUDES A DEFINITION OF “CHILD” BECAUSE UNIFORM LAWS REQUIRE UNIFORM DEFINITIONS. THE UCCJEA DEFINITION FOR “CHILD” IS TAKEN FROM THE FEDERAL PKPA WHICH GOVERNS FULL FAITH AND CREDIT GIVEN TO DECISIONS ON CHILD CUSTODY JURISDICTION. THE UCCJEA USES 18 YEARS OF AGE SINCE PERSONS 18 AND OLDER ARE ADULTS UNDER GENERAL LAW.</p> <p>THE UCCJA INCLUDED A DEFINITION OF “CUSTODY DETERMINATION” AT UCCJA SECTION 3(b). THE UCCJEA CHANGES THE TERM “CUSTODY DETERMINATION” TO "CHILD-CUSTODY DETERMINATION." THE UCCJEA DRAFTERS DID NOT INTEND ANY SUBSTANTIVE CHANGE BY THIS CHANGE IN TERMINOLOGY, BUT INTENDED THAT THE DEFINITION CLOSELY TRACK THE FEDERAL PKPA DEFINITION. THE UCCJEA DEFINITION EXCLUDES FROM THE DEFINITION MATTERS</p>	<p>UCCJEA SECTION 102. DEFINITIONS.</p> <p>In this [Act]:</p> <p>(1) "Abandoned" means left without provision for reasonable and necessary care or supervision.</p> <p>(2) "Child" means an individual who has not attained 18 years of age.</p> <p>(3) "Child-custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, initial, and modification order. The term does not include an order relating to child support or other monetary obligation of an individual.</p>

COVERED BY UNIFORM INTERSTATE FAMILY SUPPORT ACT (UIFSA).

THE UCCJA INCLUDED A DEFINITION FOR "CUSTODY PROCEEDING" AT UCCJA SECTION 3(c). THE UCCJEA DRAFTERS EXPANDED THE UCCJEA DEFINITION, ALTHOUGH IT DID NOT INTEND ANY SUBSTANTIVE CHANGE BY THE CHANGE IN TERMINOLOGY OR THE LISTING OF PROCEEDINGS. THE UCCJEA LISTS PROCEEDINGS ONLY TO MAKE IT CLEAR THOSE PROCEEDINGS THAT ARE INCLUDED BECAUSE SOME STATES DOMESTIC VIOLENCE STATUTES MAY AFFECT CUSTODY AND VISITATION AND BECAUSE SOME STATES' COURTS MISTAKENLY EXCLUDED SOME PROCEEDINGS THAT WERE MEANT INCLUDED. THE UCCJEA LISTING OF PROCEEDINGS INCLUDED WITHIN THE UCCJEA SHOULD ASSIST IN PROVIDING UNIFORM INTERPRETATION.

CASES THAT INVOLVE THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF CHILD ABDUCTION ARE NOT INCLUDED IN THE UCCJEA DEFINITION BECAUSE THE HAGE CONVENTION IS NOT A "CHILD-CUSTODY" PROCEEDING AND THE HAGUE CONVENTION SPECIFICALLY PROVIDES THAT THE HAGUE CONVENTION AN ENFORCEMENT PROCEDURE, RATHER THAN A CHILD-CUSTODY DETERMINATION PROCEDURE. THE EXCLUSION OF THE HAGUE CONVENTION PROCEEDINGS AND UCCJEA ENFORCEMENT PROCEDURES IS INTENTION TO EMPHASIZE THAT COURTS DO NOT HAVE THE POWER TO MODIFY CUSTODY IN THOSE PROCEEDINGS (UNLESS THE COURT HAS MODIFICATION JURISDICTION. SEE UCCJEA ARTICLE 3.

UCCJEA SECTION 102(5) USES THE WORD "COMMENCEMENT" AS AS A REPLACEMENT FOR THE UCCJA WORD "PENDING." THE CHANGE FROM "PENDING" IN THE UCCJA TO "COMMENCEMENT" IN THE UCCJEA IS INTENDED TO SIMPLIFY PROVISIONS IN THE UCCJEA REGARDING SIMULTANEOUS PROCEEDINGS.

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

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

THE UCCJA DID NOT INCLUDE A DEFINITION COMPARABLE TO THE "COURT" DEFINITION USED IN UCCJEA SECTION 102(6). THE UCCJEA INCLUDES A DEFINITION FOR "COURT" BECAUSE THE UCCJEA REFERS TO ENTITIES OTHER THAN THOSE TRIBUNALS COMMONLY UNDERSTOOD TO CONSTITUTE A "COURT" AND WHICH MAY DETERMINE CHILD CUSTODY ISSUES, SO THE UCCJEA REQUIRED A UNIFORM DEFINITION OF THE TERM.

(a) "Contestant" means a person, including a parent, who claims a right to custody or visitation rights with respect to a child.

(b) "Custody determination" means a court decision and court orders and instructions providing for the custody of a child, including visitation rights; it does not include a decision relating to child support or any other monetary obligation of any person.

(c) "Custody proceeding" includes proceedings in which a custody determination is one of several issues, such as an action for divorce or separation, and includes proceedings under the Kansas code for care of children.

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

THE UCCJA TERM "CONTESTANT" IS OMITTED IN THE UCCJEA. THE RATIONALE FOR INCLUDING THE TERM "CONTESTANT" IN THE UCCJA WAS NOT CLEARLY ENUNCIATED AND IT SEEMED TO SERVE NO PURPOSE WITHIN THE UCCJA FRAMEWORK. IF THE TERM HAD A FUNCTION WITHIN THE UCCJA, THAT FUNCTION IS SERVED BY STATE LAWS THAT DEFINE THOSE PERSONS WHO HAVE STANDING TO SEEK CHILD CUSTODY OR VISITATION DETERMINATIONS.

THE UCCJA TERMS "CUSTODY DETERMINATION" AND "CUSTODY PROCEEDING" ARE CHANGED TO "CHILD-CUSTODY DETERMINATION" AND "CHILD-CUSTODY PROCEEDING." THE CHANGE IN TERMINOLOGY IS NOT INTENDED AS A SUBSTANTIVE CHANGE. THE DEFINITION OF "CHILD-CUSTODY DETERMINATION" IN THE UCCJEA CLOSELY TRACKS THE FEDERAL PKPA DEFINITION. THE UCCJEA EXPANDS THE LIST OF CHILD-CUSTODY PROCEEDING FROM A COMPARABLE LIST CONTAINED IN THE UCCJA TO MAKE CLEAR THE EXPANSIVE NATURE OF THE PROCEEDINGS COVERED AND TO RESOLVE INCONSISTENCIES ACROSS THE UNITED STATES. THE PROCEEDINGS LISTED IN THE UCCJEA ARE NOT INTENDED TO BE EXCLUSIVE, BUT ARE THOSE KINDS OF PROCEEDINGS THAT COURTS HAVE GENERALLY REGARDED AS THE TYPE OF PROCEEDINGS TO WHICH THE FEDERAL PKPA IS APPLICABLE. THE UCCJEA DEFINITION DOES NOT INCLUDE MATTERS DEALING WITH CHILDREN THAT DO NOT AFFECT CHILD-CUSTODY (SUCH AS CHILD SUPPORT, WHICH IS ADDRESSED BY THE UIFSA AND CRIMINAL PROCEEDINGS, WHICH IS ADDRESSED BY A

<p>(d) "Decree" or "custody decree" means a custody determination contained in a judicial decree or order made in a custody proceeding, and includes an initial decree and a modification decree.</p> <p>(e) "Home state" means the state in which the child immediately preceding the time involved lived with the child's parents, a parent, or a person acting as parent, for at least six consecutive months, and in the case of a child less than six months old the state in which the child lived from birth with any of the persons mentioned. Periods of temporary absence of any of the named persons are counted as part of the six-month or other period.</p> <p>THE UCCJEA DEFINITION OF "HOME STATE" IS SLIGHTLY REWRITTEN FROM THE UCCJA FOR STYLISTIC REASONS. THE CHANGE IS NOT INTENDED AS A SUBSTANTIVE CHANGE FROM THE UCCJA.</p> <p>(f) "Initial decree" means the first custody decree concerning a particular child.</p> <p>THE UCCJA DEFINITION OF "INITIAL DECREE" DID NOT INCLUDE TEMPORARY CHILD CUSTODY ORDERS.</p> <p>THE UCCJA DOES NOT CONTAIN A DEFINITION COMPARABLE TO UCCJEA 102(9). THE UCCJEA INCLUDES A DEFINITION FOR "ISSUING COURT" TO CLARIFY THE COURT FOR WHICH ORDERS ARE SOUGHT ENFORCED. THIS DEFINITION APPLIES BY ITS TERMS TO UCCJEA ARTICLE 3 [ENFORCEMENT].</p>	<p>STATE'S CRIMINAL LAWS).</p> <p>THE UCCJEA DOES NOT INCLUDE TERMS COMPARABLE TO THE UCCJA TERMS "DECREE" OR "CUSTODY DECREE." THE UCCJA TERMS ARE ELIMINATED FROM THE UCCJEA BECAUSE THEY ARE CONSIDERED DUPLICATIVE OF THE UCCJEA TERM "CUSTODY DETERMINATION."</p> <p>(7) "Home State" means the State in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child-custody proceeding. In the case of a child less than six months of age, the term means the State in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.</p> <p>THE UCCJEA DEFINITION OF "HOME STATE" IS SLIGHTLY REWRITTEN FROM THE UCCJA FOR STYLISTIC REASONS. THE CHANGE IS NOT INTENDED AS A SUBSTANTIVE CHANGE.</p> <p>(8) "Initial determination" means the first child-custody determination concerning a particular child.</p> <p>THE UCCJEA CHANGES THE UCCJA TERM "INITIAL DECREE" TO "INITIAL DETERMINATION" TO MAKE CLEAR THAT THE UCCJEA INTENDS THAT TEMPORARY ORDERS COME WITHIN COVERAGE OF THE UCCJEA. THE UCCJEA SUBSTITUTES "DETERMINATION" FOR THE WORD "DECREE" TO ACCOMPLISH THIS EXPANED COVERAGE.</p> <p>(9) "Issuing court" means the court that makes a child-custody determination for which enforcement is sought under this [Act].</p>
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<p>THE UCCJA DOES NOT INCLUDE A TERM COMPARABLE TO “ISSUING STATE” AS CONTAINED IN UCCJEA SEC. 102(10). THE UCCJEA TERM "ISSUING STATE" IS DRAWN FROM THE LANGUAGE OF THE UNIFORM INTERSTATE FAMILY SUPPORT ACT (UIFSA). AS USED IN THE UCCJEA, THE TERM “ISSUING COURT” REFERS TO THE STATE OR COURT THAT MADE THE PREVIOUS CHILD-CUSTODY DETERMINATION WHICH IS SOUGHT ENFORCED. BY ITS TERMS, UCCJEA 102(10) IS USED PRIMARILY IN UCCJEA ARTICLE 3 [ENFORCEMENT].</p> <p>(g) "Modification decree" means a custody decree which modifies or replaces a prior decree, whether made by the court which rendered the prior decree or by another court.</p> <p>THE UCCJA DEFINITION FOR “MODIFICATION DECREE” IN UCCJA SEC. 3(g) IS SLIGHTLY REWRITTEN IN UCCJEA SECTION 102(11) TO EXPAND THE TERM’S COVERAGE TO INCLUDE TEMPORARY ORDERS (SEE ALSO UCCJEA SECTION 102(4) [“CHILD-CUSTODY DETERMINATION”]).</p> <p>(h) "Physical custody" means actual possession and control of a child.</p> <p>THE UCCJA DOES NOT CONTAIN A TERM COMPARABLE TO THE UCCJEA SECTION 102(12). TERM “PERSON.” THE UCCJEA ADDS A DEFINITION FOR THE WORD “PERSON” AND EXPLAINS THE TERM FROM A HUMAN PERSON TO INCLUDE ENTITIES THAT MAY HAVE CHILD-CUSTODY TO MAKE SURE THAT THE UCCJEA APPLIES WHEN A STATE IS THE MOVING PARTY IN A CUSTODY PROCEEDING OR HAS LEGAL CUSTODY OF THE SUBJECT CHILD.</p>	<p>(10) "Issuing State" means the State in which a child-custody determination is made.</p> <p>(11) "Modification" means a child-custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination.</p> <p>THE UCCJEA SECTION 102(11) DEFINITION FOR “MODIFICATION” IS A SLIGHT REWRITING OF THE UCCJA SECTION 3(g) TERM “MODIFICATION DECREE” TO MAKE CLEAR THAT TEMPORARY ORDERS ARE COVERED BY THE UCCJEA, AS WELL AS PERMANENT ORDERS.</p> <p>UCCJEA SEC. 102(14) CONTAINS A DEFINITION SIMILAR TO THE DEFINITION CONTAINED IN UCCJA SECTION 3(h). <i>{(14) "Physical custody" means the physical care and supervision of a child.}</i></p> <p>(12) "Person" includes government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.</p>
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<p>(i) "Person acting as parent" means a person, other than a parent, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody.</p> <p>UCCJEA SECTION 102(13) EXPANDS THE UCCJA SECTION 3(i) DEFINITION TO INCLUDE A "PERSON" WHO HAS ACTED AS A PARENT FOR A SIGNIFICANT PERIOD OF TIME BEFORE THE FILING OF A CHILD CUSTODY PROCEEDING. THE TERM ALSO INCLUDES A PERSON WHO HAS CUSTODY OF THE SUBJECT CHILD AT THE TIME OF THE FILING. UCCJEA SECTION 102(13) REQUIRES THAT A PERSON ACTING AS A PARENT MUST EITHER HAVE LEGAL CUSTODY OF THE SUBJECT CHILD OR CLAIM A RIGHT TO LEGAL CUSTODY OF THE CHILD UNDER THE LAW OF THE STATE.</p> <p>UCCJEA SEC. 102(14) CONTAINS A DEFINITION FOR "PHYSICAL CUSTODY" THAT IS SIMILAR TO UCCJA SECTION 2(h); HOWEVER, THE UCCJEA DEFINITION OF "PHYSICAL CUSTODY" DE-EMPHASISES THE POSSESSORY ASPECT OF CHILD CUSTODY. <i>{{UCCJA SECTION 2(h) "Physical custody" means actual possession and control of a child.}}</i></p> <p>(j) "State" means any state, territory, or possession of the United States, the Commonwealth of Puerto Rico, and the District of Columbia.</p> <p>THE UCCJEA TERM "STATE" CONTAINED IN UCCJEA SECTION 102(15) IS NOT INTENDED AS A SUBSTANTIVE CHANGE TO UCCJA SECTION 2(j), BUT REPHRASES THE DEFINITION TO ENCOMPASS ALL UNITED STATES TERRITORIES AND POSSESSIONS.</p> <p>THE UCCJA DID NOT INCLUDE A PROVISION THAT THE UCCJA APPLIED TO NATIVE AMERICAN TRIBES. THE DEFINITION OF "TRIBE" CONTAINED IN UCCJEA 102(16) IS THE DEFINITION MANDATED FOR UNIFORM ACTS. THE UCCJEA SPECIFICALLY APPLIES TO TRIBAL COURTS, AND TO THE COURTS OF THE STATES AND TERRITORIES OF THE UNITED STATES, AS WELL AS TO OTHER COUNTRIES THAT MEET REQUIREMENTS STATED IN THE UCCJEA.</p>	<p>(13) "Person acting as a parent" means a person, other than a parent, who:</p> <p>(A) has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately before the commencement of a child-custody proceeding; and</p> <p>(B) has been awarded legal custody by a court or claims a right to legal custody under the law of this State.</p> <p>(14) "Physical custody" means the physical care and supervision of a child.</p> <p>(15) "State" means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.</p> <p>(16) "Tribe" means an Indian tribe, or band, or Alaskan Native village which is recognized by federal law or formally acknowledged by a State.</p>
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<p>THE UCCJA DID NOT INCLUDE A DEFINITION FOR THE TERM “WARRANT” AS INCLUDED IN UCCJEA 102(17) SINCE THE UCCJA DID NOT CONTAIN ANY UNIFORM ENFORCEMENT PROCEDURE.</p>	<p>(17) "Warrant" means an order issued by a court authorizing law enforcement officers to take physical custody of a child.</p>
<p>THE UCCJA DID NOT CONTAIN A PROVISION COMPARABLE TO UCCJEA SECTION 103 BECAUSE THE UCCJA DID NOT EXCLUDE ANY CHILD RELATED ISSUE FROM ITS COVERAGE.</p> <p>UCCJEA SECTION 103 EXCLUDES FROM COVERAGE OF THE UCCJEA PROCEEDINGS WHICH SEEK AUTHORIZATION FOR EMERGENCY MEDICAL CARE FOR CHILDREN BECAUSE THE DRAFTERS DEEMED THEM AS OUTSIDE THE SCOPE OF CHILD-CUSTODY PROCEEDINGS, SINCE EMERGENCY MEDICAL PROCEEDINGS DO NOT SEEK A “CUSTODY DETERMINATION.”</p> <p>UCCJEA SECTION 103 ALSO EXCLUDES FROM ITS COVERAGE ADOPTIONS BECAUSE NCCUSL HAS RECOMMENDED THE UNIFORM ADOPTION ACT FOR PASSAGE AND CONSISTENCY OF UNIFORM ACTS REQUIRES THAT TWO UNIFORM ACTS NOT OVERLAP INCONSISTENTLY.</p> <p>IF, HOWEVER, A STATE HAS NOT ADOPTED THE UNIFORM ADOPTION ACT OR IF A STATE DESIRES THAT THE UCCJEA APPLY TO ADOPTIONS, THEN THE STATE HAS VARIOUS OPTIONS: (1) THE STATE CAN OMIT UCCJEA SECTION 103 SO THAT THE ACT APPLIES TO ADOPTIONS BY FAILURE TO OMIT THAT COVERAGE; OR (2) THE STATE CAN MODIFY UCCJEA SECTION 103 TO MAKE CLEAR THAT ADOPTIONS ARE COVERED BY THE UCCJEA; OR (3) THE STATE CAN ENACT THE UNIFORM ADOPTION ACT JURISDICTIONAL PROVISIONS (WITH CHANGES TO COORDINATE WITH THE UCCJEA).</p>	<p>UCCJEA SECTION 103. PROCEEDINGS GOVERNED BY OTHER LAW.</p> <p>This [Act] does not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.</p>
<p>UCCJEA SECTION 104 IS ADDED BECAUSE THE UCCJA DID NOT RECOGNIZE INDIAN TRIBES AS “TRIBUNALS” THAT COULD DETERMINE CHILD-CUSTODY ISSUES. THE UCCJA DID NOT CONTAIN ANY PROVISIONS REGARDING</p>	<p>UCCJEA SECTION 104. APPLICATION TO INDIAN TRIBES.</p> <p>(a) A child-custody proceeding that pertains to an Indian child as defined in the Indian Child Welfare Act, 25 U.S.C. 1901 et seq., is not subject to this [Act] to the extent that it is governed by the Indian Child Welfare Act.</p> <p>[(b) A court of this State shall treat a tribe as if it were a</p>

INDIAN TRIBES, IN PART, BECAUSE THE UCCJA WAS DRAFTED BEFORE THE ENACTMENT OF THE FEDERAL INDIAN CHILD WELFARE ACT. UCCJEA SEC. 104 ALLOWS A STATE TO EXTEND THE UCCJEA TO CUSTODY DECISIONS BY INDIAN TRIBES.

