

1 stability of home environment and of secure family relationships for the child;

2 ~~-(5) Deter abductions and other unilateral removals of children undertaken to obtain~~
3 ~~custody awards;~~

4 ~~-(6) Avoid relitigation of custody decisions of other states in this state insofar as feasible;~~

5 ~~-(7) Facilitate the enforcement of custody decrees of other states;~~

6 ~~-(8) Promote and expand the exchange of information and other forms of mutual~~
7 ~~assistance between the courts of this state and those of other states concerned with the same child;~~

8 and

9 ~~-(9) Make uniform the law of those states which enact it.~~

10 ~~-(b) This chapter shall be construed to promote the general purposes stated in this section.~~

11 **15-14-3. Definitions** -- As used in this chapter:

12 ~~-(1) "Court" shall mean the family court of the state of Rhode Island and Providence~~
13 ~~Plantations unless another meaning is so indicated;~~

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

17 ~~-(3) "Custody proceeding" includes proceedings in which a custody determination is one~~
18 ~~of several issues, such as an action for divorce or separation, and includes child neglect and~~
19 ~~dependency proceedings;~~

20 ~~-(4) "Decree" or "custody decree" means a custody determination contained in a judicial~~
21 ~~decree or order made in a custody proceeding, and includes an initial decree and modification~~
22 ~~decree;~~

23 ~~-(5) "Home state" means the state in which the child immediately preceding the time~~
24 ~~involved lived with his or her parents, a parent, or person acting as parent, for at least six (6)~~
25 ~~consecutive months, and in the case of a child less than six (6) months old the state in which the~~
26 ~~child lived from birth with any of the persons mentioned. Periods of temporary absence of any of~~
27 ~~the named persons are counted as part of the six (6) month or other period;~~

28 ~~-(6) "Initial decree" means the first custody decree concerning a particular child;~~

29 ~~-(7) "Modification decree" means a custody decree which modified or replaced a prior~~
30 ~~decree, whether made by the court which rendered the prior decree or by another court;~~

31 ~~-(8) "Person acting as parent" means a person, other than a parent, who has physical~~
32 ~~custody of a child and who has either been awarded custody by a court or claims a right to~~
33 ~~custody;~~

34 ~~-(9) "Petitioner" means a person, including a parent, who claims a right to custody or~~

1 visitation rights with respect to a child;

2 ~~(10) "Physical custody" means actual possession and control of a child;~~

3 ~~(11) "Respondent" means a person including a parent, or state agency, who disputes the~~
4 ~~actions of a petitioner claiming a right to custody or visitation rights with respect to a child; and~~

5 ~~(12) "State" means any state, territory, or possession of the United States, the~~
6 ~~Commonwealth of Puerto Rico, and the District of Columbia.~~

7 **15-14-4. Jurisdiction** ~~— (a) The family court has jurisdiction to make a child custody~~
8 ~~determination by initial or modification decree if:~~

9 ~~(1) The state of Rhode Island: (i) is the home state of the child at the time of~~
10 ~~commencement of the proceeding, or (ii) had been the child's home state within six (6) months~~
11 ~~before commencement of the proceeding and the child is absent from Rhode Island because of his~~
12 ~~or her removal or retention by a person claiming his or her custody or for other reasons, and a~~
13 ~~parent or person acting as parent continues to live in Rhode Island; or~~

14 ~~(2) It is in the best interest of the child that the family court assume jurisdiction because:~~
15 ~~(i) the child and his or her parents, or the child and at least one party, have significant connection~~
16 ~~with Rhode Island, and (ii) there is available in Rhode Island substantial evidence concerning the~~
17 ~~child's present or future care, protection, training, and personal relationships; or~~

18 ~~(3) The child is physically present in Rhode Island and: (i) the child has been abandoned,~~
19 ~~or (ii) it is necessary in an emergency to protect the child because he or she has been subjected to~~
20 ~~or threatened with mistreatment or abuse or is otherwise neglected or dependent; or~~

21 ~~(4) It appears that no other state would have jurisdiction under prerequisites substantially~~
22 ~~in accordance with subsection (a)(1), (2), or (3), or another state has declined to exercise~~
23 ~~jurisdiction on the ground that Rhode Island is the more appropriate forum to determine the~~
24 ~~custody of the child, and (ii) it is in the best interest of the child that the family court assume~~
25 ~~jurisdiction.~~

26 ~~(b) Except under subdivisions (3) and (4) of subsection (a), physical presence in Rhode~~
27 ~~Island of the child, or of the child and one of the parties, is not alone sufficient to confer~~
28 ~~jurisdiction on the family court to make a child custody determination.~~

29 ~~(c) Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to~~
30 ~~determine his or her custody.~~

31 **15-14-5. Notice and opportunity to be heard** ~~— Before making a decree under this~~
32 ~~chapter, reasonable notice and opportunity to be heard shall be given to the parties, any parent~~
33 ~~whose parental rights have not been previously terminated, and any person who has physical~~
34 ~~custody of the child. If any of these persons is outside Rhode Island, notice and opportunity to be~~

1 ~~heard shall be given pursuant to section 15-14-6.~~

2 ~~**15-14-6. Notice to persons outside Rhode Island -- Submission to jurisdiction** -- (a)~~

3 ~~Notice required for the exercise of jurisdiction over a person outside Rhode Island shall be given~~
4 ~~in a manner reasonably calculated to give actual notice, and may be:~~

5 ~~(1) By personal delivery outside Rhode Island in the manner prescribed for service of~~
6 ~~process within this state;~~

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

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

10 ~~(4) As directed by the court (including publication, if other means of notification are~~
11 ~~ineffective).~~

12 ~~(b) Notice under this section shall be served, mailed, or delivered, or last published, at~~
13 ~~least twenty (20) days before any hearing in Rhode Island.~~

14 ~~(c) Proof of service outside Rhode Island may be made by affidavit of the individual who~~
15 ~~made the service, or in the manner prescribed by the law of Rhode Island, the order pursuant to~~
16 ~~which the service is made, or the law of the place in which the service is made. If service is made~~
17 ~~by mail, proof may be a receipt signed by the addressee or other evidence of delivery to the~~
18 ~~addressee.~~

