

**HOUSE . . . . . No. 3729**

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**The Commonwealth of Massachusetts**

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PRESENTED BY:

***James M. Cantwell***

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

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

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

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PETITION OF:

NAME:

*James M. Cantwell*

DISTRICT/ADDRESS:

*4th Plymouth*

**HOUSE . . . . . No. 3729**

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By Mr. Cantwell of Marshfield, a petition (subject to Joint Rule 12) of James M. Cantwell relative to the child custody jurisdiction and enforcement. The Judiciary.

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**The Commonwealth of Massachusetts**

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

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

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

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

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

6           Section 1-102. As used in this chapter the following words shall have the following  
7 meanings, unless the context clearly requires otherwise:

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

9           “Abuse”, (i) attempting to cause or causing physical harm; (ii) placing another in fear of  
10 imminent serious physical harm; (iii) causing another to engage involuntarily in sexual relations  
11 by force, threat or duress or engaging or threatening to engage in sexual activity with a  
12 dependent child; (iv) engaging in mental abuse, which includes threats, intimidation or acts

13 designed to induce terror; (v) depriving another of medical care, housing, food or other  
14 necessities of life; or (vi) restraining the liberty of another.

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

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

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

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

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

30 “Domestic violence”, abuse committed by a parent or person acting as a parent against  
31 the other parent or person acting as a parent or against a child who is the subject of a proceeding,  
32 or against a dependent household member of the other parent or person acting as a parent, which

33 shall include a parent, step-parent, child, step-child, sibling, grandparent or grandchild or persons  
34 in a guardianship relationship.

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

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

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

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

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

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

51 “Person acting as a parent”, a person, other than a parent, who has physical custody of the  
52 child or has had physical custody for a period of 6 consecutive months, including any temporary

53 absence, within 1 year immediately before the commencement of a child-custody proceeding and  
54 has been awarded legal custody by a court or claims a right to legal custody under the law.

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

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

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

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

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

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

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

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

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

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

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

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

86           Section 1-107. If a question of existence or exercise of jurisdiction under this act is raised  
87 in a child-custody proceeding, the question, upon request of a party, shall be given priority on the  
88 calendar and handled expeditiously. A hearing on the matter, allowing for telephonic appearance  
89 by the out-of-state party, if requested under subsection (d) of section 1-111, shall occur not later  
90 than 60 days from the date of request. This court shall issue a written decision on the question of  
91 jurisdiction not later than 15 calendar days from the date of the hearing.

92           Section 1-108. (a) Notice required for the exercise of jurisdiction when a person is outside  
93 the commonwealth may be given in a manner prescribed by the law in the commonwealth for the  
94 service of process or by the law of the state in which the service is made. Notice shall be given in

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

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

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

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

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

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

116 Section 1-110. (a) A court of the commonwealth may communicate with a court in  
117 another state concerning a proceeding arising under this act.

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

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

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

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

129 Section 1-111. (a) In addition to other procedures available to a party, a party to a child-  
130 custody proceeding may offer testimony of witnesses who are located in another state, including  
131 testimony of the parties and the child, by deposition or other means allowable in the  
132 commonwealth for testimony taken in another state. The court, on its own motion, may order that  
133 the testimony of a person be taken in another state and may prescribe the manner in which and  
134 the terms upon which the testimony is taken.

135 (b) A court in the commonwealth may permit an individual residing in another state to be  
136 deposed or to testify by telephone, audiovisual means or other electronic means before a



137 designated court or at another location in that state. A court in the commonwealth shall cooperate  
138 with courts of other states in designating an appropriate location for the deposition or testimony.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

196 Section 2-202. (a) Except as otherwise provided in section 2-204, a court in the  
197 commonwealth that has made a child-custody determination consistent with section 2-201 or 2-  
198 203 has exclusive, continuing jurisdiction over the determination until:

199 (1) a court in the commonwealth determines that neither the child, the child and 1 parent,  
200 nor the child and a person acting as a parent have a significant connection with the

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

203 (2) a court in the commonwealth or a court of another state determines that neither the  
204 child, nor a parent, nor any person acting as a parent presently resides in the commonwealth;

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

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

214 (b) A court in the commonwealth that has exclusive, continuing jurisdiction under this  
215 section may decline to exercise its jurisdiction if the court determines that it is an inconvenient  
216 forum under section 2-207.