UCCJEA SECTION 105 CONTAINS A MODIFIED AND EXPANDED PROVISION FROM THE UCCJEA ON INTERNATIONAL APPLICATION OF THE UCCJEA. THE UCCJA INCLUDED A SIMILAR, BUT WEAKER, PROVISION AT UCCJA SECTION 23.

{{UCCJA SECTION 23

INTERNATIONAL APPLICATION.

The general policies of this act extend to the international area. The provisions of this act relating to the recognition and enforcement of custody decrees of other states apply to custody decrees and decrees involving legal institutions similar in nature to custody institutions rendered by appropriate authorities of other nations if reasonable notice and opportunity to be heard were given to all affected persons.}}

UCCJA SECTION 23 INDICATES ONLY THAT THE THEORIES UPON WHICH THE UCCJA IS BASED SHOULD BE APPLIED IN INTERNATIONAL CUSTODY SITUATIONS. THERE HAVE BEEN INCONSISTENT APPLICATIONS OF THE UCCJA INTERNATIONAL PROVISION AMONG THE STATES LEADING TO PROBLEMS IN UNIFORM INTERPRETATION.

IN ADDITION, AT THE TIME OF THE DRAFTING OF THE UCCJA, THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION WAS NOT YET NEGOTIATED OR IN EFFECT. THE UCCJEA WAS DRAFTED WITH THE HAGUE CONVENTION TREATY IN MIND AND IN LIGHT OF THE GROWING IMPORTANCE OF INTERNATIONAL COOPERATION IN CHILD-CUSTODY LITIGATION.

UCCJEA SECTION 106 IS A SLIGHT REWRITING OF UCCJA SECTION 12. THE UCCJEA DRAFTERS DID NOT INTEND ANY SUBSTANTIVE CHANGE BY THE REWORDING.

State of the United States for purposes of [Articles] 1 and 2.]

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

UCCJEA SECTION 105. INTERNATIONAL APPLICATION OF [ACT].

(a) A court of this State shall treat a foreign country as if it were a State of the United States for purposes of applying [Articles] 1 and 2.

(b) Except as otherwise provided in subsection (c), a child-custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this [Act] must be recognized and enforced under [Article] 3.

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

UCCJEA SECTION 105 PROVIDES FOR THOSE CIRCUMSTANCES UNDER WHICH THE COURT NEED NOT APPLY THE PROVISIONS OF THE ACT TO FOREIGN CUSTODY LAW, AS PROVIDED IN THE HAGUE CONVENTION.

UCCJEA SECTION 106. BINDING FORCE OF CHILD-CUSTODY DETERMINATION.

A child-custody determination made by a court of this State that had jurisdiction under this [Act] binds all persons who have been served in accordance with the laws of this State or notified in accordance with Section 108 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. The

{{UCCJA SEC 12: BINDING FORCE AND RES JUDICATA EFFECT OF CUSTODY DECREE. A custody decree rendered by a court of this state which had jurisdiction under Section 3 binds all parties who have been served in this state or notified in accordance with Section 5 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to these parties the custody decree is conclusive as to all issues of law and fact decided and as to the custody determination made unless and until that determination is modified pursuant to law, including the provisions of this act.}}

UCCJEA SECTION 107 IS COMPARABLE TO UCCJA SECTION 24. THE UCCJEA DRAFTERS DID NOT INTEND ANY SUBSTANTIVE CHANGES BY THE REWORDING. FOR STYLISTIC REASONS, THE UCCJEA "PRIORITY" SECTION IS PLACED NEAR THE BEGINNING OF ARTICLE 1 TO EMPHASIZE ITS IMPORTANCE. THE LANGUAGE CHANGE FROM "CASE" IN UCCJA SECTION 24 TO "QUESTION" IN UCCJEA SECTION 107 IS MEANT TO CLARIFY THAT THE JURISDICTIONAL ISSUE MUST BE EXPEDITED – NOT THE ENTIRE CHILD-CUSTODY CASE. *{{38-1324 PRIORITY.*

Upon the request of a party to a custody proceeding which raises a question of existence or exercise of jurisdiction under this act the case shall be given calendar priority and handled expeditiously.}}

UCCJEA SECTION 108 REPLACES UCCJA SECTION 5, WHICH PROVIDED METHODS BY WHICH SERVICE OF NOTICE OF A CHILD-CUSTODY PROCEEDING WAS TO BE MADE. UCCJEA SECTION 108 AUTHORIZES NOTICE, AND PROOF OF SERVICE TO BE MADE UPON PERSONS AFFECTED BY ANY METHOD ALLOWED BY STATE LAW, RATHER THAN BY PROVIDING IT METHODS THAT MAY OVERLAP OTHER STATE LAWS. UNDER UCCJEA 108, STATE LAW DETERMINES THE PERIOD OF TIME BEFORE ANY HEARING THAT NOTICE MUST OCCUR. THE UCCJEA SHIFTS MANY PROCEDURAL MATTERS (SUCH AS THE MANNER BY WHICH NOTICE IS GIVEN) TO REFERENCE UNDER LOCAL STATE LAW TO DETERMINE AS MANY ISSUES AS POSSIBLE. OTHER THAN THIS CHANGE, THE UCCJEA DOES

determination is conclusive as to them as to all decided issues of law and fact except to the extent the determination is modified.

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

UCCJEA SECTION 108. NOTICE TO PERSONS OUTSIDE STATE.

(a) Notice required for the exercise of jurisdiction when a person is outside this State may be given in a manner prescribed by the law of this State for the service of process or by the law of the State in which the service is made. Notice must be given in a manner reasonably calculated to give actual notice, but may be by publication if other means are not effective.

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

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

NOT MAKE ANY MAJOR SUBSTANTIVE CHANGE TO THE FORMER UCCJA SECTION 5. UCCJEA SEC. 108 REFERS TO STATE LAW RATHER THAN SETTING UP ITS OWN SCHEME FOR SERVICE.

{{UCCJA SEC. 5. NOTICE TO PERSONS OUTSIDE THIS STATE; SUBMISSION TO JURISDICTION.

(a) Notice required for the exercise of jurisdiction over a person outside this state shall be given in a manner reasonably calculated to give actual notice, and may be:

(1) By personal delivery outside this state in the manner prescribed for service of process within this state;

(2) in the manner prescribed by the law of the place in which the service is made for service of process in that place in an action in any of its courts of general jurisdiction;

(3) by any form of mail addressed to the person to be served and requesting a receipt; or

(4) as directed by the court, including publication, if other means of notification are ineffective.

(b) Notice under this section shall be served, mailed, or delivered, or last published at least thirty (30) days before any hearing in this state.

(c) Proof of service outside this state may be made by affidavit of the individual who made the service, or in the manner prescribed by the law of this state, the order pursuant to which the service is made, or the law of the place in which the service is made. If service is made by mail, proof may be a receipt signed by the addressee or other evidence of delivery to the addressee.

(d) Notice is not required if a person submits to the jurisdiction of the court.}}

THE UCCJA DID NOT CONTAIN ANY PROVISION FOR “LIMITED IMMUNITY” SIMILAR TO THE PROVISIONS CONTAINED IN UCCJEA SECTION 109. SOME OF THE PROVISIONS IN UCCJEA SECTION 109 ARE DRAWN FROM UIFSA SECTION 314. THE LACK OF ANY “LIMITED IMMUNITY” PROVISION WITHIN THE UCCJA CAUSED DIFFICULT PROBLEMS, IN PART BECAUSE BECAUSE LITIGANTS WOULD ATTEMPT TO USE ONE TYPE OF PROCEEDINGS TO GAIN JURISDICTION IN ANOTHER. THE EXPLICIT GRANT OF IMMUNITY UNDER UCCJEA SECTION 109 TO LITIGANTS WHEN THAT LITIGANT CHALLENGES CHILD CUSTODY JURISDICTION CLARIFIES THE LAW AS IT EXISTED.

UCCJEA SECTION 109 MAKES CLEAR THAT THE IMMUNITY GRANTED IS LIMITED TO

SECTION 109. APPEARANCE AND LIMITED IMMUNITY.

(a) A party to a child-custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child-custody determination, is not subject to personal jurisdiction in this State for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding.

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

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

PROTECTION FROM SERVICE AS A RESULT OF PHYSICAL PRESENCE NECESSITATED BY PARTICIPATION IN A CHILD-CUSTODY PROCEEDING, AND NOT TO OTHER “CONTACTS” THAT PERSON MAY HAVE WITH THE STATE.

UCCJEA SECTION 110 EXPANDS PROVISIONS OF UCCJA SECTION 6(c). UCCJEA SECTION 110 ADDS LANGUAGE THAT MAKES MORE CLEAR THE ROLE OF PARTIES TO THE CHILD-CUSTODY PROCEEDING IN THE COMMUNICATION PROCESS.

{{UCCJA Section.6(c) If the court is informed during the course of the proceeding that a proceeding concerning the custody of the child was pending in another state before the court assumed jurisdiction it shall stay the proceeding and communicate with the court in which the other proceeding is pending to the end that the issue may be litigated in the more appropriate forum and that information be exchanged in accordance with Section 19 to 22, inclusive. If a court of this state has made a custody decree before being informed of a pending proceeding in a court of another state it shall immediately inform that court of the fact. If the court is informed that a proceeding was commenced in another state after it assumed jurisdiction it shall likewise inform the other court to the end that the issues may be litigated in the more appropriate forum.}}

THE UCCJA DID NOT INCLUDE ANY PROVISION SIMILAR TO UCCJEA SECTION 110(b), WHICH ALLOWS PARTIES TO PARTICIPATE IN THE COURTS’ COMMUNICATIONS. THE UCCJA DID NOT GRANT PARTIES TO CHILD-CUSTODY LITIGATION ANY RIGHT TO PARTICIPATE IN COMMUNICATIONS BETWEEN COURTS. THE LACK OF A “RIGHT” TO PARTICIPATE CAUSED DUE PROCESS CONCERNS. UCCJEA SECTION 110(b) INDICATES THAT PARTIES TO A CHILD-CUSTODY PROCEEDING HAVE A RIGHT TO PARTICIPATE IN ANY COURT COMMUNICATIONS (OTHER THAN THOSE RELATED ONLY TO SCHEDULING AND CALENDARING).

THE UCCJA DOES NOT INCLUDE ANY PROVISION COMPARABLE TO UCCJEA SECTION 110(c). WHILE GIVING PARTIES TO CHILD-

UCCJEA SECTION 110. COMMUNICATION BETWEEN COURTS.

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

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

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

CUSTODY LITIGATION A RIGHT TO PARTICIPATE IN ANY COURT COMMUNICATIONS, UCCJEA SECTION 110(c) CLARIFIES THAT THE COURTS MAY ENGAGE IN NON-SUBSTANTIVE TO COORDINATE THEIR SUBSTANTIVE COMMUNICATIONS AND THAT THE COURTS NEED NOT INVOLVE THE PARTIES IN THOSE CALENDARING ACTIVITIES.

THE UCCJA DID NOT INCLUDE ANY PROVISION COMPARABLE TO UCCJEA SEC. 110(d). THE UCCJA DID NOT GRANT PARTIES TO CHILD-CUSTODY LITIGATION ANY RIGHT TO PARTICIPATE IN COMMUNICATIONS BETWEEN COURTS REGARDING THE CHILD-CUSTODY CASE. THIS CAUSED DUE PROCESS CONCERNS. UCCJEA SECTION 110(d) REQUIRING A "RECORD" OF ANY COMMUNICATIONS BETWEEN COURTS IS INCLUDED IN UCCJEA 110 TO MAKE SURE THAT THE COURTS PRESERVE AN APPROPRIATE RECORD. THIS IS PROCEDURAL PROTECTION IS INCLUDED TO MAKE SURE THAT THE DUE PROCESS CONCERNS OF THE PARTIES INVOLVED IN THE CHILD CUSTODY PROCEEDING ARE HONORED.

THE UCCJA DID NOT INCLUDE ANY PROVISION COMPARABLE TO UCCJEA SEC. 110(e). THE UCCJA DID NOT GRANT PARTIES TO CHILD-CUSTODY LITIGATION ANY RIGHT TO PARTICIPATE IN COMMUNICATIONS BETWEEN COURTS REGARDING THE CHILD-CUSTODY CASE. THIS CAUSED DUE PROCESS CONCERNS. UCCJEA SECTION 110 (e) CONTAINS A DEFINITION OF THE TERM "RECORD" TO MAKE SURE THAT A UNIFORM MEANING IS ATTACHED TO THE TERM AND TO ASSURE THAT INFORMATION ABOUT THE COURT COMMUNICATION IS KEPT IN TANGIBLE FORM RATHER THAN MERE RECOLLECTION OF THE PARTICIPANTS TO THAT CONFERENCE.

UCCJEA SECTION 111 IS COMPARABLE TO UCCJA SEC. 18. THE UCCJEA DRAFTERS DID NOT INTEND ANY SUBSTANTIVE CHANGES. UCCJEA SECTION 111 (b) AND (c) PROVIDE THAT MODERN MODES OF COMMUNICATION ARE PERMISSIBLE.

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

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

SECTION 111. TAKING TESTIMONY IN ANOTHER STATE.

(a) In addition to other procedures available to a party, a party to a child- custody proceeding may offer testimony of witnesses who are located in another State, including

{{38-1318 TAKING TESTIMONY IN ANOTHER STATE.

In addition to other procedural devices available to a party, any party to the proceeding or a guardian ad litem or other representative of the child may adduce testimony of witnesses, including parties and the child, by deposition or otherwise, in another state. The court on its own motion may direct that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony shall be taken.}}

UCCJEA SECTION 111 (b) AND (c) PROVIDE THAT COURTS MAY USE “MODERN” MODES OF COMMUNICATION. THE DRAFTERS DID NOT INTEND THE INCLUSION OF THIS REFERENCE TO CREATE ANY SUBSTANTIVE CHANGE TO THE UCCJA.

UCCJEA SEC 112 COMBINES UCCJA SECTIONS 19, 20, 21 AND 22, WHICH APPROPRIATE LANGUAGE CHANGES. UCCJEA 112 ALSO INCORPORATES SOME PROVISIONS PREVIOUSLY CONTAINED WITHIN UCCJA SECTION 6.

UCCJEA SECTION 112 PROVIDES THE MECHANISM FOR COMMUNICATION BETWEEN COURTS IN WHICH COMPETING ACTIONS ARE FILED. THE UCCJEA DRAFTERS ONLY INTENDED SUBSTANTIVE CHANGES FROM THE COMPARABLE UCCJA PROVISIONS ONLY IN UCCJEA 112(c).

UCCJEA SECTION 112(a) IS SIMILAR TO UCCJA SECTION 19. THE DRAFTERS DID NOT INTEND

testimony of the parties and the child, by deposition or other means allowable in this State for testimony taken in another State. The court on its own motion may order that the testimony of a person be taken in another State and may prescribe the manner in which and the terms upon which the testimony is taken.

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

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

UCCJEA SECTION 112. COOPERATION BETWEEN COURTS; PRESERVATION OF RECORDS.