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

20 ~~**15-14-7. Simultaneous proceedings in other states** -- (a) The family court shall not~~

21 ~~exercise its jurisdiction under this chapter if at the time of filing the petition a proceeding~~
22 ~~concerning the custody of the child was pending in a court of another state exercising jurisdiction~~
23 ~~substantially in conformity with this chapter, unless the proceeding is stayed by the court of the~~
24 ~~other state because Rhode Island is a more appropriate forum or for other reasons.~~

25 ~~(b) Before hearing the petition in a custody proceeding the court shall examine the~~
26 ~~pleadings and other information supplied by the parties under section 15-14-10 and shall consult~~
27 ~~the child custody registry established under section 15-14-17 concerning the pendency of~~
28 ~~proceedings with respect to the child in other states. If the court has reason to believe that~~
29 ~~proceedings may be pending in another state it shall direct an inquiry to the state court~~
30 ~~administrator or other appropriate official of the other state.~~

31 ~~(c) If the court is informed during the course of the proceeding that a proceeding~~
32 ~~concerning the custody of the child was pending in another state before the court assumed~~
33 ~~jurisdiction it shall stay the proceeding and communicate with the court in which the other~~
34 ~~proceeding is pending to the end that the issue may be litigated in the more appropriate forum and~~

1 ~~that information be exchanged in accordance with sections 15-14-20 through 15-14-23. If the~~
2 ~~court has made a custody decree before being informed of a pending proceeding in a court of~~
3 ~~another state it shall immediately inform that court of the fact. If the court is informed that a~~
4 ~~proceeding was commenced in another state after it assumed jurisdiction it shall likewise inform~~
5 ~~the other court to the end that the issues may be litigated in the more appropriate forum.~~

6 ~~**15-14-8. Inconvenient forum** -- (a) The family court may decline to exercise its~~
7 ~~jurisdiction any time before making a decree if it finds that it is an inconvenient forum to make a~~
8 ~~custody determination under the circumstances of the case and that a court of another state is a~~
9 ~~more appropriate forum.~~

10 ~~(b) A finding of inconvenient forum may be made upon the court's own motion or upon~~
11 ~~motion of a party or guardian ad litem or other representative of the child.~~

12 ~~(c) In determining if it is an inconvenient forum, the court shall consider if it is in the~~
13 ~~interest of the child that another state assume jurisdiction. For this purpose it may take into~~
14 ~~account the following factors, among others:~~

15 ~~(1) If another state is or recently was the child's home state;~~

16 ~~(2) If another state has a closer connection with the child and his or her family or with~~
17 ~~the child and one or more of the parties;~~

18 ~~(3) If substantial evidence concerning the child's present or future care, protection,~~
19 ~~training, and personal relationships is more readily available in another state;~~

20 ~~(4) If the parties have agreed on another forum which is no less appropriate; and~~

21 ~~(5) If the exercise of jurisdiction by a court of this state would contravene any of the~~
22 ~~purposes stated in section 15-14-2.~~

23 ~~(d) Before determining whether to decline or retain jurisdiction the court may~~
24 ~~communicate with a court of another state and exchange information pertinent to the assumption~~
25 ~~of jurisdiction by either court with a view to assuring that jurisdiction will be exercised by the~~
26 ~~more appropriate court and that a forum will be available to the parties.~~

27 ~~(e) If the court finds that it is an inconvenient forum and that a court of another state is a~~
28 ~~more appropriate forum, it may dismiss the proceeding, or it may stay the proceedings upon~~
29 ~~condition that a custody proceeding be promptly commenced in another named state or upon any~~
30 ~~other conditions which may be just and proper, including the condition that a moving party~~
31 ~~stipulate his or her consent and submission to the jurisdiction of the other forum.~~

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

1 ~~(g) If it appears to the court that it is clearly an inappropriate forum it may require the~~
2 ~~party who commenced the proceedings to pay, in addition to the costs of the proceedings in~~
3 ~~Rhode Island, necessary travel and related expenses, and any other reasonable fees which may be~~
4 ~~imposed by the court. Payment is to be made to the clerk of the family court for remittance to the~~
5 ~~proper party.~~

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

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

14 **15-14-9. Jurisdiction declined by reason of conduct** ~~— (a) If the petitioner for an initial~~
15 ~~decree has wrongfully taken the child from another state or has engaged in similar reprehensible~~
16 ~~conduct the court may decline to exercise jurisdiction if this is just and proper under the~~
17 ~~circumstances.~~

18 ~~(b) Unless required in the interest of the child, the court shall not exercise its jurisdiction~~
19 ~~to modify a custody decree of another state if the petitioner, without consent of the person entitled~~
20 ~~to custody, has improperly removed the child from the physical custody of the person entitled to~~
21 ~~custody or has improperly retained the child after a visit or other temporary relinquishment of~~
22 ~~physical custody. If the petitioner has violated any other provision of a custody decree of another~~
23 ~~state the court may decline to exercise its jurisdiction if this is just and proper under the~~
24 ~~circumstances.~~

25 ~~(c) In appropriate cases a court dismissing a petition under this section may charge the~~
26 ~~petitioner with necessary travel and other expenses, including attorneys' fees, incurred by other~~
27 ~~parties or their witnesses.~~

28 **15-14-10. Information under oath to be submitted to the court** ~~— (a) Every party in a~~
29 ~~custody proceeding in his first pleading or in an affidavit attached to that pleading shall give~~
30 ~~information under oath as to the child's present address, the places where the child has lived~~
31 ~~within the last five (5) years, and the names and present addresses of the persons with whom the~~
32 ~~child has lived during that period. In this pleading or affidavit every party shall further declare~~
33 ~~under oath whether:~~

34 ~~(1) He or she has participated as a party or witness, or in any other capacity, in any other~~

1 litigation concerning the custody of the child in this or any other state;

2 ~~(2) He or she has information of any custody proceeding concerning the child pending in~~
3 ~~a court of this or any other state; and~~

