

SENATE No. 806

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia S. Creem

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

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

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

PETITION OF:

NAME:

Cynthia S. Creem

DISTRICT/ADDRESS:

First Middlesex and Norfolk

SENATE No. 806

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

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

The Commonwealth of Massachusetts

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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
200 parent, 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
204 the 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
213 have 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
265 and an opportunity to be heard in accordance with the standards of section 1-108 shall be given
266 to 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
293 of the other state enforcing, staying, denying or dismissing the proceeding for enforcement;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

320 (c) If a court in the commonwealth determines that it is an inconvenient forum and that a
321 court of another state is a more appropriate forum, it shall stay the proceedings upon condition

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
328 the commonwealth, if a court in the commonwealth has jurisdiction under this act because a
329 person invoking the jurisdiction has engaged in unjustifiable conduct, the court shall decline to
330 exercise 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-
334 203, inclusive, determines that the commonwealth is a more appropriate forum under section 2-
335 207; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

464 Section 3-306. If a proceeding for enforcement under Article 3 has been or is commenced
465 in the commonwealth and a court in the commonwealth determines that a proceeding to modify
466 the determination has been commenced in another state having jurisdiction to modify the

467 determination under Article 2, the enforcing court shall immediately communicate with the
468 modifying court. The proceeding for enforcement continues unless the enforcing court, after
469 consultation with the modifying court, stays or dismisses the proceeding.

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

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

486 (c) If the child-custody determination has been registered and confirmed under section 3-
487 304, the complaint or petition shall also state the date and place of registration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

549 (e) A warrant to take physical custody of a child is enforceable throughout the
550 commonwealth. If the court finds on the basis of the testimony of the petitioner or other witness
551 that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter

552 private property to take physical custody of the child. If required by the exigency of the case, the
553 court may authorize law enforcement officers to make a forcible entry at any hour.

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

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

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

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

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

571 Section 3-314. (a) In a case arising under this act or involving the Hague Convention on
572 the Civil Aspects of International Child Abduction, the prosecutor or other appropriate public

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

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

581 Section 3-315. At the request of a prosecutor or other appropriate public official acting
582 under section 3-314, a law enforcement officer may take any lawful action reasonably necessary
583 to locate a child or a party and assist a prosecutor or appropriate public official with
584 responsibilities under said section 3-314.

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

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

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

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

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