HOUSE BILL 400

Unofficial Copy 2004 Regular Session
D4 (4lr1025)

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced by **Delegates Dumais and Feldman**

Read and Examined by Proofreaders:

_____
Proofreader.

_____
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____M.

_____
Speaker.

CHAPTER 502

AN ACT concerning

Maryland Uniform Child Custody Jurisdiction and Enforcement Act

FOR the purpose of repealing the Maryland Uniform Child Custody Jurisdiction Act; adopting the Maryland Uniform Child Custody Jurisdiction and Enforcement Act; establishing the general procedures for child custody proceedings under this Act; specifying the basis for jurisdiction over child custody matters; specifying the procedures for enforcing child custody determinations made under this Act; defining certain terms; making provisions of this Act severable; providing for the application of this Act; and generally relating to the Maryland Uniform Child Custody Jurisdiction and Enforcement Act.

BY repealing
Article - Family Law
Section 9-201 through 9-224, inclusive, and the subtitle "Subtitle 2. Maryland Uniform Child Custody Jurisdiction Act"
Annotated Code of Maryland
(1999 Replacement Volume and 2003 Supplement)

BY adding to
Article - Family Law
Section 9.5-101 through 9.5-318, inclusive, to be under the new title "Title 9.5. Maryland Uniform Child Custody Jurisdiction and Enforcement Act"
Annotated Code of Maryland
(1999 Replacement Volume and 2003 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 9-201 through 9-224, inclusive, and the subtitle "Subtitle 2. Maryland Uniform Child Custody Jurisdiction Act" of Article - Family Law of the Annotated Code of Maryland be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Family Law

TITLE 9.5. MARYLAND UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT.

SUBTITLE 1. GENERAL PROVISIONS.

9.5-101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "ABANDONED" MEANS LEFT WITHOUT PROVISION FOR REASONABLE AND NECESSARY CARE OR SUPERVISION.

(C) "CHILD" MEANS AN INDIVIDUAL UNDER THE AGE OF 18 YEARS.

(D) (1) "CHILD CUSTODY DETERMINATION" MEANS A JUDGMENT, DECREE, OR OTHER ORDER OF A COURT PROVIDING FOR THE LEGAL CUSTODY, PHYSICAL CUSTODY, OR VISITATION WITH RESPECT TO A CHILD.

(2) "CHILD CUSTODY DETERMINATION" INCLUDES A PERMANENT, TEMPORARY, INITIAL, AND MODIFICATION ORDER.

(3) "CHILD CUSTODY DETERMINATION" DOES NOT INCLUDE AN ORDER RELATING TO CHILD SUPPORT OR OTHER MONETARY OBLIGATION OF AN INDIVIDUAL.

(E) (1) "CHILD CUSTODY PROCEEDING" MEANS A PROCEEDING IN WHICH LEGAL CUSTODY, PHYSICAL CUSTODY, OR VISITATION WITH RESPECT TO A CHILD IS AN ISSUE.

(2) "CHILD CUSTODY PROCEEDING" INCLUDES A PROCEEDING FOR DIVORCE, SEPARATION, NEGLECT, ABUSE, DEPENDENCY, GUARDIANSHIP,

PATERNITY, TERMINATION OF PARENTAL RIGHTS, ~~ADOPTION,~~ AND PROTECTION FROM DOMESTIC VIOLENCE, IN WHICH THE ISSUE MAY APPEAR.

(3) "CHILD CUSTODY PROCEEDING" DOES NOT INCLUDE A PROCEEDING INVOLVING JUVENILE DELINQUENCY, CONTRACTUAL EMANCIPATION, OR ENFORCEMENT UNDER SUBTITLE 3 OF THIS TITLE.

(F) "COMMENCEMENT" MEANS THE FILING OF THE FIRST PLEADING IN A PROCEEDING.

(G) "COURT" MEANS AN ENTITY AUTHORIZED UNDER THE LAW OF A STATE TO ESTABLISH, ENFORCE, OR MODIFY A CHILD CUSTODY DETERMINATION.

(H) "HOME STATE" MEANS:

(1) THE STATE IN WHICH A CHILD LIVED WITH A PARENT OR A PERSON ACTING AS A PARENT FOR AT LEAST 6 CONSECUTIVE MONTHS, INCLUDING ANY TEMPORARY ABSENCE, IMMEDIATELY BEFORE THE COMMENCEMENT OF A CHILD CUSTODY PROCEEDING; AND

(2) IN THE CASE OF A CHILD LESS THAN 6 MONTHS OF AGE, THE STATE IN WHICH THE CHILD LIVED FROM BIRTH WITH ANY OF THE PERSONS MENTIONED, INCLUDING ANY TEMPORARY ABSENCE.