4 ~~(3) He or she knows of any person not a party to the proceedings who has physical~~
5 ~~custody of the child or claims to have custody or visitation rights with respect to the child.~~

6 ~~(b) If the declaration as to any of the above items is in the affirmative the declarant shall~~
7 ~~give additional information under oath as required by the court. The court may examine the~~
8 ~~parties under oath as to details of the information furnished and as to other matters pertinent to~~
9 ~~the court's jurisdiction and the disposition of the case.~~

10 ~~(c) Each party has a continuing duty to inform the court of any custody proceeding~~
11 ~~concerning the child in this or any other state of which he or she obtained information during this~~
12 ~~proceeding.~~

13 ~~**15-14-11. Additional parties** -- If the court learns from information furnished by the~~
14 ~~parties pursuant to section 15-14-10 or from other sources that a person not a party to the custody~~
15 ~~proceeding has physical custody of the child or claims to have custody or visitation rights with~~
16 ~~respect to the child, it shall order that person to be joined as a party and to be duly notified of the~~
17 ~~pendency of the proceeding and of his or her joinder as a party. If the person joined as a party is~~
18 ~~outside Rhode Island he or she shall be served with process or otherwise notified in accordance~~
19 ~~with section 15-14-6.~~

20 ~~**15-14-12. Appearance of parties and the child** -- (a) The court may order any party to~~
21 ~~the proceeding who is in Rhode Island to appear personally before the court. If that party has~~
22 ~~physical custody of the child the court may order that he appear personally with the child.~~

23 ~~(b) If a party to the proceeding whose presence is desired by the court is outside Rhode~~
24 ~~Island with or without the child the court may order that the notice given under section 15-14-6~~
25 ~~include a statement directing that party to appear personally with or without the child and~~
26 ~~declaring that failure to appear may result in a decision adverse to that party.~~

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

32 ~~**15-14-13. Binding force and res judicata effect of custody decree** -- A custody decree~~
33 ~~rendered by the family court which had jurisdiction under section 15-14-4 binds all parties who~~
34 ~~have been served in Rhode Island or notified in accordance with section 15-14-6 or who have~~

1 submitted to the jurisdiction of the court and who have been given an opportunity to be heard. As
2 to these parties the custody decree is conclusive as to all issues of law and fact decided and as to
3 the custody determination made unless and until that determination is modified pursuant to law,
4 including the provisions of this chapter.

5 ~~**15-14-14. Recognition of out of state custody decrees**~~ — The courts of Rhode Island
6 shall recognize and enforce an initial or modification decree of a court of another state which had
7 assumed jurisdiction under statutory provisions substantially in accordance with this chapter or
8 which was made under factual circumstances meeting the jurisdictional standards of the chapter,
9 so long as this decree has been modified in accordance with jurisdictional standards substantially
10 similar to those of this chapter.

11 ~~**15-14-15. Modification of custody decree of another state**~~ — (a) If a court of another
12 state has made a custody decree, the family court shall not modify that decree unless: (1) it
13 appears to the court that the court which rendered the decree does not now have jurisdiction under
14 jurisdictional prerequisites substantially in accordance with this chapter or has declined to assume
15 jurisdiction to modify the decree, and (2) the family court has jurisdiction.

16 ~~(b) If the court is authorized under subsection (a) and section 15-14-9 to modify a~~
17 ~~custody decree of another state it shall give due consideration to the transcript of the record and~~
18 ~~other documents of all previous proceedings submitted to it in accordance with section 15-14-23.~~

19 ~~**15-14-16. Filing and enforcement of custody decree of another state**~~ — (a) A certified
20 copy of a custody decree of another state may be filed in the office of the clerk of the family
21 court. The clerk shall treat the decree in the same manner as a custody decree of the family court.
22 A custody decree so filed has the same effect and shall be enforced in like manner as a custody
23 decree by the family court.

24 ~~(b) A person violating a custody decree of another state which makes it necessary to~~
25 ~~enforce the decree in Rhode Island may be required to pay necessary travel and related expenses~~
26 ~~and any other reasonable fees which may be imposed by the court.~~

27 ~~(c) No law enforcement agent in the state of Rhode Island shall assist in removing a~~
28 ~~child from this state pursuant to a custody decree of another state unless the family court has held~~
29 ~~a hearing on the validity of the out of state custody decree and has determined it to be valid and~~
30 ~~enforceable.~~

31 ~~**15-14-17. Registry of out of state custody decrees and proceedings**~~ — The clerk of the
32 family court shall maintain a registry in which he or she shall enter the following:

- 33 ~~(1) Certified copies of custody decrees of other states received for filing;~~
34 ~~(2) Communications as to the pendency of custody proceedings in other states;~~

1 ~~(3) Communications concerning a finding of inconvenient forum by a court of another~~
2 ~~state; and~~

3 ~~(4) Other communications or documents concerning custody proceedings in another state~~
4 ~~which may affect the jurisdiction of the family court or the disposition to be made by it in a~~
5 ~~custody proceeding.~~

6 **15-14-18. Certified copies of custody decree** ~~—~~ The clerk of the family court at the
7 ~~request of the court of another state or at the request of any person who is affected by or has~~
8 ~~legitimate interest in a custody decree shall, upon payment of the fee provided by law, certify and~~
9 ~~forward a copy of the decree to that court or person.~~

10 **15-14-19. Taking testimony in another state** ~~—~~ In addition to other procedural devices
11 ~~available to a party, any party to the proceeding or a guardian ad litem or other representative of~~
12 ~~the child may adduce testimony of witnesses, including parties and the child, by deposition or~~
13 ~~otherwise in another state. The court on its own motion may direct that the testimony of a person~~
14 ~~be taken in another state and may prescribe the manner in which and the terms upon which the~~
15 ~~testimony shall be taken.~~