<p>ANY SUBSTANTIVE CHANGES FROM UCCJA SECTION 19. UCCJEA SECTION 112(a) BREAKS DOWN UCCJA SECTION 19 INTO SUBSECTIONS FOR CLARITY. UCCJEA SECTION 112(a) AUTHORIZES A COURT TO REQUEST ACTION BY ANOTHER COURT. UCCJEA SECTION 112(b) AUTHORIZES A COURT TO HOLD A HEARING REQUESTED BY ANOTHER COURT UNDER UCCJEA SECTION 112(a).</p> <p><i>{{UCCJA SECTION 19 HEARINGS AND STUDIES IN ANOTHER STATE; ORDERS TO APPEAR. (a) A court of this state may request the appropriate court of another state to hold a hearing to adduce evidence, to order a party to produce or give evidence under other procedures of that state, or to have social studies made with respect to the custody of a child involved in proceedings pending in the court of this state; and to forward to the court of this state certified copies of the transcript of the record of the hearing, the evidence otherwise adduced, or any social studies prepared in compliance with the request. The cost of the services may be assessed against the parties or, if necessary, ordered paid by the county.}}</i></p> <p>UCCJA SECTION 19(a) INCLUDED THE TERM "SOCIAL STUDY," WHICH IS REPLACED IN UCCJEA SECTION 112(3) BY THE MODERN TERM: "CUSTODY EVALUATION." THE UCCJEA DOES NOT TAKE A POSITION ON THE ADMISSIBILITY OF A CUSTODY EVALUATION PERFORMED WITHIN ANOTHER STATE LEAVING THAT ISSUE TO THE COURT IN WHICH THE EVIDENCE WILL BE SOUGHT ADMITTED. UCCJEA SECTION 112(a)(3) MERELY AUTHORIZES A COURT TO SEEK THE ASSISTANCE – OR TO RENDER ASSISTANCE – OF ANOTHER STATE’S COURTS.</p> <p>UCCJEA SECTION 112(4) IS TAKEN FROM UCCJA SECTION 19(a), BUT BROKEN INTO SUBSECTIONS FOR CLARITY.</p> <p>UCCJEA SECTION 112(5) IS SIMILAR TO THE FIRST SENTENCE OF UCCJA SECTION 19(b). THE SECOND PART OF UCCJA SECTION 19(b) IS CONTAINED IN UCCJEA 112(b) AND (c).</p> <p><i>{{UCCJA SECTION 19(b). A court of this state may request the appropriate court of another state to order a party to custody proceedings pending in the court of this state to appear in the proceedings, and if that party has physical custody of the child, to appear with the child.}}</i></p>	<p>(a) A court of this State may request the appropriate court of another State to:</p> <p>(1) hold an evidentiary hearing;</p> <p>(2) order a person to produce or give evidence pursuant to procedures of that State;</p> <p>(3) order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;</p> <p>(4) forward to the court of this State a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; and</p> <p>(5) order a party to a child-custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.</p>
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The request may state that travel and other necessary expenses of the party and of the child whose appearance is desired will be assessed against another party or will otherwise be paid.}}

UCCJEA SECTION 112(b) IS THE COMPLEMENTARY PROVISION TO UCCJEA SECTION 112(a) AND IS SIMILAR TO UCCJA SECTION 20. UCCJEA SECTION 112(b) AUTHORIZES A COURT TO HOLD A HEARING REQUESTED BY ANOTHER COURT UNDER UCCJEA SECTION 112(a).

{{UCCJA SECTION 20(a).

(a) Upon request of the court of another state the courts of this state which are competent to hear custody matters may order a person in this state to appear at a hearing to adduce evidence or to produce or give evidence under other procedures available in this state or may order social studies to be made for use in a custody proceeding in another state. A certified copy of the transcript of the record of the hearing or the evidence otherwise adduced and any social studies prepared shall be forwarded by the clerk of the court to the requesting court.}}

UCCJEA SECTION 112(c) CONTAINS A COST PROVISION SIMILAR THAT THE COSTS PROVISION INCLUDED AT UCCJA SECTION 19(a) and (b). UCCJEA SECTION 112(c) IS A CONSOLIDATION OF THOSE COSTS PROVISIONS. THE UCCJEA EXPANDS THE UCCJA COSTS PROVISION. THE DRAFTERS INTENDED THE UCCJEA TERM "EXPENSES" CONTAINED IN UCCJEA SEC. 112(c) TO INCLUDE OUT-OF-POCKET COSTS ONLY. OVERHEAD EXPENSES SHOULD NOT BE ASSESSED AS EXPENSES.

UCCJEA SECTION 112(d) IS SIMILAR TO UCCJA SEC. 21. THE UCCJEA DRAFTERS DID NOT

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

UCCJA SECTION 20(a) INCLUDED THE TERM "SOCIAL STUDY," WHICH IS REPLACED IN UCCJEA SECTION 112(b) BY THE MODERN TERM: "CUSTODY EVALUATION." THE UCCJEA DOES NOT TAKE A POSITION ON THE ADMISSIBILITY OF A CUSTODY EVALUATION PERFORMED WITHIN ANOTHER STATE LEAVING THAT ISSUE TO THE COURT IN WHICH THE EVIDENCE WILL BE SOUGHT ADMITTED. UCCJEA SECTION 112(a)(3) MERELY AUTHORIZES A COURT TO SEEK THE ASSISTANCE – OR TO RENDER ASSISTANCE – OF ANOTHER STATE’S COURTS.

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

INTEND ANY SUBSTANTIVE CHANGE BY LANGUAGE DIFFERENCES. THE UCCJEA EXPANDS TO THE PERSONS WHO CAN REQUEST DOCUMENTS FROM THE STATE'S COURTS TO "A LAW ENFORCEMENT OFFICIAL OF ANOTHER STATE" TO FACILITATE ENFORCEMENT OF CHILD-CUSTODY ORDERS.

{{UCCJA SECTION 21. PRESERVATION OF DOCUMENTS FOR USE IN OTHER STATES. In any custody proceeding in this state the court shall preserve the pleadings, orders and decrees, any record that has been made of its hearings, social studies, and other pertinent documents until the child reaches eighteen (18) years of age. Upon appropriate request of the court of another state the court shall forward to the other court certified copies of any or all such documents.}}

UCCJA SECTION 3 IS THE "HEART" OF THE UCCJA. IT PROVIDES THE BASIS FOR CHILD-CUSTODY JURISDICTION UNDER THE UCCJA AND DEFINES THOSE SITUATIONS IN WHICH A COURT MAY ASSERT CHILD CUSTODY JURISDICTION.

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

UCCJEA ARTICLE 2 IS THE "HEART" OF THE UCCJEA. UCCJEA ARTICLE 2 DEFINES WHEN A COURT MAY EXERCISE CHILD-CUSTODY JURISDICTION TO CONSIDER MAKING A CHILD-CUSTODY DETERMINATION. IT PROVIDES THE BASIS FOR CHILD-CUSTODY JURISDICTION UNDER THE UCCJA AND DEFINES THOSE SITUATIONS IN WHICH A COURT MAY ASSERT CHILD CUSTODY JURISDICTION.

UCCJEA ARTICLE 2 GREATLY EXPANDS UCCJA SECTION 3 AND INCORPORATES CHANGES IN THE LAW MANDATED BY THE FEDERAL PARENTAL KIDNAPPING PREVENTION ACT AND TO COORDINATE WITH THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION.

THE EXPANDED UCCJEA ARTICLE 2 FURTHER DEFINES WHEN A COURT CAN – AND CANNOT – EXERCISE JURISDICTION, DIFFERENTIATES BETWEEN "INITIAL" AND "MODIFICATION" JURISDICTION, PROVIDES THOSE CIRCUMSTANCES UNDER WHICH A COURT LOSES CONTINUING CHILD-CUSTODY JURISDICTION, DEFINES THE STATE THAT MAY ASSUME JURISDICTION AFTER THE ORIGINAL CHILD-CUSTODY DECREE STATE HAS LOST CHILD-CUSTODY JURISDICTION, AND PROVIDES CLARIFICATION FOR THOSE INSTANCES WHEN "EMERGENCY TEMPORARY JURISDICTION" IS SOUGHT TO ADDRESS "EMERGENCY" CIRCUMSTANCES.

**[ARTICLE] 2
JURISDICTION**

UCCJEA SECTION 201. INITIAL CHILD-CUSTODY JURISDICTION.

UCCJA SECTION 3. JURISDICTION.

(a) A court of this state which is competent to decide child custody matters has jurisdiction to make a child custody determination by initial or modification decree if:

UCCJA SECTION 3(a) DEFINED WHEN A STATE'S COURTS COULD EXERCISE CHILD-CUSTODY JURISDICTION FOR EITHER AN INITIAL CHILD CUSTODY ORDER OR FOR MODIFICATIONS OF THAT ORIGINAL ORDER.

BECAUSE UCCJA SECTION 3(a) INCLUDED BOTH INITIAL AND MODIFICATION ORDERS IN THE SAME PLACE, MANY COURTS CONFUSED THE TWO TYPES OF JURISDICTION AND DETERMINED THAT THE COURT COULD DETERMINE ANEW CHILD-CUSTODY JURISDICTION WITH EACH FILING REQUESTING A DETERMINATION OF CHILD CUSTODY ISSUES. THIS CAUSED PROBLEMS ALMOST IMMEDIATELY AFTER THE INITIAL APPROVAL OF THE UCCJA BECAUSE OF THE LACK OF CLARITY AS TO THE CIRCUMSTANCES UNDER WHICH CHILD-CUSTODY JURISDICTION CONTINUED AFTER ENTRY OF A CHILD-CUSTODY DECREE. SOME STATES PASSED SUPPLEMENTARY PROVISIONS CONTINUING CHILD-CUSTODY JURISDICTION UNTIL ANOTHER STATE ASSUMED JURISDICTION; OTHER STATES COURTS HELD THAT AS SOON AS THE CHILD MOVED FROM THE ORIGINAL DECREE STATE, THAT STATE LOST JURISDICTION.

(1) This state

(A) is the home state of the child at the time of

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

UCCJEA SECTION 201(a) CLARIFIES UCCJA SECTION 3(a) BY DEALING ONLY WITH "INITIAL CHILD CUSTODY JURISDICTION" AND ELIMINATING "MODIFICATION JURISDICTION" FROM IT'S COVERAGE, SHIFTING MODIFICATION JURISDICTION TO ANOTHER SECTION [UCCJEA 203].

UCCJEA SECTION 201(a) MAKES REFERENCE TO LIMITED INSTANCES IN WHICH AN "EMERGENCY" ORDER IS SOUGHT DUE TO ALLEGATIONS OF NEGLECT AND ABANDONMENT (WHICH ARE "TEMPORARY" ORDERS).

INSTEAD OF GRANTING A STATE THE "COMPETENCY" TO DECIDE A CHILD-CUSTODY ISSUE, UCCJEA SECTION 201(a) AFFIRMATIVELY STATES THAT A STATE THAT SATISFIES THE MANDATES OF UCCJEA SECTION SECTION 201(a) "HAS JURISDICTION TO MAKE AN INITIAL CHILD-CUSTODY DETERMINATION." FURTHER, BY STATING THAT A COURT HAS JURISDICTION ONLY IF IT SATISFIES THE CRITERIA SET FORTH IN UCCJEA SECTION 201(a), THE UCCJEA LIMITS A STATE'S ABILITY TO ASSUME CHILD-CUSTODY JURISDICTION TO ONLY THOSE INSTANCES, WHICH FULFILLS THE DRAFTERS INTENTION THAT THE CHILD CUSTODY JURISDICTION ACT *LIMITS*, RATHER THAN EXPANDS JURISDICTION TO DECIDE CHILD CUSTODY PROCEEDINGS.

(1) this State

is the home State of the child on the date of the commencement of the proceeding, or

was the home State of the child within six months

<p>commencement of the proceeding, or</p> <p>(B) had been the child's home state within six months before commencement of the proceeding and the child is absent from this state because of the child's removal or retention by a person claiming the child's custody or for other reasons, and a parent or person acting as parent continues to live in this state; or</p> <p>UCCJA SECTION 3 INCLUDED A SERIES OF BASES FOR CHILD-CUSTODY JURISDICTION. THE UCCJA DID NOT PROVIDE A CLEARLY HIERARCHICAL CHOICE AMONG THOSE DIFFERENT BASES (ALTHOUGH COMMENTS TO THE UCCJA MADE REFERENCE TO A HIERARCHICAL ANALYSIS).</p> <p>AS A RESULT OF THE FAILURE TO PROVIDE A HIERARCHICAL STRUCTURE, STATE COURTS OFTEN ASSUMED THE BASES OF JURISDICTION WERE EQUAL AND THAT THE FACT THAT A "HOME STATE" EXISTED WAS NO MORE – AND NO LESS – SIGNIFICANT THAN THE EXERCISE OF JURISDICTION BY A STATE THAT HAD "SIGNIFICANT CONNECTION JURISDICTION."</p> <p>AS A RESULT OF THE CONTINUED DISPUTE BETWEEN STATES HAVING DIFFERENT LEVELS OF CHILD-CUSTODY JURISDICTION, CONGRESS ENACTED THE PARENTAL KIDNAPPING PREVENTION ACT (PKPA), WHICH MANDATED A HYERARCHICAL ANALYSIS OF THE DIFFERENT BASES FOR CHILD-CUSTODY JURISDICTION.</p> <p>HOWEVER, EVEN THOUGH THE PKPA MANDATED A HIERARCHICAL VIEW OF THE JURISDICTIONAL BASES STATED IN THE UCCJA, MANY STATES VIEWED THE PKPA AS APPLY ONLY TO ATTEMPTS TO MODIFY INITIAL CHILD-CUSTODY DECREES, RATHER THAN A REQUIRED ANALYSIS FOR INITIAL DECREES AS WELL.</p> <p>THIS CONTINUING CONFUSION AND DISPUTE WAS A SIGNFICANT FACTOR LEADING TO THE NEED FOR A REVISED CHILD CUSTODY JURISDICTION ACT AND, SPECIFICALLY, A RE-WORDED AND REVISED BASIC CHILD-CUSTODY JURISDICTION PROVISION.</p>	<p>before the commencement of the proceeding and the child is absent from this State but a parent or person acting as a parent continues to live in this State;</p> <p>UCCJEA SECTION 201(a)(1) IS DRAFTED IN A WAY TO CLARIFY THOSE INSTANCES IN WHICH A COURT MAY ASSERT "HOME STATE" CHILD-CUSTODY JURISDICTION. ALTHOUGH MUCH OF THE LANGUAGE BETWEEN UCCJEA SECTION 201(a)(1) AND UCCJA SECTION 3 ARE THE SAME, THE DRAFTING COMMITTEE MODIFIED THE LANGUAGE TO STRENGTHEN HOME STATE JURISDICTION AND FOLLOW THE FEDERAL PARENTING KIDNAPPING PREVENTION ACT.</p> <p>UCCJEA SECTION 201(a)(1) MODIFIES THE BASIC UCCJA JURISDICTIONAL PROVISION (UCCJA SECTION 3) IN SEVERAL IMPORTANT WAYS.</p> <p>UCCJEA SECTION 201(a)(1) PROVIDES AN EXTENDED HOME STATE PROVISION THAT APPLIES WHENEVER THE CHILD HAS LEFT THE STATE AND A PARENT OR PERSON ACTING AS A PARENT REMAINS IN THE STATE.</p> <p>UCCJEA 201(a)(1) OMITTS THE UCCJA PROVISION THAT MADE REFERENCE TO THE REASON THE CHILD WAS REMOVED FROM THE PREVIOUS "HOME STATE." THE UCCJEA NO LONGER MAKES IT NECESSARY TO DETERMINE WHY A CHILD WAS REMOVED FROM THE "HOME STATE" – IF A CHILD LIVED IN A STATE FOR SIX MONTHS OR MORE AND IS THEN REMOVED FROM THE STATE, "HOME STATE" JURISDICTION CONTINUES FOR SIX MONTHS AFTER THE REMOVAL SO LONG AS THE OTHER PARENT CONTINUES TO LIVE IN THE STATE. THIS PROVISION ALLOWS A "STAY-BEHIND PARENT" A FULL SIX MONTHS TO FILE CHILD-CUSTODY PROCEEDINGS AND CLAIM THE STATE FROM WHICH THE CHILD WAS REMOVED AS THE "HOME STATE."</p> <p>THE ONLY INQUIRY UNDER UCCJEA 201(a)(1) RELATES TO THE STATUS OF THE PERSON LEFT BEHIND.</p> <p>THE CHANGED LANGUAGE IN UCCJEA 201(a)(1) PROVIDES A SLIGHTLY MORE REFINED HOME STATE STANDARD THAN THE STANDARD INCLUDED IN THE PKPA, WHICH REQUIRES A</p>
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<p>(2) it is in the best interest of the child that a court of this state assume jurisdiction because</p> <p>(A) the child and the child's parents, or the child and at least one contestant, have a significant connection with this state, and</p> <p>(B) there is available in this state substantial evidence concerning the child's present or future care, protection, training, and personal relationships; or</p> <p>UCCJA SECTION 3(a)(2) PROVIDED THE SECOND "CO-EQUAL" BASIS FOR CHILD-CUSTODY JURISDICTION IN THE UCCJA (ALTHOUGH THE DRAFTERS INTENDED THIS SECOND JURISDICTIONAL BASIS AS A BASIS FOR CHILD-CUSTODY JURISDICTION ONLY IF THE CHILD DID NOT HAVE A "HOME STATE"). THE LANGUAGE OF UCCJA SECTION 3 DID NOT MAKE CLEAR THE INTENTION THAT THE JURISDICTIONAL BASES STATED IN UCCJA SECTION 3 WERE HIERARCHICAL.</p> <p>UCCJA SECTION 3(a)(2) REQUIRED THAT THE CHILD AND ONE "CONTESTANT" HAVE SIGNIFICANT CONNECTIONS WITH THE STATE IN WHICH THE ASSERTION OF CHILD-CUSTODY JURISDICTION WAS SOUGHT, AND THAT "SUBSTANTIAL EVIDENCE" EXIST WITHIN THAT STATE REGARDING EITHER THE CHILD'S PRESENT OR FUTURE CARE, PROTECTION AND PERSONAL RELATIONSHIPS. THE INCLUSION OF A REFERENCE TO "FUTURE" HAPPENINGS LED TO ASSERTIONS THAT FUTURE EVENTS AFFECTED A CHILD WERE MORE IMPORTANT THAN PAST CONNECTIONS, WHICH CONTRADICTED THE UCCJA "LOOK BACK"</p>	<p>DETERMINATION THAT THE CHILD HAS BEEN REMOVED BY A CONTESTANT OR FOR OTHER REASONS.</p> <p>(2) a court of another State does not have jurisdiction under paragraph (1), or a court of the home State of the child has declined to exercise jurisdiction on the ground that this State is the more appropriate forum under Section 207 or 208, and:</p> <p>(A) the child and the child's parents, or the child and at least one parent or a person acting as a parent have a significant connection with this State other than mere physical presence; and</p> <p>(B) substantial evidence is available in this State concerning the child's care, protection, training, and personal relationships;</p> <p>UCCJEA SECTION 201(a)(2) IS REVISES CHILD-CUSTODY "SIGNIFICANT CONNECTION" JURISDICTION IN A NUMBER OF IMPORTANT WAYS:</p> <p>FIRST, UCCJEA 201(a)(2) ELIMINATES "BEST INTEREST OF THE CHILD" AS A JURISDICTIONAL CONSIDERATION. THE "BEST INTEREST OF THE CHILD" CRITERIA IS, AT BEST, A SUBJECTIVE AND FLUID CONCEPT OUT-OF-PLACE IN THE RULE BASED ARENA OF JURISDICTION. THE DRAFTING COMMITTEE DETERMINED THAT CRITERIA USED IN SUBSTANTIVE CHILD-CUSTODY DECISIONS SHOULD NOT "BLEED OVER" INTO A DECISION ABOUT WHICH STATE SHOULD HAVE INITIAL CHILD-CUSTODY JURISDICTION. TO DO SO WOULD MAKE THE DETERMINATION OF CHILD-CUSTODY JURISDICTION MORE UNCERTAIN AND MORE SUBJECT TO IMPROPER INFLUENCES. A "BEST INTEREST" ANALYSIS CLOUDED THE ANALYSIS OF WHICH STATE HAD THE CLOSEST CONNECTION TO THE CHILD FROM A JURISDICTIONAL STANDPOINT.</p> <p>SECOND, UCCJEA SECTION 201(a)(2) PRIORITIZES HOME STATE JURISDICTION IN THE SAME MANNER AS THE PKPA PROVIDING THAT "SIGNIFICANT CONNECTION"</p>
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<p>PROVISIONS. THE UCCJEA ATTEMPTS TO CORRECT THIS MISINTERPRETATION.</p>	<p>JURISDICTION IS APPROPRIATE ONLY IF NO “HOME STATE” EXISTS OR IF THE “HOME STATE” DETERMINES THAT ANOTHER STATE HAVING “SIGNIFICANT CONNECTION” JURISDICTION IS THE MORE APPROPRIATE JURISDICTION TO MAKE A CHILD-CUSTODY DETERMINATION. THE PRIORITIZATION CONTAINED IN UCCJEA 201(a)(2) IS NECESSARY TO CONFORM WITH THE PKPA.</p>
<p>(3) the child is physically present in this state and</p> <p>(A) the child has been abandoned or</p> <p>(B) it is necessary in an emergency to protect the</p>	<p>THIRD, UCCJEA 201(a)(2) REMOVES LANGUAGE REFERRING TO “CONTESTANT.” THE UCCJEA FOCUSES JURISDICTIONAL ATTENTION ON A PARENT OR PERSON ACTING AS A PARENT, RATHER THAN OTHER PERSONS WHO MAY ASSERT THIRD-PARTY CUSTODY OR VISITATION RIGHTS.</p> <p>FOURTH, UCCJEA 201(a)(2) REMOVES REFERENCE TO THE CHILD’S “FUTURE.” ALTHOUGH CHILD-CUSTODY DETERMINATIONS ALWAYS ADDRESS A CHILD’S FUTURE, THIS LANGUAGE WAS USED BY SOME COURTS TO “SHOEHORN” A CLAIM OF JURISDICTION BECAUSE THE CHILD HAD ONLY RECENTLY MOVED TO THAT NEW STATE. THE UCCJEA ATTEMPTS TO DISCOURAGE MANIPULATION OF CHILD-CUSTODY JURISDICTION BY LOOKING BACKWARD, RATHER THAN FORWARD TO DECIDE WHICH JURISDICTION HAS THE CLOSEST CONNECTION TO A CHILD.</p> <p>UCCJEA 201(a)(2) CONTINUES THE DE-EMPHASIS ON PHYSICAL PRESENCE AS A JURISDICTIONAL BASIS FIRST INCLUDED IN THE UCCJA. BEFORE ENACTMENT OF THE UCCJA, “GRAB-AND-RUN” WAS COMMON BECAUSE MANY COURTS ASSERTED CHILD-CUSTODY JURISDICTION BASED ON A CHILD’S PHYSICAL PRESENCE WITHIN THE STATE, RATHER THAN ANY REAL CONNECTION OF THAT CHILD TO THE STATE.</p> <p>THE UCCJEA REMOVES FROM “EMERGENCY JURISDICTION” FROM UCCJEA SECTION 201(a)(3) AND MOVES IT TO UCCJEA SECTION 204 TO MAKE IT CLEAR THAT “EMERGENCY JURISDICTION” IS NOT A PRIMARY BASIS FOR CHILD-CUSTODY JURISDICTION, BUT IS USED ONLY AS A TEMPORARY, EMERGENCY BASIS</p>