(I) "INITIAL DETERMINATION" MEANS THE FIRST CHILD CUSTODY DETERMINATION CONCERNING A PARTICULAR CHILD.

(J) "ISSUING COURT" MEANS THE COURT THAT MAKES A CHILD CUSTODY DETERMINATION FOR WHICH ENFORCEMENT IS SOUGHT UNDER THIS TITLE.

(K) "ISSUING STATE" MEANS THE STATE IN WHICH A CHILD CUSTODY DETERMINATION IS MADE.

(L) "MODIFICATION" MEANS A CHILD CUSTODY DETERMINATION THAT CHANGES, REPLACES, SUPERSEDES, OR IS OTHERWISE MADE AFTER A PREVIOUS DETERMINATION CONCERNING THE SAME CHILD, WHETHER OR NOT IT IS MADE BY THE COURT THAT MADE THE PREVIOUS DETERMINATION.

(M) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE, TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, JOINT VENTURE, GOVERNMENT, PUBLIC CORPORATION, GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

(N) "PERSON ACTING AS A PARENT" MEANS A PERSON, OTHER THAN A PARENT, WHO:

(1) HAS PHYSICAL CUSTODY OF THE CHILD OR HAS HAD PHYSICAL CUSTODY FOR A PERIOD OF 6 CONSECUTIVE MONTHS, INCLUDING ANY TEMPORARY ABSENCE, WITHIN 1 YEAR IMMEDIATELY BEFORE THE COMMENCEMENT OF A CHILD CUSTODY PROCEEDING; AND

(2) HAS BEEN AWARDED LEGAL CUSTODY BY A COURT OR CLAIMS A RIGHT TO LEGAL CUSTODY UNDER THE LAW OF THIS STATE.

(O) "PHYSICAL CUSTODY" MEANS THE PHYSICAL CARE AND SUPERVISION OF A CHILD.

(P) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

(Q) "TRIBE" MEANS AN INDIAN TRIBE OR BAND OR ALASKAN NATIVE VILLAGE THAT IS RECOGNIZED BY FEDERAL LAW OR FORMALLY ACKNOWLEDGED BY A STATE.

(R) "WARRANT" MEANS AN ORDER ISSUED BY A COURT AUTHORIZING LAW ENFORCEMENT OFFICERS TO TAKE PHYSICAL CUSTODY OF A CHILD.

9.5-102.

THIS TITLE DOES NOT GOVERN A PROCEEDING PERTAINING TO THE AUTHORIZATION OF EMERGENCY MEDICAL CARE FOR A CHILD.

9.5-103.

(A) A CHILD CUSTODY PROCEEDING THAT PERTAINS TO AN INDIAN CHILD, AS DEFINED IN THE INDIAN CHILD WELFARE ACT, 25 U.S.C. § 1901 ET SEQ., IS NOT SUBJECT TO THIS TITLE TO THE EXTENT THAT IT IS GOVERNED BY THE INDIAN CHILD WELFARE ACT.

(B) A COURT OF THIS STATE SHALL TREAT A TRIBE AS IF IT WERE A STATE OF THE UNITED STATES FOR THE PURPOSE OF APPLYING SUBTITLES 1 AND 2 OF THIS TITLE.

(C) A CHILD CUSTODY DETERMINATION MADE BY A TRIBE UNDER FACTUAL CIRCUMSTANCES IN SUBSTANTIAL CONFORMITY WITH THE JURISDICTIONAL STANDARDS OF THIS TITLE MUST BE RECOGNIZED AND ENFORCED UNDER SUBTITLE 3 OF THIS TITLE.

9.5-104.

(A) A COURT OF THIS STATE SHALL TREAT A FOREIGN COUNTRY AS IF IT WERE A STATE OF THE UNITED STATES FOR THE PURPOSE OF APPLYING SUBTITLES 1 AND 2 OF THIS TITLE.

(B) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF THIS SECTION, A CHILD CUSTODY DETERMINATION MADE IN A FOREIGN COUNTRY UNDER FACTUAL CIRCUMSTANCES IN SUBSTANTIAL CONFORMITY WITH THE JURISDICTIONAL STANDARDS OF THIS TITLE MUST BE RECOGNIZED AND ENFORCED UNDER SUBTITLE 3 OF THIS TITLE.