16 **15-14-20. Hearings and studies in another state — Orders to appear** ~~—~~ (a) The family
17 ~~court may request the appropriate court of another state to hold a hearing to adduce evidence, to~~
18 ~~order a party to produce or give evidence under other procedures of that state, to have social~~
19 ~~studies made with respect to the custody of a child involved in proceedings pending in the family~~
20 ~~court, and to forward to the family court certified copies of the transcript of the record of the~~
21 ~~hearing, the evidence otherwise adduced, or any social studies prepared in compliance with the~~
22 ~~request. The cost of the services may be assessed against the parties or, if necessary, ordered paid~~
23 ~~by the state.~~

24 ~~(b) The family court may request the appropriate court of another state to order a party to~~
25 ~~custody proceedings pending in the family court to appear in the proceedings and, if that party~~
26 ~~has physical custody of the child, to appear with the child. The request may state that travel and~~
27 ~~other necessary expenses of the party and of the child whose appearance is desired will be~~
28 ~~assessed against another party or will otherwise be paid.~~

29 **15-14-21. Assistance to courts of other states** ~~—~~ (a) Upon request of the court of another
30 ~~state the family court may order a person in Rhode Island to appear at a hearing to adduce~~
31 ~~evidence or to produce or give evidence under other procedures available in Rhode Island or may~~
32 ~~order social studies to be made for use in a custody proceeding in another state. A certified copy~~
33 ~~of the transcript of the record of the hearing or the evidence otherwise adduced and any social~~
34 ~~studies prepared shall be forwarded by the clerk of the family court to the requesting court.~~

1 Jurisdiction and Enforcement Act.”

2 **15-14.1-2. Definitions.** -- As used in this chapter the following words and phrases shall
3 have the following meanings unless the context shall indicate another or different meaning or
4 intent:

5 (1) “Abandoned” means left without provision for reasonable and necessary care or
6 supervision;

7 (2) “Child” means an individual who has not attained eighteen (18) years of age;

8 (3) “Child custody determination” means a judgment, decree, or other order of a court
9 providing for the legal custody, physical custody, or visitation with respect to a child. The term
10 includes a permanent, temporary, initial, and modification order. The term does not include an
11 order relating to child support or other monetary obligation of an individual;

12 (4) “Child custody proceeding” means a proceeding in which legal custody, physical
13 custody, or visitation with respect to a child is an issue. The term includes a proceeding for
14 divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental
15 rights, and protection from domestic violence, in which the issue may appear. The term does not
16 include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement
17 under this chapter;

18 (5) “Commencement” means the filing of the first pleading in a proceeding;

19 (6) “Court” means the family court of the State of Rhode Island and Providence
20 Plantations unless another meaning is so indicated;

21 (7) “Home state” means the state in which a child lived with a parent or a person acting
22 as a parent for at least six (6) consecutive months immediately before the commencement of a
23 child custody proceeding. In the case of a child less than six (6) months of age, the term means
24 the state in which the child lived from birth with any of the persons mentioned. A period of
25 temporary absence of any of the mentioned persons is part of the period;

26 (8) “Initial determination” means the first child custody determination concerning a
27 particular child;

28 (9) “Issuing court” means the court that makes a child custody determination for which
29 enforcement is sought under this chapter;

30 (10) “Issuing state” means the state in which a child custody determination is made;

31 (11) “Modification” means a child custody determination that changes, replaces,
32 supercedes, or is otherwise made after a previous determination concerning the same child,
33 whether or not it is made by the court that made the previous determination;

34 (12) “Person” means an individual, corporation, business trust, estate, trust, partnership,

1 limited liability company, association, joint venture, government, governmental subdivision,
2 agency, or instrumentality, public corporation, or any other legal or commercial entity;

3 (13) "Person acting as a parent" means a person, other than a parent, who:

4 (i) has physical custody of the child or has had physical custody for a period of six (6)
5 consecutive months, including any temporary absence, within one (1) year immediately before
6 the commencement of a child custody proceeding; and

7 (ii) has been awarded legal custody by a court or claims a right to legal custody under the
8 law of this state.

9 (14) "Physical custody" means the physical care and supervision of a child;

10 (15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the
11 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of
12 the United States;

13 (16) "Tribe" means an Indian tribe or band, or Alaskan Native village, which is
14 recognized by federal law or formally acknowledged by a state;

15 (17) "Warrant" means an order issued by a court authorizing law enforcement officers to
16 take physical custody of a child.

17 **15-14.1-3. Proceedings governed by other law. --** This chapter does not govern an
18 adoption proceeding or a proceeding pertaining to the authorization of emergency medical care
19 for a child.

20 **15-14.1-4. Application to Indian tribes. --** (a) A child custody proceeding that pertains
21 to an Indian child as defined in the "Indian Child Welfare Act," 25 U.S.C. section 1901 et seq., is
22 not subject to this chapter to the extent that it is governed by the "Indian Child Welfare Act."

23 (b) A court of this state shall treat a tribe as if it were a state of the United States for the
24 purpose of applying this chapter.

25 (c) A child custody determination made by a tribe under factual circumstances in
26 substantial conformity with the jurisdictional standards of this chapter must be recognized and
27 enforced under this chapter.

28 **15-14.1-5. International application. --** (a) A court of this state shall treat a foreign
29 country as if it were a state of the United States for the purpose of applying this chapter.

30 (b) Except as otherwise provided in subsection (c), a child custody determination made in
31 a foreign country under factual circumstances in substantial conformity with the jurisdictional
32 standards of this chapter must be recognized and enforced under this chapter.

33 (c) A court of this state need not apply this chapter if the child custody law of a foreign
34 country violates fundamental principles of human rights.

1 **15-14.1-6. Effect of child custody determination.** -- A child custody determination
2 made by a court of this state that had jurisdiction under this chapter binds all persons who have
3 been served in accordance with the laws of this state or notified in accordance with this chapter or
4 who have submitted to the jurisdiction of the court, and who have been given an opportunity to be
5 heard. As to those persons, the determination is conclusive as to all decided issues of law and
6 fact except to the extent the determination is modified.

7 **15-14.1-7. Priority.** -- If a question of existence or exercise of jurisdiction under this
8 chapter is raised in a child custody proceeding, the question, upon request of a party, must be
9 given priority on the calendar and handled expeditiously.