<p>child because the child has been subjected to or threatened with mistreatment or abuse or is otherwise a child in need of care; or</p> <p>(4) (A) it appears that no other state would have jurisdiction under prerequisites substantially in accordance with paragraphs (1), (2), or (3), or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine the custody of the child, and</p> <p>(B) it is in the best interest of the child that this court assume jurisdiction.</p> <p>UCCJA SECTION 3(a)(4) PROVIDED A BASIS FOR CHILD-CUSTODY JURISDICTION FOR THOSE SITUATIONS IN WHICH A STATE HAVING A “HIGHER LEVEL” JURISDICTION DECLINED JURISDICTION BECAUSE IT BELIEVED IT MORE APPROPRIATE THAT ANOTHER STATE DETERMINE CHILD-CUSTODY ISSUES. UCCJA SECTION 3(a)(4) PROVIDED A MANNER BY WHICH A STATE COULD ACCEPT THE JURISDICTIONAL TRANSFER .</p>	<p>FOR JURISDICTION WHEN THE COURT IN WHICH CHILD-CUSTODY PROCEEDINGS SHOULD BE FILED IS UNAVAILABLE TO ISSUE EMERGENCY ORDERS (E.G. PROTECTIVE ORDERS).</p> <p>(3) all courts having jurisdiction under paragraph (1) or (2) have declined to exercise jurisdiction on the ground that a court of this State is the more appropriate forum to determine the custody of the child under Section 207 or 208; or</p> <p>THE UCCJEA BREAKS DOWN THIS JURISDICTIONAL PROVISION INTO ITS TWO COMPONENTS AND MOVES THE FIRST HALF OF UCCJA SECTION 3(a)(4) TO UCCJEA SECTION 201(a)(4), IN LINE WITH THE HIERARCHICAL STRUCTURE OF CHILD-CUSTODY JURISDICTION.</p> <p>UCCJEA 201(a)(3) IS TAKEN FROM THE SECOND HALF OF UCCJA SECTION 3(a)(4)(A) AND PROVIDES A BASIS FOR CHILD-CUSTODY JURISDICTION WHEN A STATE DOES NOT SATISFY EITHER “HOME STATE” OR “SIGNIFICANT CONNECTION” JURISDICTION, BUT OTHER STATES HAVING THAT JURISDICTION RULE THAT ANOTHER STATE IS THE MORE APPROPRIATE JURISDICTION IN WHICH TO CONSIDER ENTRY OF A CHILD-CUSTODY DETERMINATION. UCCJEA SECTION 201(a)(3) PROVIDES A MANNER BY WHICH A STATE CAN ACCEPT THE JURISDICTIONAL TRANSFER. UCCJEA 201(a)(3) PRIORITIZES “HOME STATE” AND “SIGNIFICANT CONNECTION” JURISDICTION IN THE SAME MANNER AS THE PKPA.</p> <p>UCCJEA 201(a)(3) REMOVES “BEST INTEREST OF THE CHILD” AS A JURISDICTIONAL CONSIDERATION. THE “BEST INTEREST OF THE CHILD” CRITERIA IS, AT BEST, A SUBJECTIVE AND FLUID CONCEPT OUT-OF-PLACE IN THE RULE BASED ARENA OF JURISDICTION. THE DRAFTING COMMITTEE DETERMINED THAT CRITERIA USED IN SUBSTANTIVE CHILD-CUSTODY DECISIONS SHOULD NOT “BLEED</p>
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<p>UCCJEA SECTION 201(a)(4) IS TAKEN FROM THE FIRST HALF OF UCCJA SECTION 3(a)(4)(A) PROVIDING FOR CHILD-CUSTODY JURISDICTION IF THERE IS NO OTHER STATE THAT SATISFIES HIGHER LEVEL JURISDICTIONAL STANDING. <i>{{UCCJA SECTION 3(a)(4) (A) it appears that no other state would have jurisdiction under prerequisites substantially in accordance with paragraphs (1), (2), or (3), or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine the custody of the child, and (B) it is in the best interest of the child that this court assume jurisdiction.}}</i></p> <p>(b) Except under paragraphs (3) and (4) of subsection (a), physical presence in this state of the child, or of the child and one of the contestants, is not alone sufficient to confer jurisdiction on a court of this state to make a child custody determination.</p> <p>UCCJA SECTION 3(b) EMPHASIZED THAT PHYSICAL PRESENCE OF THE SUBJECT CHILD WAS NOT ALONE A SUFFICIENT BASIS FOR JURISDICTION. THIS PROVISION WAS INCLUDED IN THE UCCJA BECAUSE PRIOR TO THE UCCJA, SOME STATES BASED ASSERTION OF CHILD-CUSTODY JURISDICTION ON THE CHILD’S PRESENCE – EVEN IF THE CHILD HAD LIVED FOR A LONG TIME WITH PARENTS IN ANOTHER STATE.</p>	<p>OVER” INTO A DECISION ABOUT WHICH STATE SHOULD HAVE INITIAL CHILD-CUSTODY JURISDICTION. TO DO SO WOULD MAKE THE DETERMINATION OF CHILD-CUSTODY JURISDICTION MORE UNCERTAIN AND MORE SUBJECT TO IMPROPER INFLUENCES. A “BEST INTEREST” ANALYSIS CLOUDED THE ANALYSIS OF WHICH STATE HAD THE CLOSEST CONNECTION TO THE CHILD FROM A JURISDICTIONAL STANDPOINT.</p> <p>(4) no State would have jurisdiction under paragraph (1), (2), or (3).</p> <p>UCCJEA SECTION 201(a)(4) IS TAKEN FROM THE FIRST HALF OF UCCJA SECTION 3(a)(4)(A) PROVIDING FOR CHILD-CUSTODY JURISDICTION IF THERE IS NO OTHER STATE THAT SATISFIES HIGHER LEVEL JURISDICTIONAL STANDING. THE PLACEMENT OF UCCJEA 201(a)(4) IS INTENDED TO EMPHASIZE THE HIERARCHICAL STRUCTURE OF CHILD-CUSTODY JURISDICTION AND ASSURE THAT A STATE THAT DOES NOT HAVE EITHER “HOME STATE” OR “SIGIFICANT CONNECTION” JURISDICTION SHOULD NOT ASSUME CHILD-CUSTODY JURISDICTION UNLESS NO OTHER STATE CAN MAKE A CHILD-CUSTODY DETERMINATION.</p> <p>(b) Subsection (a) is the exclusive jurisdictional basis for making a child- custody determination by a court of this State.</p> <p>UCCJEA SECTION 201(b) MAKES CLEAR THAT THE ONLY BASES THAT A COURT MAY BASE CHILD-CUSTODY JURISDICTION ARE CONTAINED IN UCCJEA SECTION 201(a). THUS, UCCJEA SECTION 201(b) ELIMINATES OTHER ASSERTED BASES FOR CHILD-CUSTODY JURISDICTION.</p> <p>THE UCCJEA REMOVES FROM UCCJEA SECTION 201(b) REFERENCES TO PHYSICAL PRESENCE OF A CHILD CONSOLIDATING THOSE UCCJA PROVISIONS AT UCCJEA 201(c), AND STRENGTHENING THE LANGUAGE DE-EMPHASIZING A CHILD’S PHYSICAL PRESENCE IN THE FORUM STATE.</p>
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<p>(c) Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine the child's custody.</p> <p>UCCJA SECTION 3(c) EMPHASIZED THAT PHYSICAL PRESENCE OF THE SUBJECT CHILD WAS NOT A PREREQUISITE FOR ASSERTION OF CHILD-CUSTODY JURISDICTION. THIS PROVISION (TOGETHER WITH UCCJA SECTION 3(b) WAS INCLUDED IN THE UCCJA BECAUSE SOME STATES BASED ASSERTION OF CHILD-CUSTODY JURISDICTION ON THE CHILD'S PRESENCE PRIOR TO ENACTMENT OF THE UCCJA – EVEN IF THE CHILD LIVED IN ANOTHER STATE WITH PARENTS FOR A LONG TIME BEFORE INITIATION OF THE CUSTODY PROCEEDING.</p>	<p>(c) Physical presence of, or personal jurisdiction over, a party or a child is neither necessary nor sufficient to make a child-custody determination.</p> <p>UCCJEA SECTION 201(c) CONSOLIDATES PROVISIONS FROM THE UCCJA DE-EMPHASIZING A CHILD'S PHYSICAL PRESENCE IN THE FORUM STATE AS A BASIS FOR CHILD-CUSTODY JURISDICTION. UCCJEA 201(c) STRENGTHENS THE LANGUAGE USED TO EMPHASIZE THAT NOT ONLY IS A CHILD'S PHYSICAL PRESENCE IN THE FORUM STATE INSUFFICIENT TO CONFER JURISDICTION, IT IS UNNECESSARY.</p>
<p>UCCJA SECTION 4. Notice and opportunity to be heard.</p> <p>Before making a decree under this act, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated, and any person who has physical custody of the child. If any of these persons is outside this state, notice and opportunity to be heard shall be given pursuant to [UCCJA 5].</p>	<p>UCCJA SECTION 4 IS SIMILAR TO UCCJEA SECTION 205. THE COMPARABLE PROVISION IN UCCJEA 205 IS FOUND LATER IN THE UCCJEA THAN IN THE UCCJA TO ACCOMMODATE NEW SECTIONS IN THE UCCJEA REGARDING “EMERGENCY JURISDICTION” AND “JURISDICTION TO MODIFY.”</p> <p>UCCJEA SECTION 205 DOES NOT ATTEMPT TO DICTATE THOSE PERSONS TO WHOM NOTICE MUST BE GIVEN, WHICH DEPENDS ON LOCAL LAW.</p> <p><i>{{SECTION 205. NOTICE; OPPORTUNITY TO BE HEARD; JOINDER.</i></p> <p><i>(a) Before a child-custody determination is made under this [Act], notice and an opportunity to be heard in accordance with the standards of Section 108 must be given to all persons entitled to notice under the law of this State as in child-custody proceedings between residents of this State, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.</i></p> <p><i>(b) This [Act] does not govern the enforceability of a child-custody determination made without notice and an opportunity to be heard.</i></p> <p><i>(c) The obligation to join a party and the right to intervene as a party in a child-custody proceeding under this [Act] are governed by the law of this State as in child-custody proceedings between residents of this</i></p>

	<p><i>State.}}</i></p> <hr/>
<p>UCCJA SECTION 5. Notice to persons outside this state; submission to jurisdiction.</p> <p>(a) Notice required for the exercise of jurisdiction over a person outside this state shall be given in a manner reasonably calculated to give actual notice, and may be:</p> <p>(1) By personal delivery outside this state in the manner prescribed for service of process within this state;</p> <p>(2) in the manner prescribed by the law of the place in which the service is made for service of process in that place in an action in any of its courts of general jurisdiction;</p> <p>(3) by any form of mail addressed to the person to be served and requesting a receipt; or</p> <p>(4) as directed by the court, including publication, if other means of notification are ineffective.</p> <p>(b) Notice under this section shall be served, mailed, or delivered, or last published at least thirty (30) days before any hearing in this state.</p> <p>(c) Proof of service outside this state may be made by affidavit of the individual who made the service, or in the manner prescribed by the law of this state, the order pursuant to which the service is made, or the law of the place in which the service is made. If service is made by mail, proof may be a receipt signed by the addressee or other evidence of delivery to the addressee.</p> <p>(d) Notice is not required if a person submits to the jurisdiction of the court.</p>	<p>UCCJEA SECTION 108 REPLACES UCCJA SECTION 5. UCCJEA SECTION 108 DIRECTS THAT THE PROCEDURES PRESCRIBED BY THE STATE IN WHICH THE CHILD-CUSTODY PROCEEDING IS FILED. THE UCCJEA DRAFTERS DECIDED THAT INSTEAD OF HAVING POTENTIALLY OVERLAPPING WAYS TO PROVIDE NOTICE, IT WAS BEST TO ALLOW EACH STATE TO DECIDE THE MANNER BY WHICH NOTICE IS GIVEN RATHER THAN MANDATE SEPARATE UCCJEA PROCEDURES. (SEE UCCJEA SECTION 108 COMMENT, ABOVE) {{UCCJEA SECTION 108. NOTICE TO PERSONS OUTSIDE STATE.</p> <p><i>(a) Notice required for the exercise of jurisdiction when a person is outside this State may be given in a manner prescribed by the law of this State for the service of process or by the law of the State in which the service is made. Notice must be given in a manner reasonably calculated to give actual notice, but may be by publication if other means are not effective.</i></p> <p><i>(b) Proof of service may be made in the manner prescribed by the law of this State or by the law of the State in which the service is made.</i></p> <p><i>(c) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.}}</i></p> <hr/>

THE UCCJA DID NOT INCLUDE ANY PROVISION COMPARABLE TO UCCJEA SECTION 202. AS A RESULT, SOME STATES ENACTED SUPPLEMENTARY “CONTINUING JURISDICTION” STATUTES. THE LACK OF A “CONTINUING JURISDICTION” PROVISION IN THE UCCJA CAUSED CONFUSION BETWEEN STATES’ COURTS ABOUT WHEN A COURT OTHER THAN THE COURT THAT INITIALLY ENTERED A CHILD-CUSTODY ORDER COULD – AND COULD NOT – EXERCISE JURISDICTION.