(C) A COURT OF THIS STATE NEED NOT APPLY THIS TITLE IF THE CHILD CUSTODY LAW OF A FOREIGN COUNTRY VIOLATES FUNDAMENTAL PRINCIPLES OF HUMAN RIGHTS.

9.5-105.

(A) A CHILD CUSTODY DETERMINATION MADE BY A COURT OF THIS STATE THAT HAD JURISDICTION UNDER THIS TITLE BINDS ALL PERSONS WHO HAVE BEEN SERVED IN ACCORDANCE WITH THE LAWS OF THIS STATE OR NOTIFIED IN ACCORDANCE WITH § 9.5-107 OF THIS SUBTITLE OR WHO HAVE SUBMITTED TO THE JURISDICTION OF THE COURT, AND WHO HAVE BEEN GIVEN AN OPPORTUNITY TO BE HEARD.

(B) AS TO THOSE PERSONS, THE DETERMINATION IS CONCLUSIVE AS TO ALL DECIDED ISSUES OF LAW AND FACT EXCEPT TO THE EXTENT THE DETERMINATION IS MODIFIED.

9.5-106.

IF A QUESTION OF EXISTENCE OR EXERCISE OF JURISDICTION UNDER THIS TITLE IS RAISED IN A CHILD CUSTODY PROCEEDING, THE QUESTION, ON REQUEST OF A PARTY, SHALL BE GIVEN PRIORITY ON THE CALENDAR AND HANDLED EXPEDITIOUSLY.

9.5-107.

(A) (1) NOTICE REQUIRED FOR THE EXERCISE OF JURISDICTION WHEN A PERSON IS OUTSIDE THIS STATE MAY BE GIVEN IN A MANNER PRESCRIBED BY THE LAW OF THIS STATE FOR SERVICE OF PROCESS OR BY THE LAW OF THE STATE IN WHICH THE SERVICE IS MADE.

(2) NOTICE SHALL BE GIVEN IN A MANNER REASONABLY CALCULATED TO GIVE ACTUAL NOTICE BUT MAY BE BY PUBLICATION IF OTHER MEANS ARE NOT EFFECTIVE.

(B) PROOF OF SERVICE MAY BE MADE IN THE MANNER PRESCRIBED BY THE LAW OF THIS STATE OR BY THE LAW OF THE STATE IN WHICH THE SERVICE IS MADE.

(C) NOTICE IS NOT REQUIRED FOR THE EXERCISE OF JURISDICTION WITH RESPECT TO A PERSON WHO SUBMITS TO THE JURISDICTION OF THE COURT.

9.5-108.

(A) A PARTY TO A CHILD CUSTODY PROCEEDING, INCLUDING A MODIFICATION PROCEEDING, OR A PETITIONER OR RESPONDENT IN A PROCEEDING TO ENFORCE OR REGISTER A CHILD CUSTODY DETERMINATION, IS NOT SUBJECT TO PERSONAL JURISDICTION IN THIS STATE FOR ANOTHER PROCEEDING OR PURPOSE SOLELY BY REASON OF HAVING PARTICIPATED, OR OF HAVING BEEN PHYSICALLY PRESENT FOR THE PURPOSE OF PARTICIPATING, IN THE PROCEEDING.

(B) (1) A PERSON WHO IS SUBJECT TO PERSONAL JURISDICTION IN THIS STATE ON A BASIS OTHER THAN PHYSICAL PRESENCE IS NOT IMMUNE FROM SERVICE OF PROCESS IN THIS STATE.

(2) A PARTY PRESENT IN THIS STATE WHO IS SUBJECT TO THE JURISDICTION OF ANOTHER STATE IS NOT IMMUNE FROM SERVICE OF PROCESS ALLOWABLE UNDER THE LAWS OF THAT STATE.

(C) THE IMMUNITY GRANTED BY SUBSECTION ~~(B)~~ (A) OF THIS SECTION DOES NOT EXTEND TO CIVIL LITIGATION BASED ON ACTS UNRELATED TO THE PARTICIPATION IN A PROCEEDING UNDER THIS TITLE COMMITTED BY AN INDIVIDUAL WHILE PRESENT IN THIS STATE.

9.5-109.