10 **15-14.1-8. Notice to persons outside state.** -- (a) Notice required for the exercise of
11 jurisdiction when a person is outside this state may be given in a manner prescribed by the law of
12 this state for service of process or by law of the state in which the service is made. Notice must
13 be given in a manner reasonably calculated to give actual notice but may be by publication if
14 other means are not effective.

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

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

19 **15-14.1-9. Appearance and limited immunity.** -- (a) A party to a child custody
20 proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to
21 enforce or register a child custody determination, is not subject to personal jurisdiction in this
22 state for another proceeding or purpose solely by reason of having participated, or of having been
23 physically present for the purpose of participating in the proceeding.

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

28 (c) The immunity granted by subsection (a) does not extend to civil litigation based on
29 acts unrelated to the participation in a proceeding under this chapter committed by an individual
30 while present in this state.

31 **15-14.1-10. Communication between courts.** -- (a) A court of this state may
32 communicate with a court in another state concerning a proceeding arising under this chapter.

33 (b) The court may allow the parties to participate in the communication. If the parties are
34 not able to participate in the communication, they must be given the opportunity to present facts

1 and legal arguments before a decision on jurisdiction is made.

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

5 (d) Except as otherwise provided in subsection (c), a record must be made of the
6 communication under this section. The parties must be informed promptly of the communication
7 of and granted access to the record.

8 (e) For the purposes of this section, “record” means information that is inscribed on a
9 tangible medium or that is stored in an electronic or other medium and is retrievable in
10 perceivable form. A record includes notes or transcripts of a court reporter who listened to a
11 conference call between the courts or an electronic recording of the communication between the
12 courts.

13 **15-14.1-11. Taking testimony in another state. --** (a) In addition to other procedures
14 available to a party, a party to a child custody proceeding may offer testimony of witnesses who
15 are located in another state, including testimony of the parties and the child, by deposition or
16 other means allowable in this state for testimony taken in another state. The court on its own
17 motion may order that the testimony of a person be taken in another state and may prescribe the
18 manner in which and the terms upon which the testimony is taken.

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

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

26 **15-14.1-12. Cooperation between courts – Preservation of records. --** (a) A court of
27 this state may request the appropriate court of another state to:

28 (1) hold an evidentiary hearing;

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

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

32 (4) forward to the court of this state a certified copy of the transcript of the record of the
33 hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the
34 request; and

1 (5) order a party to a child custody proceeding or any person having physical custody of
2 the child to appear in the proceeding with or without the child.

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

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

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

11 **15-14.1-13. Initial child custody jurisdiction.** -- (a) Except as otherwise provided, a
12 court of this state has jurisdiction to make an initial child custody determination only if:

13 (1) this state is the home state of the child on the date of the commencement of the
14 proceeding, or was the home state of the child within six (6) months before the commencement of
15 the proceeding and the child is absent from this state but a parent or person acting as a parent
16 continues to live in this state;

17 (2) a court of another state does not have jurisdiction under paragraph (1), or a court of
18 the home state of the child has declined to exercise jurisdiction on the ground that this state is the
19 more appropriate forum and:

20 (i) the child and the child's parents, or the child and at least one parent or a person acting
21 as a parent, have a significant connection with this state other than mere physical presence; and

22 (ii) substantial evidence is available in this state concerning the child's care, protection,
23 training, and personal relationships;

24 (3) all courts having jurisdiction under paragraph (1) or (2) have declined to exercise
25 jurisdiction on the ground that a court of this state is the more appropriate forum to determine the
26 custody of the child; or

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

29 (b) Subsection (a) is the exclusive jurisdictional basis for making a child custody
30 determination by a court of this state.

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

33 **15-14.1-14. Exclusive, continuing jurisdiction.** -- (a) Except as otherwise provided, a
34 court of this state which has made a child custody determination consistent with this chapter has

1 exclusive, continuing jurisdiction over the determination until:

2 (1) a court of this state determines that neither the child, the child's parents, and any
3 person acting as a parent do not have a significant connection with this state and that substantial
4 evidence is no longer available in this state concerning the child's care, protection, training, and
5 personal relationships; or

6 (2) a court of this state or a court of another state determines that the child, the child's
7 parents, and any person acting as a parent do not presently reside in this state.

8 (b) A court of this state which has made a child custody determination and does not have
9 exclusive, continuing jurisdiction under this section may modify that determination only if it has
10 jurisdiction to make an initial determination hereunder.

11 **15-14.1-15. Jurisdiction to modify determination.** -- (a) Except as otherwise provided,
12 a court of this state may not modify a child custody determination made by a court of another
13 state unless a court of this state has jurisdiction to make an initial determination, and:

14 (1) the court of the other state determines it no longer has exclusive, continuing
15 jurisdiction or that a court of this state would be a more convenient forum; or

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

18 **15-14.1-16. Temporary emergency jurisdiction.** – (a) A court of this state has
19 temporary emergency jurisdiction if the child is present in this state and the child has been
20 abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or
21 parent of the child, is subjected to or threatened with mistreatment or abuse.

22 (b) If there is no previous child custody determination that is entitled to be enforced
23 under this chapter and a child custody proceeding has not been commenced in a court of a state
24 having jurisdiction, a child custody determination made under this section remains in effect until
25 an order is obtained from a court of a state having jurisdiction. If a child custody proceeding has
26 not been or is not commenced in a court of a state having jurisdiction, a child custody
27 determination made under this section becomes a final determination, if it so provides and this
28 state becomes the home state of the child.

29 (c) If there is a previous child custody determination that is entitled to be enforced under
30 this chapter, or a child custody proceeding has been commenced in a court of a state having
31 jurisdiction, any order issued by a court of this state under this section must specify in the order a
32 period that the court considers adequate to allow the person seeking an order to obtain an order
33 from the state having jurisdiction. The order issued in this state remains in effect until an order is
34 obtained from the other state within the period specified or the period expires.