ONE EXAMPLE OF A “CONTINUING JURISDICTION” STATUTE SUPPLEMENTARY TO THE UCCJA WAS KAN.STAT.ANN. 38-1335:

{{Kan.Stat.Ann. §38-1335 CONTINUATION OF JURISDICTION UNTIL ASSUMED BY ANOTHER STATE.

(a) The provisions of the uniform child custody jurisdiction act notwithstanding, the district court, having assumed jurisdiction to make a custody determination regarding a child, shall continue to have such jurisdiction until such time as a court of another state assumes jurisdiction to make a custody determination regarding the child.

(b) The definitions provided in K.S.A. 38-1302 shall apply to the terms used in this section.}}

UCCJEA SECTION 202. EXCLUSIVE, CONTINUING JURISDICTION.

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

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

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

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

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

UCCJEA SECTION 202 DEFINES HOW LONG CHILD-CUSTODY JURISDICTION CONTINUES IN A STATE THAT PREVIOUSLY EXERCISED JURISDICTION UNDER UCCJEA SECTION 201. THE UCCJA DID NOT CONTAIN A PROVISION SIMILAR TO THAT FOUND IN UCCJEA SECTION 202.

UCCJEA SECTION 202 IS SIMILAR TO THE EXCLUSIVE, CONTINUING JURISDICTION PROVISION CONTAINED IN THE UNIFORM INTERSTATE FAMILY SUPPORT ACT (UIFSA). AS A MATTER OF STYLE, THE UCCJEA ADOPTS A SLIGHTLY DIFFERENT TERM, “CONTINUING, EXCLUSIVE JURISDICTION,” TO DIFFERENTIATE CONTINUING CHILD-CUSTODY JURISDICTION FROM CONTINUING CHILD-SUPPORT JURISDICTION. THE TERM “CONTINUING, EXCLUSIVE JURISDICTION” IS ADOPTED TO EMPHASIZE NOT ONLY THE FACT THAT JURISDICTION CONTINUES, BUT THAT IT EXCLUDES ANY OTHER STATE FROM EXERCISING CHILD-CUSTODY JURISDICTION

UNTIL AND UNLESS THE STATE THAT PREVIOUSLY MADE A CHILD-CUSTODY DETERMINATION LOSES ITS POWER TO MAKE FURTHER CHILD-CUSTODY ORDERS.

UCCJEA SECTION 202 DIRECTS THAT A STATE THAT PREVIOUSLY EXERCISED CHILD-CUSTODY JURISDICTION UNDER UCCJEA SECTION 201 [INITIAL CHILD CUSTODY JURISDICTION] OR UCCJEA SECTION 203 [MODIFICATION CHILD CUSTODY JURISDICTION] CONTINUES AS THE ONLY STATE IN WHICH LATER CHILD-CUSTODY MATTER MAY PROCEED UNTIL ONE OF TWO CONDITIONS OCCURS:

FIRST, A STATE AUTOMATICALLY LOSES CONTINUING, EXCLUSIVE JURISDICTION UNDER UCCJEA SECTION 202 IF THE SUBJECT CHILD AND BOTH PARENTS MOVE FROM THAT STATE. IF THOSE PERSONS HAVE MOVED FROM THE STATE, THEN ANY STATE – THE STATE THAT PREVIOUSLY ENTERED CHILD CUSTODY ORDERS OR ANOTHER STATE – CAN FIND THE ORIGINAL STATE COURTS HAVE LOST CHILD-CUSTODY JURISDICTION.

SECOND, A COURT WITHIN THE STATE THAT OTHERWISE POSSESSES “CONTINUING, EXCLUSIVE JURISDICTION” CAN DECIDE THAT THE STATE NO LONGER HAS ANY CONTINUING INTEREST IN MAKING A CHILD-CUSTODY DETERMINATION BECAUSE, “NEITHER THE CHILD, THE CHILD AND ONE PARENT, NOR THE CHILD AND A PERSON ACTING AS A PARENT HAVE A SIGNIFICANT CONNECTION” WITH THE STATE “AND THAT SUBSTANTIAL EVIDENCE IS NO LONGER AVAILABLE IN THIS STATE CONCERNING THE CHILD'S CARE, PROTECTION, TRAINING, AND PERSONAL RELATIONSHIPS.”

UCCJEA REPORTERS COMMENTS INDICATE THAT A STATE THAT POSSESSES CONTINUING, EXCLUSIVE JURISDICTION SHOULD NOT NORMALLY RELEASE ITS CONTINUING POWER TO ACT UNLESS, “THE RELATIONSHIP BETWEEN THE CHILD AND THE PERSON REMAINING IN THE STATE WITH EXCLUSIVE, CONTINUING JURISDICTION BECOMES SO ATTENUATED THAT THE COURT COULD NO LONGER FIND SIGNIFICANT CONNECTIONS AND SUBSTANTIAL EVIDENCE, JURISDICTION WOULD NO LONGER EXIST.” THIS HIGH STANDARD IS INTENDED TO REDUCE OR ELIMINATE THOSE SITUATIONS IN WHICH A

	<p>COURT RELEASES JURISDICTION TO ANOTHER STATE MERELY BECAUSE THE CHILD AND A PARENT HAVE RELOCATED FROM THE ORIGINAL DECREE STATE OR HAVE LIVED IN A STATE OTHER THAN THE ORIGINAL DECREE STATE LONGER THAN SIX MONTHS.</p> <p>UCCJEA SECTION 202(a) DIRECTS THAT IF A STATE PREVIOUSLY EXERCISED CHILD-CUSTODY JURISDICTION THAT JURISDICTION CONTINUES UNTIL THAT JURISDICTION TERMINATES UNDER UCCJEA SECTION 202 (a)(1) or (a)(2) AND NO OTHER COURT CAN ENTER CHILD-CUSTODY ORDERS UNLESS IT DOES SO UNDER UCCJEA SECTION 204 [TEMPORARY EMERGENCY JURISDICTION], WHICH IS LIMITED JURISDICTION RESERVED ONLY FOR “EMERGENCY” SITUATIONS FOR A SPECIFIC AND SHORT TIME PERIOD.</p> <p>UCCJEA 202(b) MAKES CLEAR THAT A STATE THAT HAS EXCLUSIVE, CONTINUING JURISDICTION MAY DECLINE TO CONTINUE EXERCISING ITS JURISDICTION IF IT DETERMINES ITSELF AN “INCONVENIENT FORUM” UNDER UCCJEA SECTION 207, WHICH REQUIRES A DETAILED ANALYSIS OF SPECIFIC FACTORS, RATHER THAN MERELY BECAUSE THE CHILD IS NO LONGER WITHIN THE STATE.</p> <p>UCCJEA SECTION 202(c) ESTABLISHES THAT ONCE A STATE LOSES CONTINUING, EXCLUSIVE JURISDICTION, IT CANNOT “REGAIN” THAT JURISDICTION WITHOUT AGAIN SATISFYING THE REQUIREMENTS FOR “INITIAL JURISDICTION.” EXCLUSIVE, CONTINUING JURISDICTION IS NOT REESTABLISHED MERELY BY THE NON-CUSTODIAL PARENT’S RETURN TO THAT STATE.</p>
<p>UCCJEA SECTION 203 IS COMPARABLE TO UCCJA SECTION 14.</p> <p><i>UCCJA SECTION 14. MODIFICATION OF CUSTODY DECREE OF ANOTHER STATE.</i></p> <p><i>(a) If a court of another state has made a custody decree, a court of this state shall not modify that decree unless (1) it appears to the court of this state that the court which rendered the decree does not now have</i></p>	<p>UCCJEA SECTION 203. JURISDICTION TO MODIFY DETERMINATION.</p> <p>Except as otherwise provided in Section 204, a court of this State may not modify a child-custody determination made by a court of another State unless a court of this State has jurisdiction to make an initial determination under Section 201(a)(1) or (2) and:</p>

<p><i>jurisdiction under jurisdictional prerequisites substantially in accordance with this act or has declined to assume jurisdiction to modify the decree and (2) the court of this state has jurisdiction.</i></p> <p><i>(b) If a court of this state is authorized under subsection (a) and [UCCJA SECTION 8] modify a custody decree of another state it shall give due consideration to the transcript of the record and other documents of all previous proceedings submitted to it in accordance with [UCCJA SECTION 22].</i></p> <p>UCCJEA SEC. 203 COMPLEMENTS UCCJEA SEC. 202 AND IS ADDRESSED TO A COURT CONFRONTED WITH A PROCEEDING TO MODIFY A CUSTODY DETERMINATION OF ANOTHER STATE.</p>	<p>(1) the court of the other State determines it no longer has exclusive, continuing jurisdiction under Section 202 or that a court of this State would be a more convenient forum under Section 207; or</p> <p>(2) a court of this State or a court of the other State determines that neither the child, nor a parent, nor any person acting as a parent presently resides in the other State.</p>
<p>UCCJEA SECTION 204 IS AN ELABORATION OF UCCJA SECTION 3(a)(3), MAKING IT CLEAR THAT EMERGENCY JURISDICTION IS NOT A PRIMARY MEANS TO OBTAIN CHILD-CUSTODY JURISDICTION AND THAT ANY ORDER ISSUED WITH EMERGENCY JURISDICTION AS ITS BASIS IS ONLY TEMPORARY. UCCJEA SECTION 204 “EMERGENCY JURISDICTION” IS “AN EXTRAORDINARY JURISDICTION FOR EXTRAORDINARY CIRCUMSTANCES.” THE SECTION HAS BEEN MOVED FROM THE PRIMARY JURISDICTIONAL SECTION OF THE UCCJEA TO EMPHASIZE ITS EXTRAORDINARY RATHER THAN ORDINARY NATURE.</p> <p><i>{{UCCJA SECTION 3 (a)(3) the child is physically present in this state and</i></p> <p><i>(A) the child has been abandoned or</i></p> <p><i>(B) it is necessary in an emergency to protect the child because the child has been subjected to or threatened with mistreatment or abuse or is otherwise a child in need of care; or}}</i></p> <p>UCCJEA SECTION 204 EMPHASIZES THAT “EMERGENCY JURISDICTION” IS ONLY TEMPORARY JURISDICTION. TEMPORARY EMERGENCY JURISDICTION UNDER THE UCCJEA LASTS ONLY UNTIL A COURT WITH CHILD-CUSTODY JURISDICTION UNDER UCCJEA SECTION 201 OR 203 CAN HEAR THE MATTER.</p>	<p>UCCJEA SECTION 204. TEMPORARY EMERGENCY JURISDICTION.</p> <p>(a) A court of this State has temporary emergency jurisdiction if the child is present in this State and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.</p> <p>(b) If there is no previous child-custody determination that is entitled to be enforced under this [Act], and if no child-custody proceeding has been commenced in a court of a State having jurisdiction under Sections 201 through 203, a child-custody determination made under this section remains in effect until an order is obtained from a court of a State having jurisdiction under Sections 201 through 203. If a child-custody proceeding has not been or is not commenced in a court of a State having jurisdiction under Sections 201 through 203, a</p>

UCCJEA SECTION 204(b) PROVIDES THAT, A CHILD-CUSTODY DETERMINATION ISSUED UNDER A COURT'S "TEMPORARY EMERGENCY JURISDICTION" CAN MATURE INTO CONTINUING CHILD-CUSTODY JURISDICTION, BUT ONLY IF: FIRST, THE ORDER ITSELF PROVIDES THAT THE ORDER WILL BECOME FINAL; AND SECOND, THE STATE ISSUING THE CHILD-CUSTODY ORDER ON "TEMPORARY EMERGENCY JURISDICTION LATER BECOMES THE "HOME STATE" OF THE CHILD (THAT IS, NO CHILD-CUSTODY PROCEEDING IS FILED IN A STATE THAT WOULD HAVE JURISDICTION UNDER UCCJEA SECTION 201. IF ANOTHER STATE HAS CONTINUING, EXCLUSIVE JURISDICTION, A TEMPORARY EMERGENCY ORDER CANNOT MATURE INTO A FINAL DETERMINATION ENTITLED TO CONTINUING, EXCLUSIVE JURISDICTION.

UCCJEA 207(c) PROVIDES THAT ANY ORDER ISSUED UNDER A COURT'S "TEMPORARY EMERGENCY JURISDICTION" MUST SPECIFY THE TIME PERIOD WITHIN WHICH THE PERSON WHO SOUGHT THE EMERGENCY ORDER MUST FILE AN ORDER IN THAT STATE HAVING CONTINUING, EXCLUSIVE JURISDICTION. IF AN ORDER IS OBTAINED IN THE STATE HAVING CONTINUING, EXCLUSIVE JURISDICTION, THEN THE ORDER OBTAINED BY EXERCISE OF TEMPORARY EMERGENCY JURISDICTION EXPIRES. IF NO ORDER IS OBTAINED IN THE STATE HAVING CONTINUING, EXCLUSIVE JURISDICTION, THEN THE ORDER OBTAINED BY EXERCISE OF TEMPORARY EMERGENCY JURISDICTION EXPIRES ON THE DATE STATED IN THE ORDER.

ANY ORDER ISSUED UNDER UCCJEA EMERGENCY JURISDICTION MUST BE PRESENTED TO A COURT EXERCISING REGULAR CHILD CUSTODY JURISDICTION WITHIN A SPECIFIED PERIOD OF TIME.

UCCJEA SECTION 207(d) REQUIRES A COURT EXERCISING TEMPORARY, EMERGENCY JURISDICTION TO COMMUNICATE WITH A COURT THAT HAS CONTINUING, EXCLUSIVE JURISDICTION OR A COURT IN WHICH ANY CHILD-CUSTODY PROCEEDING IS FILED. THE PURPOSE OF THIS REQUIRED COMMUNICATION IS TO RESOLVE ANY EMERGENCY SITUATION AND TO PROTECT THE SAFETY OF THE CHILD

child-custody determination made under this section becomes a final determination, if:

- (1) it so provides; and
- (2) this State becomes the home State of the child.

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

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

<p>AND THE PARTIES, AS WELL AS TO DETERMINE THE DURATION OF ANY TEMPORARY EMERGENCY ORDERS. THE UCCJEA EMPHASIZES COMMUNICATION BETWEEN COURTS. IF A COURT IS REQUESTED TO EXERCISE EMERGENCY JURISDICTION; IT IS BOUND TO COMMUNICATE WITH ANY COURT THAT HAS CONTINUING CHILD CUSTODY JURISDICTION.</p>	<p>under a statute similar to this section shall immediately communicate with the court of that State. The purpose of the communication is to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.</p>
<p>UCCJEA SECTION 205 IS SIMILAR TO UCCJA SECTION 4. UCCJEA SECTION 205 DOES NOT IDENTIFY OR DICTATE THOSE PERSONS TO WHOM NOTICE MUST BE GIVEN. THE PERSONS TO WHOM NOTICE MUST BE GIVEN DEPENDS ON LOCAL STATE LAW.</p> <p><i>{{UCCJA SECTION 4. Notice and opportunity to be heard.</i></p> <p><i>Before making a decree under this act, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated, and any person who has physical custody of the child. If any of these persons is outside this state, notice and opportunity to be heard shall be given pursuant to [UCCJA SECTION 5..}}</i></p> <p>UCCJEA SECTION 205 IDENTIFIES THAT THE STANDARDS SET FORTH IN THE UCCJEA FOR NOTICE AND DUE PROCESS MUST BE MET; HOWEVER, UCCJEA 205(b) MAKES CLEAR THAT THE ENFORCEABILITY OF CHILD-CUSTODY DETERMINATIONS ENTERED WITHOUT COMPLIANCE TO THOSE REQUIREMENTS ARE DETERMINED BY STATE LAW, RATHER THAN BY THE UCCJEA ITSELF.</p> <p>UCCJA SECTION 4 IMPLIED THAT ANY PERSON WHO CLAIMED CUSTODY WAS ENTITLED TO INTERVENE INTO A CHILD-CUSTODY PROCEEDING TO ASSERT THOSE CLAIMED RIGHTS. UCCJEA SECTION 205(C) DEFERS TO STATE LAW AS TO THOSE PERSONS WHO MUST BE MADE PARTIES TO ANY CHILD-CUSTODY PROCEEDING.</p>	<p>UCCJEA SECTION 205. NOTICE; OPPORTUNITY TO BE HEARD; JOINDER.</p> <p>(a) Before a child-custody determination is made under this [Act], notice and an opportunity to be heard in accordance with the standards of Section 108 must be given to all persons entitled to notice under the law of this State as in child-custody proceedings between residents of this State, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.</p> <p>UCCJEA 205(a) SLIGHTLY REPHRASES UCCJA SECTION 4 AND ELIMINATES THE TERM, “CONTESTANT.”</p> <p>(b) This [Act] does not govern the enforceability of a child-custody determination made without notice and an opportunity to be heard.</p> <p>(c) The obligation to join a party and the right to intervene as a party in a child-custody proceeding under this [Act] are governed by the law of this State as in child-custody proceedings between residents of this State.</p>

UCCJA SECTION 6. SIMULTANEOUS PROCEEDINGS IN OTHER STATES.