(A) IN THIS SECTION, "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

(B) A COURT OF THIS STATE MAY COMMUNICATE WITH A COURT IN ANOTHER STATE CONCERNING A PROCEEDING ARISING UNDER THIS TITLE.

(C) (1) THE COURT MAY ALLOW THE PARTIES TO PARTICIPATE IN THE COMMUNICATION.

(2) IF THE PARTIES ARE NOT ABLE TO PARTICIPATE IN THE COMMUNICATION, THEY ~~MUST~~ SHALL BE GIVEN THE OPPORTUNITY TO PRESENT FACTS AND LEGAL ARGUMENTS BEFORE A DECISION ON JURISDICTION IS MADE.

(D) (1) COMMUNICATION BETWEEN COURTS ON SCHEDULES, CALENDARS, COURT RECORDS, AND SIMILAR MATTERS MAY OCCUR WITHOUT INFORMING THE PARTIES.

(2) A RECORD NEED NOT BE MADE OF THE COMMUNICATION.

(E) (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (D) OF THIS SECTION *AND NOTWITHSTANDING ANY OTHER PROVISION OF LAW*, A RECORD SHALL BE MADE OF A COMMUNICATION UNDER THIS SECTION.

(2) THE PARTIES SHALL BE INFORMED PROMPTLY OF THE COMMUNICATION AND GRANTED ACCESS TO THE RECORD.

9.5-110.

(A) (1) IN ADDITION TO OTHER PROCEDURES AVAILABLE TO A PARTY, A PARTY TO A CHILD CUSTODY PROCEEDING MAY OFFER TESTIMONY OF WITNESSES WHO ARE LOCATED IN ANOTHER STATE, INCLUDING TESTIMONY OF THE PARTIES AND THE CHILD, BY DEPOSITION OR OTHER MEANS ALLOWABLE IN THIS STATE FOR TESTIMONY TAKEN IN ANOTHER STATE.

(2) THE COURT ON ITS OWN MOTION MAY ORDER THAT THE TESTIMONY OF A PERSON BE TAKEN IN ANOTHER STATE AND MAY PRESCRIBE THE MANNER IN WHICH AND THE TERMS ON WHICH THE TESTIMONY IS TAKEN.

(B) (1) A COURT OF THIS STATE MAY PERMIT AN INDIVIDUAL RESIDING IN ANOTHER STATE TO BE DEPOSED OR TO TESTIFY BY TELEPHONE, AUDIOVISUAL MEANS, OR OTHER ELECTRONIC MEANS BEFORE A DESIGNATED COURT OR AT ANOTHER LOCATION IN THAT STATE.

(2) A COURT OF THIS STATE SHALL COOPERATE WITH COURTS OF OTHER STATES IN DESIGNATING AN APPROPRIATE LOCATION FOR THE DEPOSITION OR TESTIMONY.

(C) DOCUMENTARY EVIDENCE TRANSMITTED FROM ANOTHER STATE TO A COURT OF THIS STATE BY TECHNOLOGICAL MEANS THAT DO NOT PRODUCE AN ORIGINAL WRITING MAY NOT BE EXCLUDED FROM EVIDENCE ON AN OBJECTION BASED ON THE MEANS OF TRANSMISSION.

9.5-111.

(A) A COURT OF THIS STATE MAY REQUEST THE APPROPRIATE COURT OF ANOTHER STATE TO:

(1) HOLD AN EVIDENTIARY HEARING;

(2) ORDER A PERSON TO PRODUCE OR GIVE EVIDENCE ~~PURSUANT TO~~ IN ACCORDANCE WITH PROCEDURES OF THAT STATE;

(3) ORDER THAT AN EVALUATION BE MADE WITH RESPECT TO THE CUSTODY OF A CHILD INVOLVED IN A PENDING PROCEEDING;

(4) FORWARD TO THE COURT OF THIS STATE A CERTIFIED COPY OF THE TRANSCRIPT OF THE RECORD OF THE HEARING, THE EVIDENCE OTHERWISE PRESENTED, AND ANY EVALUATION PREPARED IN COMPLIANCE WITH THE REQUEST; AND

(5) ORDER A PARTY TO A CHILD CUSTODY PROCEEDING OR ANY PERSON HAVING PHYSICAL CUSTODY OF THE CHILD TO APPEAR IN THE PROCEEDING WITH OR WITHOUT THE CHILD.

(B) ON REQUEST OF A COURT OF ANOTHER STATE, A COURT OF THIS STATE MAY HOLD A HEARING OR ENTER AN ORDER DESCRIBED IN SUBSECTION (A) OF THIS SECTION.