1 (d) A court of this state which has been asked to make a child custody determination
2 under this section, upon being informed that a child custody proceeding has been commenced in,
3 or a child custody determination has been made by, a court of a state having jurisdiction, shall
4 immediately communicate with the other court. A court of this state which is exercising
5 jurisdiction, upon being informed that a child custody proceeding has been commenced in, or a
6 child custody determination has been made by, a court of another state under a statute similar to
7 this section shall immediately communicate with the court of that state to resolve the emergency,
8 protect the safety of the parties and the child, and determine a period for the duration of the
9 temporary order.

10 **15-14.1-17. Notice -- Opportunity to be heard -- Joinder.** – (a) Before a child custody
11 determination is made under this chapter, notice and an opportunity to be heard in accordance
12 with this chapter must be given to all persons entitled to notice under the law of this state as in
13 child custody proceedings between residents of this state, any parent whose parental rights have
14 not been previously terminated, and any person having physical custody of the child.

15 (b) This chapter does not govern the enforceability of a child custody determination made
16 without notice or an opportunity to be heard.

17 (c) The obligation to join a party and the right to intervene as a party in a child custody
18 proceeding under this chapter are governed by the law of this state as in child custody
19 proceedings between residents of this state.

20 **15-14.1-18. Simultaneous proceedings.** – (a) Except as otherwise provided, a court of
21 this state may not exercise its jurisdiction under this chapter if, at the time of the commencement
22 of the proceeding, a proceeding concerning the custody of the child has been commenced in a
23 court of another state having jurisdiction substantially in conformity with this chapter, unless the
24 proceeding has been terminated or is stayed by the court of the other state because a court of this
25 state is a more convenient forum.

26 (b) Except as otherwise provided, a court of this state, before hearing a child custody
27 proceeding, shall examine the court documents and other information supplied by the parties
28 pursuant to this chapter. If the court determined that a child custody proceeding has been
29 commenced in a court in another state having jurisdiction substantially in accordance with this
30 chapter, the court of this state shall stay its proceeding and communicate with the court of the
31 other state. If the court of the state having jurisdiction substantially in accordance with this
32 chapter does not determine that the court of this state is a more appropriate forum, the court of
33 this state shall dismiss the proceeding.

34 (c) In a proceeding to modify a child custody determination, a court of this state shall

1 determine whether a proceeding to enforce the determination has been commenced in another
2 state. If a proceeding to enforce a child custody determination has been commenced in another
3 state, the court may:

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

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

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

8 **15-14.1-19. Inconvenient forum.** -- (a) A court of this state which has jurisdiction under
9 this chapter to make a child custody determination may decline to exercise its jurisdiction at any
10 time if it determines that it is an inconvenient forum under the circumstances and that a court of
11 another state is a more appropriate forum. The issue of inconvenient forum may be raised upon
12 motion of a party, the court's own motion, or request of another court.

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

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

19 (2) the length of time the child has resided outside this state;

20 (3) the distance between the court in this state and the court in the state that would
21 assume jurisdiction;

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

23 (5) any agreement of the parties as to which state should assume jurisdiction;

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

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

28 (8) the familiarity of the court of each state with the facts and issues in the pending
29 litigation.

30 (c) If a court of this state determines that it is an inconvenient forum and that a court of
31 another state is a more appropriate forum, it shall stay the proceedings upon condition that a child
32 custody proceeding be promptly commenced in another designated state and may impose any
33 other condition the court considers just and proper.

34 (d) A court of this state may decline to exercise its jurisdiction under this chapter if a

1 child custody determination is incidental to an action for divorce or another proceeding while still
2 retaining jurisdiction over the divorce or other proceeding.

3 **15-14.1-20. Jurisdiction declined by reason of conduct.** -- (a) Except as otherwise
4 provided, if a court of this state has jurisdiction under this chapter because a person seeking to
5 invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its
6 jurisdiction unless:

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

9 (2) a court of the state otherwise having jurisdiction determined that this state is a more
10 appropriate forum; or

11 (3) no court of any other state would have jurisdiction under the criteria specified in this
12 chapter.

13 (b) If a court of this state declined to exercise its jurisdiction pursuant to subsection (a), it
14 may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the
15 unjustifiable conduct, including staying the proceeding until a child custody proceeding is
16 commenced in a court having jurisdiction.

17 (c) If a court dismisses a petition or stays a proceeding because it declines to exercise its
18 jurisdiction pursuant to subsection (a), it shall assess against the party seeking to invoke its
19 jurisdiction necessary and reasonable expenses including costs, communication expenses,
20 attorneys' fees, investigative fees, expenses for witnesses, travel expenses, and child care during
21 the course of the proceedings, unless the party from whom fees are sought establishes that the
22 assessment would be clearly inappropriate. The court may not assess fees, costs, or expenses
23 against this state unless authorized by law other than this chapter.

24 **15-14.1-21. Information to be submitted to court.** – (a) Subject to any law providing
25 for the confidentiality of procedures, addresses, and other identifying information in a child
26 custody proceeding, each party, in its first pleading or in an attached affidavit, shall give
27 information, if reasonably ascertainable, under oath as to the child's present address or
28 whereabouts, the places where the child has lived during the last five (5) years, and the names and
29 present addresses of the persons with whom the child has lived during that period. The pleading
30 or affidavit must state whether the party:

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

34 (2) knows of any proceeding that could affect the current proceeding, including

1 proceedings for enforcement and proceedings relating to domestic violence, protective orders,
2 termination of parental rights, and adoptions and, if so, identify the court, the case number, and
3 the nature of the proceeding; and

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

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

9 (c) If the declaration as to any of the items described in subsections (a)(1) through (3) is
10 in the affirmative, the declarant shall give additional information under oath as required by the
11 court. The court may examine the parties under oath as to details of the information furnished
12 and other matters pertinent to the court's jurisdiction and the disposition of the case.

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

15 (e) If a party alleges in an affidavit or a pleading under oath that the health, safety, or
16 liberty of a party or child would be jeopardized by disclosure of identifying information, the
17 information must be sealed and may not be disclosed to the other party or the public unless the
18 court orders the disclosure to be made after a hearing in which the court takes into consideration
19 the health, safety, or liberty of the party or child and determines that the disclosure is in the
20 interest of justice.