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

220 Section 2-203. Except as otherwise provided in section 2-204, a court in the  
221 commonwealth shall not modify a child-custody determination made by a court of another state

222 unless the court in the commonwealth has jurisdiction to make an initial determination under  
223 paragraphs (1) or (2) of subsection (a) of section 2-201 and:

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

227 (2) a court in the commonwealth or a court of the other state determines that neither the  
228 child, nor a parent nor any person acting as a parent presently resides in the other state; or

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

232 Section 2-204. (a) A court in the commonwealth shall have temporary emergency  
233 jurisdiction if the child is present in in the commonwealth and the child has been abandoned or it  
234 is necessary in an emergency to protect the child because the other parent or person acting as a  
235 parent or a child who is the subject of the proceeding or a dependent household member of the  
236 other parent or person acting as a parent is subjected to or threatened with mistreatment or abuse.

237 (b) If there is no previous child-custody determination that is entitled to be enforced  
238 under this act and if no child-custody proceeding has been commenced in a court of a state  
239 having jurisdiction under sections 2-201 to 2-203, inclusive, a child-custody determination made  
240 under this section remains in effect until an order is obtained from a court of a state having  
241 jurisdiction under said sections 2-201 to 2-203, inclusive. If a child-custody proceeding has not  
242 been or is not commenced in a court of a state having jurisdiction under said sections 2-201 to 2-  
243 203, inclusive, a child-custody determination made under this section becomes a final

244 determination, if: (1) it so provides; and (2) the commonwealth becomes the home state of the  
245 child.

246 (c) If there is a previous child-custody determination that is entitled to be enforced under  
247 this act or a child-custody proceeding has been commenced in a court of a state having  
248 jurisdiction under sections 2-201 to 2-203, inclusive, any order issued by a court in the  
249 commonwealth under this section shall specify in the order a period of time which the court  
250 considers adequate to allow the person seeking an order to obtain an order from the state having  
251 jurisdiction under said sections 2-201 to 2-203, inclusive. The order issued in the commonwealth  
252 shall remain in effect until an order is obtained from the other state within the period specified or  
253 the period expires.

254 (d) A court in the commonwealth that has been asked to make a child-custody  
255 determination under this section, upon being informed that a child-custody proceeding has been  
256 commenced, or a child-custody determination has been made, by a court of a state having  
257 jurisdiction under sections 2-201 to 2-203, inclusive, shall immediately communicate with the  
258 other court. A court in the commonwealth that is exercising jurisdiction pursuant to said sections  
259 2-201 to 2-203, inclusive, upon being informed that a child-custody proceeding has been  
260 commenced or a child-custody determination has been made by a court of another state under a  
261 statute similar to this section shall immediately communicate with the court of that state. The  
262 purpose of the communication is to resolve the emergency, protect the safety of the parties and  
263 the child and determine a period for the duration of the temporary order.

264 Section 2-205. (a) Before a child-custody determination is made under this act, notice and  
265 an opportunity to be heard in accordance with the standards of section 1-108 shall be given to

266 persons entitled to notice under the law of the commonwealth as in child-custody proceedings  
267 between residents of the commonwealth, a parent whose parental rights have not been previously  
268 terminated and a person having physical custody of the child.

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

271 (c) The obligation to join a party and the right to intervene as a party in a child-custody  
272 proceeding under this act shall be governed by the law of the commonwealth as in child-custody  
273 proceedings between residents of the commonwealth.

274 Section 2-206. (a) Except as otherwise provided in section 2-204, a court in the  
275 commonwealth shall not exercise its jurisdiction under Article 2 if, at the time of the  
276 commencement of the proceeding, a proceeding concerning the custody of the child had been  
277 previously commenced in a court of another state having jurisdiction substantially in conformity  
278 with this act, unless the proceeding has been terminated or is stayed by the court of the other  
279 state because a court in the commonwealth is a more convenient forum under section 2-207.