(C) TRAVEL AND OTHER NECESSARY AND REASONABLE EXPENSES INCURRED UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION MAY BE ASSESSED AGAINST THE PARTIES ACCORDING TO THE LAW OF THIS STATE.

(D) (1) A COURT OF THIS STATE SHALL PRESERVE THE PLEADINGS, ORDERS, DECREES, RECORDS OF HEARINGS, EVALUATIONS, AND OTHER PERTINENT RECORDS

WITH RESPECT TO A CHILD CUSTODY PROCEEDING UNTIL THE CHILD ATTAINS 18 YEARS OF AGE.

(2) ON APPROPRIATE REQUEST BY A COURT OR LAW ENFORCEMENT OFFICIAL OF ANOTHER STATE, THE COURT SHALL FORWARD A CERTIFIED COPY OF THOSE RECORDS.

SUBTITLE 2. JURISDICTION.

9.5-201.

(A) EXCEPT AS OTHERWISE PROVIDED IN § 9.5-204 OF THIS SUBTITLE, A COURT OF THIS STATE HAS JURISDICTION TO MAKE AN INITIAL CHILD CUSTODY DETERMINATION ONLY IF:

(1) THIS STATE IS THE HOME STATE OF THE CHILD ON THE DATE OF THE COMMENCEMENT OF THE PROCEEDING, OR WAS THE HOME STATE OF THE CHILD WITHIN 6 MONTHS BEFORE THE COMMENCEMENT OF THE PROCEEDING AND THE CHILD IS ABSENT FROM THIS STATE BUT A PARENT OR PERSON ACTING AS A PARENT CONTINUES TO LIVE IN THIS STATE;

(2) A COURT OF ANOTHER STATE DOES NOT HAVE JURISDICTION UNDER ITEM (1) OF THIS SUBSECTION, OR A COURT OF THE HOME STATE OF THE CHILD HAS DECLINED TO EXERCISE JURISDICTION ON THE GROUND THAT THIS STATE IS THE MORE APPROPRIATE FORUM UNDER § 9.5-207 OR § 9.5-208 OF THIS SUBTITLE, AND:

(I) THE CHILD AND THE CHILD'S PARENTS, OR THE CHILD AND AT LEAST ONE PARENT OR A PERSON ACTING AS A PARENT, HAVE A SIGNIFICANT CONNECTION WITH THIS STATE OTHER THAN MERE PHYSICAL PRESENCE; AND

(II) SUBSTANTIAL EVIDENCE IS AVAILABLE IN THIS STATE CONCERNING THE CHILD'S CARE, PROTECTION, TRAINING, AND PERSONAL RELATIONSHIPS;

(3) ALL COURTS HAVING JURISDICTION UNDER ITEM (1) OR (2) OF THIS SUBSECTION HAVE DECLINED TO EXERCISE JURISDICTION ON THE GROUND THAT A COURT OF THIS STATE IS THE MORE APPROPRIATE FORUM TO DETERMINE THE CUSTODY OF THE CHILD UNDER § 9.5-207 OR § 9.5-208 OF THIS SUBTITLE; OR

(4) NO COURT OF ANY OTHER STATE WOULD HAVE JURISDICTION UNDER THE CRITERIA SPECIFIED IN ITEM (1), (2), OR (3) OF THIS SUBSECTION.

(B) SUBSECTION (A) OF THIS SECTION IS THE EXCLUSIVE JURISDICTIONAL BASIS FOR MAKING A CHILD CUSTODY DETERMINATION BY A COURT OF THIS STATE.

(C) PHYSICAL PRESENCE OF, OR PERSONAL JURISDICTION OVER, A PARTY OR A CHILD IS NOT NECESSARY OR SUFFICIENT TO MAKE A CHILD CUSTODY DETERMINATION.

9.5-202.