21 **15-14.1-22. Appearance of parties and child.** – (a) In a child custody proceeding in this
22 state, the court may order a party to the proceeding who is in this state to appear before the court
23 in person with or without the child. The court may order any person who is in this state and who
24 has physical custody or control of the child to appear in person with the child.

25 (b) If a party to a child custody proceeding whose presence is desired by the court is
26 outside this state, the court may order that a notice given pursuant to this chapter include a
27 statement directing the party to appear in person with or without the child and informing the party
28 that failure to appear may result in a decision adverse to the party.

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

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

1 **15-14.1-23. Additional definitions in this chapter.** – (1) “Petitioner” means a person
2 who seeks enforcement of an order for return of a child under the Hague Convention on the Civil
3 Aspects of International Child Abduction or enforcement of a child custody determination.

4 (2) “Respondent” means a person against whom a proceeding has been commenced for
5 enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of
6 International Child Abduction or enforcement of a child custody determination.

7 **15-14.1-24. Enforcement under Hague Convention.** -- A court of this state may
8 enforce an order for the return of the child made under the Hague Convention on the Civil
9 Aspects of International Child Abduction as if it were a child custody determination.

10 **15-14.1-25. Duty to enforce.** -- (a) A court of this state shall recognize and enforce a
11 child custody determination of a court of another state if the latter court exercised jurisdiction in
12 substantial conformity with this chapter or the determination was made under factual
13 circumstances meeting the jurisdictional standards of this chapter and the determination has not
14 been modified in accordance with this chapter.

15 (b) A court of this state may utilize any remedy available under other law of this state to
16 enforce a child custody determination made by a court of another state. The remedies provided in
17 this chapter are cumulative and do not affect the availability of other remedies to enforce a child
18 custody determination.

19 **15-14.1-26. Temporary visitation.** – (a) A court of this state which does not have
20 jurisdiction to modify a child custody determination may issue a temporary order enforcing:

21 (1) a visitation schedule made by a court of another state; or

22 (2) the visitation provisions of a child custody determination of another state that does not
23 provide for a specific visitation schedule.

24 (b) If a court of this state makes an order under subsection (a)(2), it shall specify in the
25 order a period that it considers adequate to allow the petitioner to obtain an order from a court
26 having jurisdiction under the criteria specified in this chapter. The order remains in effect until
27 an order is obtained from the other court or the period expires.

28 **15-14.1-27. Registration of child custody determination.** – (a) A child custody
29 determination issued by a court of another state may be registered in this state, with or without a
30 simultaneous request for enforcement, by sending to the appropriate court in this state:

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

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

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

4 (b) On receipt of the documents required by subsection (a), the registering court shall:

5 (1) cause the determination to be filed as a foreign judgment, together with one (1) copy
6 of any accompanying documents and information, regardless of their form; and

7 (2) serve notice upon the persons named pursuant to subsection (a)(3) and provide them
8 with an opportunity to contest the registration in accordance with this section.

9 (c) The notice required by subsection (b)(2) must state that:

10 (1) a registered determination is enforceable as of the date of the registration in the same
11 manner as a determination issued by a court of this state;

12 (2) a hearing to contest the validity of the registered determination must be requested
13 within twenty (20) days after service of notice; and

14 (3) failure to contest the registration will result in confirmation of the child custody
15 determination and preclude further contest of that determination with respect to any matter that
16 could have been asserted.

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

20 (1) the issuing court did not have jurisdiction;

21 (2) the child custody determination sought to be registered has been vacated, stayed, or
22 modified by a court having jurisdiction to do so; or

23 (3) the person contesting registration was entitled to notice, but notice was not given in
24 the proceedings before the court that issued the order for which registration is sought.

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

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

31 **15-14.1-28. Enforcement of registered determination.** – (a) A court of this state may
32 grant any relief normally available under the law of this state to enforce a registered child custody
33 determination made by a court of another state.

34 (b) A court of this state shall recognize and enforce, but may not modify, except in

1 accordance with this chapter, a registered child custody determination of a court of another state.

2 **15-14.1-29. Simultaneous proceedings.** – If a proceeding for enforcement under this
3 chapter is commenced in a court of this state and the court determines that a proceeding to modify
4 the determination is pending in a court of another state having jurisdiction to modify the
5 determination under this chapter, the enforcing court shall immediately communicate with the
6 modifying court. The proceeding for enforcement continues unless the enforcing court, after
7 consultation with the modifying court, stays or dismisses the proceeding.

8 **15-14.1-30. Expedited enforcement of child custody determination.** – (a) A petition
9 under this chapter must be verified. Certified copies of all orders sought to be enforced and of any
10 order confirming registration must be attached to the petition. A copy of a certified copy of an
11 order may be attached instead of the original.

12 (b) A petition for enforcement of a child custody determination must state:

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

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

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

22 (4) the present physical address of the child and the respondent, if known;

23 (5) whether relief in addition to the immediate physical custody of the child and
24 attorneys' fees is sought, including a request for assistance from law enforcement officials and, if
25 so, the relief sought; and

26 (6) if the child custody determination has been registered and confirmed, the date and
27 place of registration.

28 (c) Upon the filing of a petition, the court shall issue an order directing the respondent to
29 appear in person with or without the child at a hearing and may enter any order necessary to
30 ensure the safety of the parties and the child. The hearing must be held on the next judicial day
31 after service of the order unless that date is impossible. In that event, the court shall hold the
32 hearing on the first judicial day possible. The court may extend the date of hearing at the request
33 of the petitioner.

34 (d) An order issued under subsection (c) must state the time and place of the hearing and

1 advise the respondent that at the hearing the court may order that the petitioner may take
2 immediate physical custody of the child and the payment of fees, costs, and expenses and may
3 schedule a hearing to determine whether further relief is appropriate, unless the respondent
4 appears and establishes that:

5 (1) the child custody determination has not been registered and confirmed and that:

6 (i) the issuing court did not have jurisdiction;

7 (ii) the child custody determination for which enforcement is sought has been vacated,
8 stayed, or modified by a court having jurisdiction to do so;

9 (iii) the respondent was entitled to notice, but notice was not given in the proceedings
10 before the court that issued the order for which enforcement is sought; or

11 (2) the child custody determination for which enforcement is sought was registered and
12 confirmed, but has been vacated, stayed, or modified by a court of a state having jurisdiction.