280 (b) Except as otherwise provided in section 2-204, a court in the commonwealth, before  
281 hearing a child-custody proceeding, shall examine the court documents and other information  
282 supplied by the parties pursuant to section 2-209. If the court determines that a child-custody  
283 proceeding was previously commenced in a court in another state having jurisdiction  
284 substantially in accordance with this act, the court in the commonwealth shall stay its proceeding  
285 and communicate with the court of the other state. If the court of the state having jurisdiction  
286 substantially in accordance with this act does not determine that the court in the commonwealth  
287 is a more appropriate forum, the court in the commonwealth shall dismiss the proceeding.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

327 Section 2-208. (a) Except as otherwise provided in section 2-204 or by another law of the  
328 commonwealth, if a court in the commonwealth has jurisdiction under this act because a person  
329 invoking the jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise  
330 its jurisdiction unless:

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

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

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

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

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

348 Section 2-209. (a) Subject to local law providing for the confidentiality of procedures,  
349 addresses and other identifying information, in a child-custody proceeding, each party, in its first  
350 pleading or in an affidavit, shall give information, if reasonably ascertainable, under oath as to  
351 the child's present address, the places where the child has lived during the last 5 years and the  
352 names and present addresses of the persons with whom the child has lived during that period.  
353 The pleading or affidavit shall state whether the party:

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

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

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

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

366 (c) If the declaration as to any of the items described in paragraphs (1) to (3), inclusive of  
367 subsection (a) is in the affirmative, the declarant shall give additional information under oath as  
368 required by the court. The court may examine the parties under oath as to details of the

369 information furnished and other matters pertinent to the court's jurisdiction and the disposition of  
370 the case.

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

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

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

383 (b) Subject to subsection (d) of section 1-111, if a party to a child-custody proceeding  
384 whose presence is desired by the court is outside the commonwealth, the court may order that a  
385 notice given pursuant to section 1-108 include a statement directing the party to appear  
386 personally with or without the child and declaring that failure to appear may result in a decision  
387 adverse to the party.

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

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

394 ARTICLE 3. Section 3-301. As used in Article 3, the following words shall have the  
395 following meanings unless the context requires otherwise:

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

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

402 Section 3-302. (a) Article 3 may be invoked to enforce: (1) a child-custody determination  
403 of another state; and (2) an order for the return of the child made under the Hague Convention on  
404 the Civil Aspects of International Child Abduction.

405 (b) A court in the commonwealth that does not have jurisdiction to modify a child-  
406 custody determination, may issue a temporary order enforcing: (1) a parenting plan or visitation  
407 schedule made by a court of another state; or (2) the parenting plan or visitation provisions of a  
408 child-custody determination of another state that does not provide for a specific visitation  
409 schedule.

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

414 Section 3-303. (a) A court in the commonwealth shall recognize and enforce a child-  
415 custody determination of a court of another state if the latter court exercised jurisdiction that was  
416 in substantial conformity with this act or the determination was made under factual  
417 circumstances meeting the jurisdictional standards of this act and the determination has not been  
418 modified in accordance with this act.

419 (b) A court may utilize any remedy available under the laws of the commonwealth to  
420 enforce a child-custody determination made by a court of another state. The procedure provided  
421 by Article 3 does not affect the availability of other remedies to enforce a child-custody  
422 determination.

423 Section 3-304. (a) A child-custody determination issued by a court of another state may  
424 be registered in the commonwealth, with or without a simultaneous request for enforcement, by  
425 sending to the appropriate court in the commonwealth: (1) a letter or other document requesting  
426 registration; (2) 2 copies, including 1 certified copy, of the determination sought to be registered  
427 and a statement under penalty of perjury that to the best of the knowledge and belief of the  
428 person seeking registration the order has not been modified; and (3) except as otherwise provided  
429 in section 2-209, the name and address of the person seeking registration and any parent or  
430 person acting as a parent who has been awarded custody or visitation in the child-custody  
431 determination sought to be registered.

432 (b) On receipt of the documents required by subsection (a), the registering court shall: (1)  
433 cause the determination to be filed as a foreign judgment, together with 1 copy of any  
434 accompanying documents and information, regardless of their form; and (2) serve notice upon  
435 the persons named pursuant to paragraph (3) of subsection (a) and provide them with an  
436 opportunity to contest the registration in accordance with this section.