(a) A court of this state shall not exercise its jurisdiction under this act if at the time of filing the petition a proceeding concerning the custody of the child was pending in a court of another state exercising jurisdiction substantially in conformity with this act, unless the proceeding is stayed by the court of the other state because this state is a more appropriate forum or for other reasons.

ALTHOUGH THE UCCJA LIMITED THOSE STATES THAT COULD EXERCISE CHILD-CUSTODY JURISDICTION, BECAUSE (PRIOR TO ENACTMENT OF THE PKPA) NO HIERARCHY OF EXISTED AMONG THE DIFFERENT BASES ON WHICH CHILD-CUSTODY JURISDICTION COULD BE CLAIMED, UCCJA SECTION 6 SET OUT THE PROCESS BY WHICH COURTS IN WHICH SIMULTANEOUS CHILD-CUSTODY PROCEEDINGS WERE FILED. REQUIREMENTS

UCCJA SECTION 6(a) PROHIBITS A COURT FROM EXERCISING CHILD-CUSTODY JURISDICTION IF THERE IS ANOTHER CHILD-CUSTODY PROCEEDING ON FILE IN ANOTHER STATE WHEN ANOTHER CHILD-CUSTODY PROCEEDING IS FILED IN A COMPETING JURISDICTION (UNLESS THAT OTHER PROCEEDING WAS STAYED BY THE OTHER COURT).

(b) Before hearing the petition in a custody proceeding the court shall examine the pleadings and other information supplied by the parties under [UCCJA SECTION 9] shall consult the child custody registry established under [UCCJA SECTION 16] concerning the pendency of proceedings with respect to the child in other states. If the court has reason to believe that proceedings may be pending in another state it shall direct an inquiry to the state court administrator or other appropriate official of the other state.

UCCJA SECTION 6(b) REQUIRES THAT BEFORE

UCCJEA SECTION 206. SIMULTANEOUS PROCEEDINGS.

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

SINCE UCCJEA 201 PROVIDES A HIERARCHY OF CHILD-CUSTODY JURISDICTION, SIMULTANEOUS CHILD-CUSTODY PROCEEDINGS SHOULD BE SIGNIFICANTLY LESS COMMON THAN UNDER THE UCCJA. UCCJEA SECTION 206, THEREFORE, ADDRESSES HOW COURTS ARE TO COOPERATE IN THE EVENT SIMULTANEOUS PROCEEDINGS OCCUR.

UCCJEA SECTION 206 WILL PRIMARILY APPLY TO THOSE SITUATIONS WHERE NO “HOME STATE” OR STATE WITH “SIGNIFICANT CONNECTIONS” JURISDICTION EXISTS.

UCCJEA SECTION 206(a) RECOGNIZES THAT A PROCEEDING INVOKING TEMPORARY EMERGENCY JURISDICTION MAY BE FILED AND EXCEPTS THOSE PROCEEDINGS FROM ITS COVERAGE (SINCE THE PROCEDURES USED IN THOSE INSTANCES IS DEFINED BY UCCJEA SECTION 205 ITSELF).

UCCJEA SECTION 206(a) SLIGHTLY MODIFIES UCCJA SECTION 6(a) LANGUAGE, WITHOUT SUBSTANTIVE CHANGE.

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

<p>HEARING ANY CHILD-CUSTODY PROCEEDING, A COURT MUST DETERMINE IF ANY OTHER CASES ARE PENDING IN ANY OTHER STATE (BY CONSULTING THE “CHILD CUSTODY REGISTRY” ESTABLISHED IN UCCJA SECTION 16. FEW JURISDICTIONS ESTABLISHED AN EFFECTIVE “REGISTRY” UNDER UCCJA SECTION 16 AND FEW COURTS CONSULTED THAT REGISTRY, RELYING INSTEAD ON THE PARTIES INFORMING THE COURT OF OTHER PROCEEDINGS.</p> <p>(c) If the court is informed during the course of the proceeding that a proceeding concerning the custody of the child was pending in another state before the court assumed jurisdiction it shall stay the proceeding and communicate with the court in which the other proceeding is pending to the end that the issue may be litigated in the more appropriate forum and that information be exchanged in accordance with [UCCJA SECTIONS 19 to 22], inclusive. If a court of this state has made a custody decree before being informed of a pending proceeding in a court of another state it shall immediately inform that court of the fact. If the court is informed that a proceeding was commenced in another state after it assumed jurisdiction it shall likewise inform the other court to the end that the issues may be litigated in the more appropriate forum.</p>	<p>the proceeding.</p> <p>UCCJEA SECTION 206(b) RECOGNIZES THAT A PROCEEDING INVOKING TEMPORARY EMERGENCY JURISDICTION MAY BE FILED AND EXCEPTS THOSE PROCEEDINGS FROM ITS COVERAGE (SINCE THE PROCEDURES USED IN THOSE INSTANCES IS DEFINED BY UCCJEA SECTION 205 ITSELF).</p> <p>UCCJEA SECTION 206(b) DIRECTS THAT SIMULTANEOUS PROCEEDINGS EXIST, A COURT THAT FINDS ANOTHER COURT IS A MORE APPROPRIATE COURT TO MAKE THE CHILD-CUSTODY DETERMINATION, THEN THE COURT “SHALL DISMISS THE PROCEEDING.”</p> <p>UCCJEA SECTION 206(b) ELIMINATES REFERENCE TO THE “CHILD CUSTODY REGISTRY” SINCE THAT REGISTRY IS ELIMINATED BY THE UCCJEA. FEW COURTS CONSULTED THAT REGISTRY, RELYING INSTEAD ON THE PARTIES INFORMING THE COURT OF OTHER PROCEEDINGS. INSTEAD, UCCJEA SECTION 206(b) REQUIRES THAT A COURT MAKE INQUIRY ABOUT THE EXISTENCE ABOUT THE EXISTENCE OF ANY OTHER CHILD-CUSTODY PROCEEDINGS.</p> <p>(c) In a proceeding to modify a child-custody determination, a court of this State shall determine whether a proceeding to enforce the determination has been commenced in another State. If a proceeding to enforce a child-custody determination has been commenced in another State, the court may:</p> <p>(1) stay the proceeding for modification pending the entry of an order of a court of the other State enforcing, staying, denying, or dismissing the proceeding for enforcement;</p> <p>(2) enjoin the parties from continuing with the proceeding for enforcement; or</p> <p>(3) proceed with the modification under conditions it considers appropriate.}}</p>
<p>UCCJA SECTION 7. INCONVENIENT FORUM.</p>	<p>UCCJEA SECTION 207. INCONVENIENT FORUM.</p>

<p>(a) A court which has jurisdiction under this act to make an initial or modification decree may decline to exercise its jurisdiction any time before making a decree if it finds that it is an inconvenient forum to make a custody determination under the circumstances of the case and that a court of another state is a more appropriate forum.</p> <p>(b) A finding of inconvenient forum may be made upon the court's own motion or upon motion of a party or a guardian ad litem or other representative of the child.</p> <p>(c) In determining if it is an inconvenient forum, the court shall consider if it is in the interest of the child that another state assume jurisdiction. For this purpose it may take into account the following factors, among others:</p> <p>(1) If another state is or recently was the child's home state;</p> <p>(2) if another state has a closer connection with the child and the child's family or with the child and one or more of the contestants;</p> <p>(3) if substantial evidence concerning the child's present or future care, protection, training, and personal relationships is more readily available in another state;</p> <p>(4) if the parties have agreed on another forum which is no less appropriate; and</p> <p>(5) if the exercise of jurisdiction by a court of this state would contravene any of the purposes stated in [UCCJA SECTION 1].</p> <p>(d) Before determining whether to decline or retain jurisdiction the court may communicate with a court of another state and exchange information pertinent to the assumption of jurisdiction by either court with a view to assuring that jurisdiction will be exercised by the more appropriate court and that a forum will be available to the parties.</p> <p>(e) If the court finds that it is an inconvenient forum and that a court of another state is a more appropriate forum, it may dismiss the proceedings, or it may stay the proceedings upon condition that a custody proceeding be promptly commenced in another named state or upon any other conditions which may be just and proper, including the condition that a moving party stipulate</p>	<p>(a) A court of this State that has jurisdiction under this [Act] to make a child-custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another State is a more appropriate forum. The issue of inconvenient forum may be raised upon the court's own motion, request of another court, or motion of a party.</p> <p>(b) Before determining whether it is an inconvenient forum, a court of this State shall consider whether it is appropriate that a court of another State exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:</p> <p>(1) whether domestic violence has occurred and is likely to continue in the future and which State could best protect the parties and the child;</p> <p>(2) the length of time the child has resided outside this State;</p> <p>(3) the distance between the court in this State and the court in the State that would assume jurisdiction;</p> <p>(4) the relative financial circumstances of the parties;</p> <p>(5) any agreement of the parties as to which State should assume jurisdiction;</p> <p>(6) the nature and location of the evidence required to resolve the pending litigation, including the testimony of the child;</p> <p>(7) the ability of the court of each State to decide the issue expeditiously and the procedures necessary to present the evidence; and</p> <p>(8) the familiarity of the court of each State with the facts and issues of the pending litigation.</p> <p>(c) If a court of this State determines that it is an inconvenient forum and that a court of another State is a more appropriate forum, it shall stay the proceedings upon condition that a child-custody proceeding be promptly commenced in another designated State and may impose any other condition the court considers just and proper.</p>
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such party's consent and submission to the jurisdiction of the other forum.

(f) The court may decline to exercise its jurisdiction under this act if a custody determination is incidental to an action for divorce or another proceeding while retaining jurisdiction over the divorce or other proceeding.

(g) If it appears to the court that it is clearly an inappropriate forum it may require the party who commenced the proceedings to pay, in addition to the costs of the proceedings in this state, necessary travel and other expenses, including attorneys' fees, incurred by other parties or their witnesses. Payment is to be made to the clerk of the court for remittance to the proper party.

(h) Upon dismissal or stay of proceedings under this section the court shall inform the court found to be the more appropriate forum of this fact, or if the court which would have jurisdiction in the other state is not certainly known, shall transmit the information to the court administrator or other appropriate official for forwarding to the appropriate court.

(i) Any communication received from another state informing this state of a finding of inconvenient forum because a court of this state is the more appropriate forum shall be filed in the custody registry of the appropriate court. Upon assuming jurisdiction the court of this state shall inform the original court of this fact.

UCCJA SECTION 8. JURISDICTION DECLINED BY REASON OF CONDUCT.

(a) If the petitioner for an initial decree has wrongfully taken the child from another state or has engaged in similar reprehensible conduct the court may decline to exercise jurisdiction if this is just and proper under the circumstances.

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

UCCJEA SECTION 208. JURISDICTION DECLINED BY REASON OF CONDUCT.

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

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

(2) a court of the State otherwise having jurisdiction under Sections 201 through 203 determines that this

<p>(b) Unless required in the interest of the child, the court shall not exercise its jurisdiction to modify a custody decree of another state if the petitioner, without consent of the person entitled to custody, has improperly removed the child from the physical custody of the person entitled to custody or has improperly retained the child after a visit or other temporary relinquishment.</p> <p>UCCJEA SEC. 208(c) TRUNCATES THE CLEAN HANDS DOCTRINE OF UCCJA SEC. 8.</p>	<p>State is a more appropriate forum under Section 207; or</p> <p>(3) no other State would have jurisdiction under Sections 201 through 203.</p> <p>(b) If a court of this State declines to exercise its jurisdiction pursuant to subsection (a), it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the wrongful conduct, including staying the proceeding until a child-custody proceeding is commenced in a court having jurisdiction under Sections 201 through 203.</p> <p>(c) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection (a), it shall charge the party invoking the jurisdiction of the court with necessary and reasonable expenses including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the award would be clearly inappropriate. The court may not assess fees, costs, or expenses against this State except as otherwise provided by law other than this [Act].</p>
<p>UCCJA SECTION 9. INFORMATION UNDER OATH TO BE SUBMITTED TO THE COURT.</p> <p>(a) Every party in a custody proceeding in the party's first pleading or in an affidavit attached to that pleading shall give information under oath as to the child's present address, the places where the child has lived within the last five years, and the names and present addresses of the persons with whom the child has lived during that period. In this pleading or affidavit every party shall further declare under oath whether:</p>	<p>SECTION 209. INFORMATION TO BE SUBMITTED TO COURT.</p> <p>(a) [Subject to local law providing for the confidentiality of procedures, addresses, and other identifying information, in] [In] a child-custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address, the places where the child has lived during the last five years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit must state whether the party:</p> <p>(1) has participated, as a party or witness or in any other capacity, in any other proceeding concerning the</p>

<p>(1) The party has participated (as a party, witness, or in any other capacity) in any other litigation concerning the custody of the same child in this or any other state;</p> <p>(2) the party has information of any custody proceeding concerning the child pending in a court of this or any other state; and</p> <p>(3) the party knows of any person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the child.</p> <p>(b) If the declaration as to any of the above items is in the affirmative the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and as to other matters pertinent to the court's jurisdiction and the disposition of the case.</p> <p>(c) Each party has a continuing duty to inform the court of any custody proceeding concerning the child in this or any other state of which the party obtained information during this proceeding.</p> <p>(d) Any party who submits information pursuant to this section knowing the same to be false shall, upon conviction, be deemed guilty of a class C misdemeanor.</p> <p>UCCJEA SEC. 209 (e) INCORPORATES INTO THE SECTION FORMER UCCJA SEC. 10 AS AN INTEGRAL PART OF THE INFORMATION STATUTE.</p>	<p>custody of or visitation with the child and, if so, identify the court, the case number of the proceeding, and the date of the child-custody determination, if any;</p> <p>(2) knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court and the case number and the nature of the proceeding; and</p> <p>(3) knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or visitation with, the child and, if so, the names and addresses of those persons.</p> <p>(b) If the information required by subsection (a) is not furnished, the court, upon its own motion or that of a party, may stay the proceeding until the information is furnished.</p> <p>(c) If the declaration as to any of the items described in subsection (a)(1) through (3) is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.</p> <p>(d) Each party has a continuing duty to inform the court of any proceeding in this or any other State that could affect the current proceeding.</p>
<p>38-1310 ADDITIONAL PARTIES.</p> <p>If the court learns from information furnished by the parties pursuant to [UCCJA SECTION 9] or from other sources that a person not a party to the custody proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child, it shall order that person to be joined as a party</p>	<p>[(e) If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be put at risk by the disclosure of identifying information, that information shall be sealed and not disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, or liberty of the party or child and determines that the disclosure is in the interest of justice.]</p>

and to be duly notified of the pendency of the proceeding and of such person's joinder as a party. If the person joined as a party is outside this state the person shall be served with process or otherwise notified in accordance with [UCCJA SECTION 5].

UCCJA SECTION 11. APPEARANCE OF PARTIES AND CHILD.

(a) The court may order any party to the proceeding who is in this state to appear personally before the court. If that party has physical custody of the child the court may order that the party appear personally with the child.

(b) If a party to the proceeding whose presence is desired by the court is outside this state with or without the child, the court may order that the notice given under [UCCJA SECTION 5] include a statement directing that party to appear personally with or without the child and declaring that failure to appear may result in a decision adverse to that party.

(c) If a party to the proceeding who is outside this state is directed to appear under subsection (b) or desires to appear personally before the court with or without the child, the court may require another party to pay to the clerk of the court travel and other necessary expenses of the party so appearing and of the child if this is just and proper under the circumstances.

UCCJEA SEC. 210 CONTAINS NO SIGNIFICANT CHANGES FROM UCCJA SEC. 11 OTHER THAN PROVISION FOR CONSIDERATION OF THE SAFETY OF A CHILD.

UCCJA SECTION 12. BINDING FORCE AND RES JUDICATA EFFECT OF CUSTODY DECREE.

A custody decree rendered by a court of this state which

UCCJEA SECTION 210. APPEARANCE OF PARTIES AND CHILD.

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

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

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

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

UCCJA SEC. 12 IS SIMILAR TO UCCJEA SECTION 106. ALTHOUGH THERE ARE SLIGHT LANGUAGE DIFFERENCES BETWEEN THE TWO, THE DRAFTERS DID NOT INTEND ANY SUBSTANTIVE CHANGE IN THE LAW

***UCCJEA SECTION 106. BINDING FORCE OF CHILD-CUSTODY DETERMINATION.** A child-custody determination made by a court of this State that had jurisdiction under this [Act] binds all persons who have been served in accordance with the laws of this*

had jurisdiction under [UCCJA SECTION 3] binds all parties who have been served in this state or notified in accordance with [UCCJA SECTION 5] or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to these parties the custody decree is conclusive as to all issues of law and fact decided and as to the custody determination made unless and until that determination is modified pursuant to law, including the provisions of this act.