13 **15-14.1-31. Service of petition and order.** – Except as otherwise provided, the petition
14 and order must be served, by any method authorized by the law of this state, upon respondent and
15 any person who has physical custody of the child.

16 **15-14.1-32. Hearing and order.** – (a) Unless the court issues a temporary emergency
17 order, upon a finding that a petitioner is entitled to immediate physical custody of the child, the
18 court shall order that the petitioner may take immediate physical custody of the child unless the
19 respondent establishes that:

20 (1) the child custody determination has not been registered and confirmed and that:

21 (i) the issuing court did not have jurisdiction;

22 (ii) the child custody determination for which enforcement is sought has been vacated,
23 stayed, or modified by a court of a state having jurisdiction to do so; or

24 (iii) the respondent was entitled to notice, but notice was not given in the proceedings
25 before the court that issued the order for which enforcement is sought; or

26 (2) the child custody determination for which enforcement is sought was registered and
27 confirmed but has been vacated, stayed, or modified by a court of a state having jurisdiction to do
28 so.

29 (b) The court may award the fees, costs, and expenses and may grant additional relief,
30 including a request for the assistance of law enforcement officials, and set a further hearing to
31 determine whether additional relief is appropriate.

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

34 (d) A privilege against disclosure of communications between spouses and a defense of

1 immunity based on the relationship of husband and wife or parent and child may not be invoked
2 in a proceeding under this chapter.

3 **15-14.1-33. Warrant to take physical custody of child.** – (a) Upon the filing of a
4 petition seeking enforcement of a child custody determination, the petitioner may file a verified
5 application for the issuance of a warrant to take physical custody of the child if the child is
6 immediately likely to suffer serious physical harm or be removed from this state.

7 (b) If the court, upon the testimony of the petitioner or other witness, finds that the child
8 is imminently likely to suffer serious physical harm or be removed from this state, it may issue a
9 warrant to take physical custody of the child. The petition must be heard on the next judicial day
10 after the warrant is executed unless that date is impossible. In that event, the court shall hold the
11 hearing on the first judicial day possible. The application for the warrant must include the
12 statements required by this chapter.

13 (c) A warrant to take physical custody of a child must:

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

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

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

18 (d) The respondent must be served with the petition, warrant, and order immediately after
19 the child is taken into physical custody.

20 (e) A warrant to take physical custody of a child is enforceable throughout this state. If
21 the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive
22 remedy is not effective, it may authorize law enforcement officers to enter private property to
23 take physical custody of the child. If required by exigent circumstances of the case, the court may
24 authorize law enforcement officers to make a forcible entry at any hour.

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

27 **15-14.1-34. Costs, fees, and expenses.** – (a) The court may award the prevailing party,
28 including a state, necessary and reasonable expenses incurred by or on behalf of the party,
29 including costs, communication expenses, attorneys' fees, investigative fees, expenses for
30 witnesses, travel expenses, and child care during the course of the proceedings.

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

33 **15-14.1-35. Recognition and enforcement.** – A court of this state shall accord full faith
34 and credit to an order issued by another state and consistent with this chapter which enforces a

1 child custody determination by a court of another state unless the order has been vacated, stayed,
2 or modified by a court having jurisdiction to do so under this chapter.

3 **15-14.1-36. Appeals.** – An appeal may be taken from a final order in a proceeding under
4 this chapter in accordance with expedited appellate procedures in other civil cases. Unless the
5 court enters a temporary emergency order, the enforcing court may not stay an order enforcing a
6 child custody determination pending appeal.

7 **15-14.1-37. Role of prosecutor or public official.** -- (a) In a case arising under this
8 chapter or involving the Hague Convention on the Civil Aspects of International Child
9 Abduction, the prosecutor or other appropriate public official may take any lawful action,
10 including resorting to a proceeding under this chapter or any other available civil proceeding to
11 locate a child, obtain the return of a child, or enforce a child custody determination if there is:

12 (1) an existing child custody determination;

13 (2) a request to do so from a court in a pending child custody proceeding;

14 (3) a reasonable belief that a criminal statute has been violated; or

15 (4) a reasonable belief that the child has been wrongfully removed or retained in violation
16 of the Hague Convention on the Civil Aspects of International Child Abduction.

17 (b) A prosecutor or appropriate public official acting under this section acts on behalf of
18 the court and may not represent any party.

19 **15-14.1-38. Role of law enforcement.** – At the request of a prosecutor or other
20 appropriate public official, a law enforcement officer may take any lawful action reasonably
21 necessary to locate a child or a party and assist a prosecutor or appropriate public official.

22 **15-14.1-39. Costs and expenses.** – If the respondent is not the prevailing party, the court
23 may assess against the respondent all direct expenses and costs incurred by the prosecutor or
24 other appropriate public official and law enforcement officers.

25 **15-14.1-40. Application and construction.** – In applying and construing this chapter,
26 consideration must be given to the need to promote uniformity of the law with respect to its
27 subject matter among states that enact it.

28 **15-14.1-41. Severability clause.** – If any provision of this chapter or its application to
29 any person or circumstance is held invalid, the invalidity does not affect other provisions or
30 applications of this chapter which can be given effect without the invalid provision or application,
31 and to this end the provisions of this chapter are severable.

32 **15-14.1-42. Transitional provision.** – A motion or other request for relief made in a
33 child custody proceeding or to enforce a child custody determination which was commenced
34 before the effective date of this chapter is governed by the law in effect at the time the motion or

1 other request was made.

2 SECTION 3. This act shall take effect upon passage.

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LC02056
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO DOMESTIC RELATIONS - - CHILD CUSTODY

1 This act would repeal the Uniform Child Custody Jurisdiction Act and replace said act
2 with the Uniform Child Custody Jurisdiction and Enforcement Act.

3 This act would take effect upon passage.

4 =====

5 LC00591

6 =====

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LC02056

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