437 (c) The notice required by paragraph (2) of subsection (b) shall state: (1) that a registered  
438 determination is enforceable as of the date of the registration in the same manner as a  
439 determination issued by a court in the commonwealth; (2) that a hearing to contest the validity of  
440 the registered determination shall be requested within 20 days after service of notice; and (3) that  
441 failure to contest the registration shall result in confirmation of the child-custody determination  
442 and preclude further contest of that determination with respect to any matter that could have been  
443 asserted.

444 (d) A person seeking to contest the validity of a registered order shall request a hearing  
445 within 20 days after service of the notice. At that hearing, the court shall confirm the registered  
446 order unless the person contesting registration establishes that: (1) the issuing court did not have  
447 jurisdiction under Article 2; (2) the child-custody determination sought to be registered has been  
448 vacated, stayed or modified by a court of a state having jurisdiction to do so under Article 2; or  
449 (3) the person contesting registration was entitled to notice, but notice was not given in  
450 accordance with the standards of section 1-108 in the proceedings before the court that issued the  
451 order for which registration is sought.

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

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

458 Section 3-305. (a) A court in the commonwealth may grant any relief normally available  
459 under the law of the commonwealth to enforce a registered child-custody determination made by  
460 a court of another state.

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

463 Section 3-306. If a proceeding for enforcement under Article 3 has been or is commenced  
464 in the commonwealth and a court in the commonwealth determines that a proceeding to modify  
465 the determination has been commenced in another state having jurisdiction to modify the  
466 determination under Article 2, the enforcing court shall immediately communicate with the  
467 modifying court. The proceeding for enforcement continues unless the enforcing court, after  
468 consultation with the modifying court, stays or dismisses the proceeding.

469 Section 3-307. (a) A complaint or petition under this Article shall be verified. Certified  
470 copies of all orders sought to be enforced and of the order confirming registration, if any, shall  
471 be attached to the petition. A copy of a certified copy of an order may be attached instead of the  
472 original.



473 (b) A complaint or petition for enforcement of a child-custody determination shall state:  
474 (1) whether the court that issued the determination identified the jurisdictional basis it relied  
475 upon in exercising jurisdiction and, if so, what the basis was; (2) whether the determination for  
476 which enforcement is sought has been vacated, stayed or modified by a court whose decision  
477 shall be enforced under this act or federal law and, if so, identify the court, the case number of  
478 the proceeding and the action taken; (3) whether any proceeding has been commenced that could  
479 affect the current proceeding, including proceedings relating to domestic violence, protective  
480 orders, termination of parental rights and adoptions and, if so, identify the court and the case  
481 number and the nature of the proceeding; (4) the present physical address of the child and the  
482 defendant or respondent, if known; and (5) whether relief in addition to the immediate physical  
483 custody of the child and attorney's fees is sought, including a request for assistance from law  
484 enforcement officials and, if so, the relief sought.

485 (c) If the child-custody determination has been registered and confirmed under section 3-  
486 304, the complaint or petition shall also state the date and place of registration.

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

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

493 (f) The order shall state the time and place of the hearing and shall advise the defendant  
494 or respondent that at the hearing the court will order the delivery of the child and the payment of

495 fees, costs and expenses under section 3-311 and may set an additional hearing to determine  
496 whether further relief is appropriate, unless the defendant or respondent appears and establishes  
497 that:

498 (1) the child-custody determination has not been registered and confirmed under section  
499 3-304 and that: (A) the issuing court did not have jurisdiction under Article 2; (B) the child-  
500 custody determination for which enforcement is sought has been vacated, stayed or modified by  
501 a court of a state having jurisdiction to do so under Article 2 or federal law; or (C) the respondent  
502 was entitled to notice, but notice was not given in accordance with the standards of section 1-108  
503 in the proceedings before the court that issued the order for which enforcement is sought; or

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

507 Section 3-308. Except as otherwise provided in section 3-310, the petition and order shall  
508 be served, by any method authorized by the law of the commonwealth, upon the respondent and  
509 any person who has physical custody of the child.