State or notified in accordance with Section 108 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. The determination is conclusive as to them as to all decided issues of law and fact except to the extent the determination is modified.}}

THE UCCJA DID NOT INCLUDE ANY ENFORCEMENT PROVISIONS AND, THEREFORE, DOES NOT CONTAIN ANY PROVISIONS SIMILAR TO THOSE FOUND IN UCCJEA ARTICLE 3 ENFORCEMENT. THE UCCJA WAS INTENDED PRIMARILY AS A JURISDICTIONAL STATUTE.

<p>NO COMPARABLE PROVISION TO UCCJEA ARTICLE 3 DEFINITIONS AS THE UCCJA INCLUDED ONLY BASIC ENFORCEMENT PROVISIONS. THE UCCJEA SETS UP ITS OWN DEFINITIONS FOR ITS ENFORCEMENT PROCEDURE SO THAT THE ENFORCEMENT PROCEDURE CAN BE SELF STANDING.</p>	<p style="text-align: center;">[ARTICLE] 3 ENFORCEMENT</p> <p>UCCJEA SECTION 301. DEFINITIONS. In this [article]:</p> <p>(1) "Petitioner" means a person who seeks enforcement of a child-custody determination or enforcement of an order for the return of the child under the Hague Convention on the Civil Aspects of International Child Abduction.</p> <p>(2) "Respondent" means a person against whom a proceeding has been commenced for enforcement of a child-custody determination or enforcement of an order for the return of the child under the Hague Convention on the Civil Aspects of International Child Abduction.</p>
<p>THE UCCJA DOES NOT CONTAIN ANY PROVISION COMPARABLE TO UCCJEA SECTION 302 SINCE THE UCCJA DID NOT INCLUDE ANY CHILD-CUSTODY ENFORCEMENT PROCEDURES.</p> <p>UCCJEA SEC. 302 INCLUDES PROVISION FOR RETURN OF CHILD UNDER THE AUTHORITY OF THE FEDERAL INTERNATIONAL CHILD ABDUCTION REMEDIES ACT (42 USC 11601 ET SEQ.)</p> <p>UCCJEA SECTION 302 PROVIDES FOR THOSE CIRCUMSTANCES IN WHICH AN ENFORCING COURT CAN PROVIDE ADDITIONAL SPECIFICS TO A VISITATION ORDER</p> <p>SINCE AN ENFORCING COURT CANNOT MODIFY AN ISSUING COURTS ORDERS, THE UCCJEA PROVIDES A TIME PERIOD WITHIN WHICH THE PARTY SEEKING MORE SPECIFICATION TO RETURN TO THAT COURT FOR A FINAL MODIFICATION.</p>	<p>UCCJEA SECTION 302. SCOPE; TEMPORARY VISITATION.</p> <p>(a) This [article] may be invoked to enforce:</p> <p>(1) a child-custody determination; and</p> <p>(2) an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction.</p> <p>(b) A court of this State which does not have jurisdiction to modify a child-custody determination, may issue a temporary order enforcing</p> <p>(1) a visitation schedule made by a court of another State; or</p> <p>(2) the visitation provisions of a child-custody determination of another State that does not provide for a specific visitation schedule.</p> <p>(c) If a court of this State makes an order under subparagraph (b)(2), it shall specify in the order a period of time which it considers adequate to allow the person seeking the order to obtain an order from the State having jurisdiction under [Article] 2. The order remains in effect until an order is obtained from the other State or the period expires.</p> <p>UCCJEA SECTION 303. DUTY TO ENFORCE.</p>

UCCJA SECTION 13. RECOGNITION OF OUT-OF-STATE CUSTODY DECREES.

The courts of this state shall recognize and enforce an initial or modification decree of a court of another state which had assumed jurisdiction under statutory provisions substantially in accordance with this act or which was made under factual circumstances meeting the jurisdictional standards of the act, so long as this decree has not been modified in accordance with jurisdictional standards substantially similar to those of this act.

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

(b) A court of this State may utilize any remedy available under other law of this State to enforce a child-custody determination made by a court of another State. The remedies provided in this [article] are cumulative and do not affect the availability of other remedies to enforce a child-custody determination.

UCCJEA SEC. 303 IS BASED ON UCCJA SEC. 13 WHICH CONTAINED THE BASIC UCCJA DUTY TO ENFORCE. THE ORIGINAL UCCJA LANGUAGE HAS BEEN RETAINED AND THE DUTY TO ENFORCE IN THE UCCJEA IS GENERALLY THE SAME AS UNDER THE UCCJA.

UCCJA SECTION 14 IS COMPARABLE TO UCCJEA SECTION 203.

{{UCCJEA SECTION 203. JURISDICTION TO MODIFY DETERMINATION.

UCCJA SECTION 14. MODIFICATION OF CUSTODY DECREE OF ANOTHER STATE.

(a) If a court of another state has made a custody decree, a court of this state shall not modify that decree unless (1) it appears to the court of this state that the court which rendered the decree does not now have jurisdiction under jurisdictional prerequisites substantially in accordance with this act or has declined to assume jurisdiction to modify the decree and (2) the court of this state has jurisdiction.

(b) If a court of this state is authorized under subsection (a) and [UCCJA SECTION 8] modify a custody decree of another state it shall give due consideration to the transcript of the record and other documents of all previous proceedings submitted to it in accordance with [UCCJA SECTION 22].

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

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

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

UCCJEA SECTION 304. TEMPORARY VISITATION.

(a) A court of this State which does not have jurisdiction

<p>THE UCCJA DOES NOT CONTAIN ANY PROVISION COMPARABLE TO UCCJEA SECTION 304 SINCE THE UCCJA DID NOT INCLUDE ANY UNIFORM ENFORCEMENT PROCEDURES.</p> <p>UCCJEA SECTION 304 AUTHORIZES A COURT TO ISSUE A TEMPORARY ORDER FOR VISITATION IF SUCH AN ORDER IS NECESSARY TO ENFORCE VISITATION RIGHTS WITHOUT VIOLATING THE RULES ON AGAINST MODIFICATION CONTAINED IN UCCJEA SEC. 303. AN IMPLEMENTING ORDER MAY INCLUDE MAKE-UP VISITATION.</p>	<p>to modify a child-custody determination may issue a temporary order enforcing:</p> <p>(1) a visitation schedule made by a court of another State; or</p> <p>(2) the visitation provisions of a child-custody determination of another State that does not provide for a specific visitation schedule.</p> <p>(b) If a court of this State makes an order under subsection (a)(2), it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in [Article] 2. The order remains in effect until an order is obtained from the other court or the period expires.</p>
<p>UCCJA SECTION 15. FILING AND ENFORCEMENT OF CUSTODY DECREE OF ANOTHER STATE.</p> <p>(a) A certified copy of a custody decree of another state may be filed in the office of the clerk of any district court of this state. The clerk shall treat the decree in the same manner as a custody decree of the district court of this state. A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this state.</p> <p>AS WITH THE UCCJA, REGISTRATION OF A CUSTODY DETERMINATION UNDER THE UCCJEA NEED NOT BE ACCOMPANIED BY A REQUEST FOR ENFORCEMENT. THE PROCEDURE PROVIDED UNDER THE UCCJEA PROVIDES MORE DIRECTION FOR THOSE SEEKING TO REGISTER AN ORDER.</p> <p>THE UCCJA DID NOT PROVIDE ANY OF ITS OWN ENFORCEMENT PROCEDURES – ONLY METHODS BY WHICH A FOREIGN CUSTODY OR VISITATION DECREE COULD BE REGISTERED</p>	<p>UCCJEA SECTION 305. REGISTRATION OF CHILD-CUSTODY DETERMINATION.</p> <p>(a) A child-custody determination issued by a court of another State may be registered in this State, with or without a simultaneous request for enforcement, by sending to [the appropriate court] in this State:</p> <p>(1) a letter or other document requesting registration;</p> <p>(2) two copies, including one certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and</p> <p>(3) except as otherwise provided in Section 209, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child-custody determination sought to be registered.</p> <p>(b) On receipt of the documents required by subsection (a), the registering court shall:</p> <p>(1) cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form; and</p> <p>(2) serve notice upon the persons named pursuant to (a)(3) and provide them with an opportunity to contest</p>

<p>AND AN INDICATION THAT THE FOREIGN DECREE WOULD BE SUBJECT TO ANY ENFORCEMENT PROCEDURES APPLICABLE TO IN-STATE DECREES.</p> <p>THE PROVISIONS FOR NOTICE WHEN A CUSTODY ORDER IS REGISTERED HAVE BEEN EXPANDED TO PROVIDE MORE INSTRUCTION THAN EXISTED IN THE UCCJA IN PART BECAUSE OF THE UNIFORM ENFORCEMENT PROCEDURES INCLUDED. THE PROCEDURES PROVIDED ARE TAKEN FROM THE PROCEEDURES USED IN CASES UNDER THE UNIFORM INTERSTATE FAMILY SUPPORT ACT (UIFSA).</p> <p>(b) A person violating a custody decree of another state</p>	<p>the registration in accordance with this section.</p> <p>(c) The notice required by subsection (b)(2) must state:</p> <p>(1) that a registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this State;</p> <p>(2) that a hearing to contest the validity of the registered determination must be requested within 20 days after service of notice; and</p> <p>(3) that failure to contest the registration will result in confirmation of the child-custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.</p> <p>(d) A person seeking to contest the validity of a registered order must request a hearing within 20 days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:</p> <p>(1) the issuing court did not have jurisdiction under [Article] 2;</p> <p>(2) the child-custody determination sought to be registered has been vacated, stayed, or modified by a court of a State having jurisdiction to do so under [Article] 2; or</p> <p>(3) the person contesting registration was entitled to notice, but notice was not given in accordance with the standards of Section 108 in the proceedings before the court that issued the order for which registration is sought.</p> <p>(e) If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served must be notified of the confirmation.</p> <p>(f) Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter which could have been asserted at the time of registration.</p>
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which makes it necessary to enforce the decree in this state may be required to pay necessary travel and other expenses, including attorneys' fees, incurred by the party entitled to the custody or such party's witnesses.

UCCJEA SECTION 306(a) IS SIMILAR TO THE SECOND CLAUSE OF UCCJA 15, WHICH PROVIDES:

{{“A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this state.”}}

UCCJA SECTION 16. REGISTRY OF OUT-OF-STATE CUSTODY DECREES AND PROCEEDINGS.

The clerk of each district court shall maintain a registry in which the clerk shall enter the following:

- (a) Certified copies of custody decrees of other states received for filing;
- (b) communications as to the pendency of custody proceedings in other states;
- (c) communications concerning a finding of inconvenient forum by a court of another state; and
- (d) other communications or documents concerning custody proceedings in another state which may affect the jurisdiction of a court of this state or the disposition to be made by it in a custody proceeding.

UCCJEA SECTION 307 IS SIMILAR TO UCCJA SECTION 6 AND UCCJEA SECTION 206, BUT HAS A DIFFERENT PURPOSE. BOTH SECTIONS DEAL WITH SIMULTANEOUS PROCEEDINGS TO ESTABLISH OR MODIFY CHILD-CUSTODY

UCCJEA SECTION 306. ENFORCEMENT OF REGISTERED DETERMINATION.

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

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

THE UCCJEA DOES NOT CONTAIN ANY PROVISION COMPARABLE TO UCCJA SECTION 16. INSTEAD, THE UCCJEA PROVIDES A SIMPLE PROCEDURE FOR REGISTRATION OF THE CHILD-CUSTODY DETERMINATION FROM ONE STATE IN ANOTHER STATE FOR ENFORCEMENT OR MODIFICATION. THE UCCJEA PROCEDURE IS DRAWN FROM THE UNIFORM INTERSTATE FAMILY SUPPORT ACT (UIFSA).

UCCJEA SECTION 307. SIMULTANEOUS PROCEEDINGS. If a proceeding for enforcement under this [article] has been or is commenced in this State and a court of this State determines that a proceeding to modify the determination has been commenced in another State having jurisdiction to modify the determination under [Article] 2, the enforcing court shall immediately communicate with the

<p>DETERMINATIONS; HOWEVER, UCCJEA SECTION 307 AUTHORIZES THE COURTS OF DIFFERENT STATES TO ENGAGE IN SIMULTANEOUS ENFORCEMENT PROCEEDINGS AND REQUIRES PARTIES TO THOSE PROCEEDINGS TO DISCLOSE THE EXISTENCE OF ANY PENDING ENFORCEMENT PROCEEDINGS IN ANOTHER STATE.</p>	<p>modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.</p>
<p>UCCJA SECTION 17. CERTIFIED COPIES OF CUSTODY DECREE.</p> <p>The clerk of the district court of this state, at the request of the court of another state or at the request of any person who is affected by or has a legitimate interest in a custody decree, shall certify and forward a copy of the decree to that court or person.</p>	<p>UCCJA SECTION 17 IS SUBSUMED BY THE UCCJEA REGISTRATION AND ENFORCEMENT PROCEDURE FOUND AT UCCJEA SECTION 305.</p>
<p>THE UCCJA DID NOT CONTAIN ANY PROVISION COMPARABLE TO UCCJEA SECTION 308 SINCE THE UCCJA DID NOT PROVIDE ANY UNIFORM ENFORCEMENT PROCEDURE.</p> <p>UCCJEA SEC. 308 PROVIDES THE NORMAL PROCEDURE FOR ENFORCEMENT OF INTERSTATE CASES. THE PROCEDURE IS BASED ON A SUMMARY PROCEDURE SIMILAR TO HABEAS CORPUS.</p> <p>THE PETITION FOR ENFORCEMENT UNDER THE UCCJEA IS INTENDED TO PROVIDE A COURT AS MUCH INFORMATION AS POSSIBLE.</p>	<p>UCCJEA SECTION 308. EXPEDITED ENFORCEMENT OF CHILD-CUSTODY DETERMINATION.</p> <p>(a) A petition under this [article] must be verified. Certified copies of all orders sought to be enforced and of the order confirming registration, if any, must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.</p> <p>(b) A petition for enforcement of a child-custody determination must state:</p> <p>(1) whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was;</p> <p>(2) whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this [Act] or federal law and, if so, identify the court, the case number of the proceeding, and the action taken;</p> <p>(3) whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court and the case number and the nature of the proceeding;</p> <p>(4) the present physical address of the child and the</p>

	<p>respondent, if known; and</p> <p>(5) whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from [law enforcement officials] and, if so, the relief sought.</p> <p>(c) If the child-custody determination has been registered and confirmed under Section 304, the petition must also state the date and place of registration.</p> <p>(d) The court shall issue an order directing the respondent to appear with or without the child at a hearing and may enter any orders necessary to ensure the safety of the parties and the child.</p> <p>(e) The hearing must be held on the next judicial day following service of process unless that date is impossible. In that event, the court must hold the hearing on the first day possible. The court may extend the date of hearing at the request of the petitioner.</p> <p>(f) The order must state the time and place of the hearing and must advise the respondent that at the hearing the court will order the delivery of the child and the payment of fees, costs, and expenses under Section 311, and may set an additional hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:</p> <p>(1) the child-custody determination has not been registered and confirmed under Section 304, and that</p> <p>(A) the issuing court did not have jurisdiction under [Article] 2;</p> <p>(B) the child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a State having jurisdiction to do so under [Article] 2 or federal law; or</p> <p>(C) the respondent was entitled to notice, but notice was not given in accordance with the standards of Section 108 in the proceedings before the court that issued the order for which enforcement is sought; or</p> <p>(2) the child-custody determination for which enforcement is sought was registered and confirmed under Section 304, but has been vacated, stayed or modified by a court of a State having jurisdiction to do so under [Article] 2 or federal law.</p> <hr/>
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UCCJA SECTION 18. TAKING TESTIMONY IN ANOTHER STATE.

In addition to other procedural devices available to a party, any party to the proceeding or a guardian ad litem or other representative of the child may adduce testimony of witnesses, including parties and the child, by deposition or otherwise, in another state. The court on its own motion may direct that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony shall be taken.

UCCJA SECTION 19. HEARINGS AND STUDIES IN ANOTHER STATE; ORDERS TO APPEAR.

(a) A court of this state may request the appropriate court of another state to hold a hearing to adduce evidence, to order a party to produce or give evidence under other procedures of that state, or to have social studies made with respect to the custody of a child involved in proceedings pending in the court of this state; and to forward to the court of this state certified copies of the transcript of the record of the hearing, the evidence otherwise adduced, or any social studies prepared in compliance with the request. The cost of the

UCCJEA SECTION 111 CONTAINS PROVISIONS SIMILAR TO THOSE FOUND IN UCCJA SECTION 18.

{ {UCCJEA SECTION 111. TAKING TESTIMONY IN ANOTHER STATE.

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

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

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

UCCJEA SECTION 112 IS SIMILAR TO UCCJA SECTION 19.

{{SEC 112. COOPERATION BETWEEN COURTS; PRESERVATION OF RECORDS.