510 Section 3-309. (a) Unless the court enters a temporary emergency order pursuant to  
511 section 2-204, upon a finding that a petitioner is entitled to the physical custody of the child  
512 immediately, the court shall order the child delivered to the petitioner unless the respondent  
513 establishes that:

514 (1) the child-custody determination has not been registered and confirmed under section  
515 3-304, and that: (A) the issuing court did not have jurisdiction under Article 2; (B) the child-  
516 custody determination for which enforcement is sought has been vacated, stayed or modified by

517 a court of a state having jurisdiction to do so under Article 2 or federal law; or (C) the defendant  
518 or respondent was entitled to notice, but notice was not given in accordance with the standards of  
519 section 1-108 in the proceedings before the court that issued the order for which enforcement is  
520 sought; or

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

524 (b) The court shall award the fees, costs and expenses authorized under section 3-311 and  
525 may grant additional relief, including a request for the assistance of law enforcement officials  
526 and set a further hearing to determine whether additional relief is appropriate.

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

529 (d) A privilege against disclosure of communications between spouses and a defense of  
530 immunity based on the relationship of husband and wife or parent and child shall not be invoked  
531 in a proceeding under Article 3.

532 Section 3-310. (a) Upon the filing of a complaint or petition seeking enforcement of a  
533 child-custody determination, the plaintiff or petitioner may file a verified application for the  
534 issuance of a warrant to take physical custody of the child if the child is likely to suffer serious  
535 imminent physical harm or removal from the commonwealth.

536 (b) If the court, upon the testimony of the plaintiff or petitioner or other witness, finds  
537 that the child is likely to suffer serious imminent physical harm or be imminently removed from

538 the commonwealth, it may issue a warrant to take physical custody of the child. The complaint or  
539 petition shall be heard on the next judicial day after the warrant is executed. The warrant shall  
540 include the statements required by subsection (b) of section 3-307.

541 (c) A warrant to take physical custody of a child shall: (1) recite the facts upon which a  
542 conclusion of serious imminent physical harm or removal from the jurisdiction is based; (2)  
543 direct law enforcement officers to take physical custody of the child immediately; and (3)  
544 provide for the placement of the child pending final relief.

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

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

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

554 Section 3-311. (a) The court shall award the prevailing party, including a state, necessary  
555 and reasonable expenses incurred by or on behalf of the party, including costs, communication  
556 expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses and child  
557 care during the course of the proceedings, unless the party from whom fees or expenses are  
558 sought establishes that the award would be clearly inappropriate.

559 (b) The court shall not assess fees, costs or expenses against a state except as otherwise  
560 provided by law.

561 Section 3-312. A court in the commonwealth shall accord full faith and credit to an order  
562 made consistently with this act which enforces a child-custody determination by a court of  
563 another state unless the order has been vacated, stayed or modified by a court authorized to do so  
564 under Article 2.

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

569 Section 3-314. (a) In a case arising under this act or involving the Hague Convention on  
570 the Civil Aspects of International Child Abduction, the prosecutor or other appropriate public  
571 official may take any lawful action, including resort to a proceeding under Article 3 or any other  
572 available civil proceeding to locate a child, obtain the return of a child or enforce a child-custody  
573 determination if there is: (1) an existing child-custody determination; (2) a request from a court  
574 in a pending child-custody case; (3) a reasonable belief that a criminal statute has been violated;  
575 or (4) a reasonable belief that the child has been wrongfully removed or retained in violation of  
576 the Hague Convention on the Civil Aspects of International Child Abduction.

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

579 Section 3-315. At the request of a prosecutor or other appropriate public official acting  
580 under section 3-314, a law enforcement officer may take any lawful action reasonably necessary

581 to locate a child or a party and assist a prosecutor or appropriate public official with  
582 responsibilities under said section 3-314.

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

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

589 Section 4-402. If any provision of this act or its application to any person or circumstance  
590 is held invalid, the invalidity does not affect other provisions or applications of this act which  
591 can be given effect without the invalid provision or application, and to this end the provisions of  
592 this act are severable.

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

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