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

(1) hold an evidentiary hearing;

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

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

(4) forward to the court of this State a certified copy of

<p>services may be assessed against the parties or, if necessary, ordered paid by the county.</p> <p>(b) A court of this state may request the appropriate court of another state to order a party to custody proceedings pending in the court of this state to appear in the proceedings, and if that party has physical custody of the child, to appear with the child. The request may state that travel and other necessary expenses of the party and of the child whose appearance is desired will be assessed against another party or will otherwise be paid.</p>	<p><i>the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; and</i></p> <p><i>(5) order a party to a child-custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.</i></p> <p><i>(b) Upon request of a court of another State, a court of this State may hold a hearing or enter an order described in subsection (a).</i></p> <p><i>(c) Travel and other necessary and reasonable expenses incurred under subsections (a) and (b) may be assessed against the parties according to the law of this State.</i></p> <p><i>(d) A court of this State shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child-custody proceeding until the child attains 18 years of age. Upon appropriate request by a court or law enforcement official of another State, the court shall forward a certified copy of these records.}}</i></p>
<p>UCCJA SECTION 20. ASSISTANCE TO COURTS OF OTHER STATES.</p> <p>(a) Upon request of the court of another state the courts of this state which are competent to hear custody matters may order a person in this state to appear at a hearing to adduce evidence or to produce or give evidence under other procedures available in this state or may order social studies to be made for use in a custody proceeding in another state. A certified copy of the transcript of the record of the hearing or the evidence otherwise adduced and any social studies prepared shall be forwarded by</p>	<p>UCCJEA SECTION 112 CONTAINS PROVISIONS SIMILAR TO THOSE INCLUDED IN UCCJA SECTION 20.</p> <p><i>SECTION 112. COOPERATION BETWEEN COURTS; PRESERVATION OF RECORDS.</i></p> <p><i>(a) A court of this State may request the appropriate court of another State to:</i></p> <p><i>(1) hold an evidentiary hearing;</i></p> <p><i>(2) order a person to produce or give evidence pursuant to procedures of that State;</i></p> <p><i>(3) order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;</i></p>

<p>the clerk of the court to the requesting court.</p> <p>(b) A person within this state may voluntarily give testimony or statement in this state for use in a custody proceeding outside this state.</p> <p>(c) Upon request of the court of another state a competent court of this state may order a person in this state to appear alone or with the child in a custody proceeding in another state. The court may condition compliance with the request upon assurance by the other state that travel and other necessary expenses will be advanced or reimbursed.</p>	<p><i>(4) forward to the court of this State a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; and</i></p> <p><i>(5) order a party to a child-custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.</i></p> <p><i>(b) Upon request of a court of another State, a court of this State may hold a hearing or enter an order described in subsection (a).</i></p> <p><i>(c) Travel and other necessary and reasonable expenses incurred under subsections (a) and (b) may be assessed against the parties according to the law of this State.</i></p>
<p>UCCJA SECTION 21. PRESERVATION OF DOCUMENTS FOR USE IN OTHER STATES.</p> <p>In any custody proceeding in this state the court shall preserve the pleadings, orders and decrees, any record that has been made of its hearings, social studies, and other pertinent documents until the child reaches eighteen (18) years of age. Upon appropriate request of the court of another state the court shall forward to the other court certified copies of any or all of such documents.</p>	<p><i>(d) A court of this State shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child-custody proceeding until the child attains 18 years of age. Upon appropriate request by a court or law enforcement official of another State, the court shall forward a certified copy of these records.</i></p> <p>UCCJEA SECTION 112 INCLUDES PROVISIONS SIMILAR TO THOSE FOUND IN UCCJA SECTION 21</p>
<p>UCCJA SECTION 22. REQUESTS FOR COURT RECORDS OF OTHER STATES.</p> <p>If a custody decree has been rendered in another state concerning a child involved in a custody proceeding pending in a court of this state, the court of this state upon taking jurisdiction of the case shall request of the court of the other state a certified copy of the transcript of any court record and other documents mentioned in [UCCJA SECTION 21].</p>	<p>UCCJEA SECTION 112 INCLUDES PROVISIONS SIMILAR THOSE FOUND IN UCCJEA SECTION 22.</p> <p>UCCJEA SECTION 309. SERVICE OF PETITION</p>

<p>THE UCCJA DID NOT CONTAIN ANY PROVISION SIMILAR TO UCCJEA SECTION 309 SINCE THE UCCJA DOES NOT CONTAIN ANY ENFORCEMENT PROCEDURE.</p>	<p>AND ORDER. Except as otherwise provided in Section 310, the petition and order must be served, by any method authorized [by the law of this State], upon respondent and any person who has physical custody of the child.</p>
<p>THE UCCJA DID NOT CONTAIN ANY PROVISION SIMILAR TO UCCJEA SECTION 310 SINCE THE UCCJA DOES NOT CONTAIN ANY ENFORCEMENT PROCEDURE.</p>	<p>UCCJEA SECTION 310. HEARING AND ORDER.</p> <p>(a) Unless the court enters a temporary emergency order pursuant to Section 204, upon a finding that a petitioner is entitled to the physical custody of the child immediately, the court shall order the child delivered to the petitioner unless the respondent establishes that:</p> <p>(1) the child-custody determination has not been registered and confirmed under Section 305, and that</p> <p>(A) the issuing court did not have jurisdiction under [Article] 2;</p> <p>(B) the child-custody determination for which enforcement is sought has been vacated, stayed or modified by a court of a State having jurisdiction to do so under [Article] 2; or</p> <p>(C) the respondent was entitled to notice, but notice was not given in accordance with the standards of Section 108 in the proceedings before the court that issued the order for which enforcement is sought; or</p> <p>(2) the child-custody determination for which enforcement is sought was registered and confirmed under Section 305, but has been vacated, stayed or modified by a court of a State having jurisdiction to do so under [Article] 2.</p> <p>(b) The court shall award the fees, costs, and expenses authorized under Section 311 and may grant additional relief, including a request for the assistance of [law enforcement officials], and set a further hearing to determine whether additional relief is appropriate.</p> <p>(c) If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.</p> <p>(d) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under this [article].</p>

<p>UCCJA SECTION 23. INTERNATIONAL APPLICATION.</p> <p>The general policies of this act extend to the international area. The provisions of this act relating to the recognition and enforcement of custody decrees of other states apply to custody decrees and decrees involving legal institutions similar in nature to custody institutions rendered by appropriate authorities of other nations if reasonable notice and opportunity to be heard were given to all affected persons.</p>	<p>UCCJA SECTION 23 IS COMPARABLE TO UCCJEA SECTION 105.</p> <p><i>{{ UCCJEA SECTION 105. INTERNATIONAL APPLICATION OF [ACT].</i></p> <p><i>(a) A court of this State shall treat a foreign country as if it were a State of the United States for purposes of applying [Articles] 1 and 2.</i></p> <p><i>(b) Except as otherwise provided in subsection (c), a child-custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this [Act] must be recognized and enforced under [Article] 3.</i></p> <p><i>(c) The court need not apply the provisions of this [Act] when the child custody law of the other country violates fundamental principles of human rights.</i></p> <p>THE UCCJA INCLUDED ONLY GENERAL INDICATION THAT THE PRINCIPALS OF THE UCCJA WERE TO BE APPLIED TO INTERNATIONAL SITUATIONS. THE UCCJEA SUBSTANTIALLY EXPANDS REFERENCES TO INTERNATIONAL PROCEEDINGS DOVE-TAILING ITS PROVISIONS WITH THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION, WHILE MAKING SURE THAT COURTS DO NOT ATTEMPT TO MAKE CHILD-CUSTODY DETERMINATIONS WITHIN THE CONTEXT OF HAGUE ABDUCTION CASES, WHICH IS PROHIBITED UNDER TERMS OF THE HAGUE CONVENTION.</p>
<p>UCCJA SECTION 24. PRIORITY.</p> <p>Upon the request of a party to a custody proceeding which raises a question of existence or exercise of jurisdiction under this act the case shall be given calendar priority and handled expeditiously.</p>	<p>UCCJEA SECTION 107 IS SIMILAR TO UCCJA SECTION 24.</p> <p><i>{{ UCCJEA SECTION 107. PRIORITY. If a question of existence or exercise of jurisdiction under this [Act] is raised in a child-custody proceeding, the question, upon request of a party, must be given priority on the calendar and handled expeditiously.}}</i></p> <p>UCCJEA SECTION 107 DOES NOT MAKE ANY SUBSTANTIVE CHANGE TO UCCJA SECTION 24, OTHER THAN MINOR LANGUAGE CHANGES. THE DRAFTERS DECIDED THAT THE UCCJEA PRIORITIES SECTION SHOULD BE PLACED NEAR THE BEGINNING OF ARTICLE 1 TO EMPHASIZE ITS IMPORTANCE. THE LANGUAGE CHANGE FROM "CASE" TO "QUESTION" IS TO CLARIFY THAT IT IS THE JURISDICTIONAL ISSUE WHICH MUST BE EXPEDITED – NOT THE</p>

<p>THE UCCJA DID NOT CONTAIN ANY PROVISION SIMILAR TO UCCJEA SECTION 311 SINCE THE UCCJA DOES NOT CONTAIN ANY ENFORCEMENT PROCEDURE.</p> <p>UCCJA CONTAINS NO COMPARABLE PROVISION TO UCCJEA SEC. 311. UCCJEA SEC. 311 PROVIDES A REMEDY FOR EMERGENCY SITUATIONS WHERE THERE IS REASON TO BELIEVE THE CHILD WILL SUFFER IMMINENT, SERIOUS PHYSICAL HARM OR BE REMOVED FROM THE JURISDICTION.</p>	<p>ENTIRE CUSTODY CASE.</p> <hr/> <p>UCCJEA SECTION 311. WARRANT TO TAKE PHYSICAL CUSTODY OF CHILD.</p> <p>(a) Upon the filing of a petition seeking enforcement of a child-custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is likely to suffer serious imminent physical harm or removal from this State.</p> <p>(b) If the court, upon the testimony of the petitioner or other witness, finds that the child is likely to suffer serious imminent physical harm or be imminently removed from this State, it may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed. The warrant must include the statements required by Section 307(b).</p> <p>(c) A warrant to take physical custody of a child must:</p> <p>(1) recite the facts upon which a conclusion of serious imminent physical harm or removal from the jurisdiction is based;</p> <p>(2) direct law enforcement officers to take physical custody of the child immediately; and</p> <p>(3) provide for the placement of the child pending final relief.</p> <p>(d) The respondent must be served with the petition, warrant, and order immediately after the child is taken into physical custody.</p> <p>(e) A warrant to take physical custody of a child is enforceable throughout this State. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by the exigency of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.</p> <p>(f) The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian.</p> <hr/>
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<p>THE UCCJA DID NOT CONTAIN ANY PROVISION SIMILAR TO UCCJEA SECTION 312 SINCE THE UCCJA DOES NOT CONTAIN ANY ENFORCEMENT PROCEDURE.</p>	<p>UCCJEA SECTION 312. COSTS, FEES, AND EXPENSES.</p> <p>(a) The court shall award the prevailing party, including a State, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.</p> <p>(b) The court may not assess fees, costs, or expenses against a State except as otherwise provided by law other than this [Act].</p> <p>UCCJEA SECTION 312 IS DERIVED FROM THE FEDERAL INTERNATIONAL CHILD ABDUCTION REMEDIES ACT (42 USC 11607(b)(3)). NORMALLY THE COURT WILL AWARD FEES AND COSTS AGAINST THE NON-PREVAILING PARTY. THE NON-PREVAILING PARTY HAS THE BURDEN TO SHOW THE AWARD OF FEES WOULD BE CLEARLY INAPPROPRIATE.</p>
<p>THE UCCJA DID NOT CONTAIN ANY PROVISION COMPARABLE TO UCCJEA SECTION 313 SINCE THE UCCJA DID NOT INCLUDE ANY ENFORCEMENT PROCEDURE.</p>	<p>UCCJEA SECTION 313. RECOGNITION AND ENFORCEMENT. A court of this State shall accord full faith and credit to an order made consistently with this [Act] which enforces a child-custody determination by a court of another State unless the order has been vacated, stayed, or modified by a court authorized to do so under [Article] 2.</p>
<p>UCCJA CONTAINS NO COMPARABLE PROVISION TO UCCJEA SECTION 314.</p>	<p>UCCJEA SECTION 314. APPEALS. An appeal may be taken from a final order in a proceeding under this [article] in accordance with [expedited appellate procedures in other civil cases]. Unless the court enters a temporary emergency order under Section 204, the enforcing court may not stay an order enforcing a child-custody determination pending appeal.</p> <p>UCCJEA SECTION 314 RECOGNIZES THAT APPEALS OF ENFORCEMENT MATTERS SHOULD</p>

	<p>BE EXPEDITED BUT LEAVES THAT PROCEDURE TO EACH INDIVIDUAL STATE.</p>
<p>UCCJA CONTAINS NO COMPARABLE PROVISION TO UCCJEA SEC. 315 SINCE THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHLD ABDUCTION HAD NOT YET BEEN NEGOTIATED. UCCJEA SECTION 315 IS LIMITED TO INTERSTATE CASES ON ITS FACE, ALTHOUGH STATES MAY EXTEND ITS COVERAGE TO INTRASTATE CASES.</p>	<p>UCCJEA SECTION 315. ROLE OF [PROSECUTOR OR PUBLIC OFFICIAL].</p> <p>(a) In a case arising under this [Act] or involving the Hague Convention on the Civil Aspects of International Child Abduction, the [prosecutor or other appropriate public official] may take any lawful action, including resort to a proceeding under this [article] or any other available civil proceeding to locate a child, obtain the return of a child, or enforce a child-custody determination if there is:</p> <ol style="list-style-type: none"> (1) an existing child-custody determination; (2) a request from a court in a pending child-custody case; (3) a reasonable belief that a criminal statute has been violated; or (4) a reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction. <p>(b) A [prosecutor or appropriate public official] acts on behalf of the court and may not represent any party to a child-custody determination.</p>
<p>UCCJA DOES NOT CONTAIN ANY PROVISION COMPARABLE TO UCCJEA SECTION 316 SINCE THE UCCJA DID NOT INCLUDE ANY ENFORCEMENT PROCEDURES.</p>	<p>UCCJEA SECTION 316. ROLE OF [LAW ENFORCEMENT]. At the request of a [prosecutor or other appropriate public official] acting under Section 315, a [law enforcement officer] may take any lawful action reasonably necessary to locate a child or a party and assist [a prosecutor or appropriate public official] with responsibilities under Section 315.</p> <p>UCCJEA SEC. 316 AUTHORIZES ASSISTANCE IN LOCATING A CHILD AND ENFORCING CHILD CUSTODY DETERMINATIONS. UCCJEA SEC. 316 IS LIMITED TO INTERSTATE CASES.</p> <p>UCCJEA SECTION 317. COSTS AND EXPENSES. If the respondent is not the prevailing party, the court</p>

<p>UCCJA CONTAINS NO COMPARABLE PROVISION TO UCCJEA SEC. 317 SINCE UCCJA CONTAINED ONLY BASIC REGISTRATION PROCEDURES. UCCJEA SEC. 317 AUTHORIZES ASSISTANCE IN LOCATING A CHILD AND ENFORCING CHILD CUSTODY DETERMINATIONS. UCCJEA SEC. 317 IS LIMITED TO INTERSTATE CASES.</p>	<p>may assess against the respondent all direct expenses and costs incurred by the [prosecutor or other appropriate public official] and [law enforcement officers] under Section 315 or 316.</p>
<p>UCCJA CONTAINS NO COMPARABLE PROVISION TO UCCJEA SEC. 401, ALTHOUGH UNIFORMITY WAS EXPRESS PURPOSE OF THE UCCJA.</p>	<p style="text-align: center;">[ARTICLE] 4 MISCELLANEOUS PROVISIONS</p> <p>SECTION 401. APPLICATION AND CONSTRUCTION. In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among States that enact it.</p>
<p>UCCJA SECTION 25. SEVERABILITY.</p> <p>If any provision of this act or the Application thereof to any person or Circumstances is held invalid, its invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.</p>	<p>SECTION 402. SEVERABILITY CLAUSE.</p> <p>If any provision of this [Act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [Act] which can be given effect without the invalid provision or application, and to this end the provisions of this [Act] are severable.</p>
<p>UCCJA SECTION 26. SHORT TITLE.</p> <p>[This Act] may be cited as the uniform child custody jurisdiction act.</p>	<p>THE UCCJEA MOVED THE SHORT TITLE FOR THE UCCJEA FROM THE END OF THE ACT (AS IN THE UCCJA) TO THE BEGINNING OF THE ACT. <i>{{SECTION 101. SHORT TITLE.</i></p> <p><i>This [Act] may be cited as the Uniform Child-Custody Jurisdiction and Enforcement Act.</i></p>
<p>THE UCCJA DOES NOT CONTAIN ANY PROVISION COMPARABLE TO UCCJEA SECTION</p>	<p>UCCJEA SECTION 403. EFFECTIVE DATE. This [Act] takes effect</p>
<p>THE UCCJA DOES NOT CONTAIN ANY PROVISION COMPARABLE TO UCCJEA SECTION</p>	<p>UCCJEA SECTION 404. REPEALS. The following</p>

<p>403, ALTHOUGH EFFECTIVE DATES ARE NECESSARY.</p>	<p>acts and parts of acts are hereby repealed: (1) The Uniform Child Custody Jurisdiction Act; (2) (3)</p>
<p>THE UCCJA DOES NOT CONTAIN ANY PROVISION COMPARABLE TO UCCJEA SECTION 404.</p>	<hr/> <p>UCCJEA SECTION 405. TRANSITIONAL PROVISION. A motion or other request for relief made in a child-custody or enforcement proceeding which was commenced before the effective date of this [Act] is governed by the law in effect at the time the motion or other request was made.</p>
<p>THE UCCJA DID NOT INCLUDE ANY PROVISION COMPARABLE TO UCCJEA SECTION 405 SINCE THE UCCJA REPLACED COMMON LAW JURISDICTIONAL BASES, RATHER THAN STATUTORY JURISDICTIONAL BASES IN MOST STATES.</p>	