(A) EXCEPT AS OTHERWISE PROVIDED IN § 9.5-204 OF THIS SUBTITLE, A COURT OF THIS STATE THAT HAS MADE A CHILD CUSTODY DETERMINATION CONSISTENT WITH § 9.5-201 OR § 9.5-203 OF THIS SUBTITLE HAS EXCLUSIVE, CONTINUING JURISDICTION OVER THE DETERMINATION UNTIL:

(1) A COURT OF THIS STATE DETERMINES THAT NEITHER THE CHILD, THE CHILD AND ONE PARENT, NOR THE CHILD AND A PERSON ACTING AS A PARENT HAVE A SIGNIFICANT CONNECTION WITH THIS STATE AND THAT SUBSTANTIAL EVIDENCE IS NO LONGER AVAILABLE IN THIS STATE CONCERNING THE CHILD'S CARE, PROTECTION, TRAINING, AND PERSONAL RELATIONSHIPS; OR

(2) A COURT OF THIS STATE OR A COURT OF ANOTHER STATE DETERMINES THAT THE CHILD, THE CHILD'S PARENTS, AND ANY PERSON ACTING AS A PARENT DO NOT PRESENTLY RESIDE IN THIS STATE.

(B) A COURT OF THIS STATE THAT HAS MADE A CHILD CUSTODY DETERMINATION AND DOES NOT HAVE EXCLUSIVE, CONTINUING JURISDICTION UNDER THIS SECTION MAY MODIFY THAT DETERMINATION ONLY IF IT HAS JURISDICTION TO MAKE AN INITIAL DETERMINATION UNDER § 9.5-201 OF THIS SUBTITLE.

9.5-203.

EXCEPT AS OTHERWISE PROVIDED IN § 9.5-204 OF THIS SUBTITLE, A COURT OF THIS STATE MAY NOT MODIFY A CHILD CUSTODY DETERMINATION MADE BY A COURT OF ANOTHER STATE UNLESS A COURT OF THIS STATE HAS JURISDICTION TO MAKE AN INITIAL DETERMINATION UNDER § 9.5-201(A)(1) OR (2) OF THIS SUBTITLE AND:

(1) THE COURT OF THE OTHER STATE DETERMINES IT NO LONGER HAS EXCLUSIVE, CONTINUING JURISDICTION UNDER § 9.5-202 OF THIS SUBTITLE OR THAT A COURT OF THIS STATE WOULD BE A MORE CONVENIENT FORUM UNDER § 9.5-207 OF THIS SUBTITLE; OR

(2) A COURT OF THIS STATE OR A COURT OF THE OTHER STATE DETERMINES THAT THE CHILD, THE CHILD'S PARENTS, AND ANY PERSON ACTING AS A PARENT DO NOT PRESENTLY RESIDE IN THE OTHER STATE.

9.5-204.

(A) A COURT OF THIS STATE HAS TEMPORARY EMERGENCY JURISDICTION IF THE CHILD IS PRESENT IN THIS STATE AND THE CHILD HAS BEEN ABANDONED OR IT IS NECESSARY IN AN EMERGENCY TO PROTECT THE CHILD BECAUSE THE CHILD, OR A SIBLING OR PARENT OF THE CHILD, IS SUBJECTED TO OR THREATENED WITH MISTREATMENT OR ABUSE.

(B) (1) IF THERE IS NO PREVIOUS CHILD CUSTODY DETERMINATION THAT IS ENTITLED TO BE ENFORCED UNDER THIS TITLE AND A CHILD CUSTODY

PROCEEDING HAS NOT BEEN COMMENCED IN A COURT OF A STATE HAVING JURISDICTION UNDER §§ 9.5-201 THROUGH 9.5-203 OF THIS SUBTITLE, A CHILD CUSTODY DETERMINATION MADE UNDER THIS SECTION REMAINS IN EFFECT UNTIL AN ORDER IS OBTAINED FROM A COURT OF A STATE HAVING JURISDICTION UNDER §§ 9.5-201 THROUGH 9.5-203 OF THIS SUBSECTION.

(2) IF A CHILD CUSTODY PROCEEDING HAS NOT BEEN OR IS NOT COMMENCED IN A COURT OF A STATE HAVING JURISDICTION UNDER §§ 9.5-201 THROUGH 9.5-203 OF THIS SUBTITLE, A CHILD CUSTODY DETERMINATION MADE UNDER THIS SECTION BECOMES A FINAL DETERMINATION IF THE DETERMINATION SO PROVIDES AND THIS STATE BECOMES THE HOME STATE OF THE CHILD.

(C) (1) IF THERE IS A PREVIOUS CHILD CUSTODY DETERMINATION THAT IS ENTITLED TO BE ENFORCED UNDER THIS TITLE, OR A CHILD CUSTODY PROCEEDING HAS BEEN COMMENCED IN A COURT OF A STATE HAVING JURISDICTION UNDER §§ 9.5-201 THROUGH 9.5-203 OF THIS SUBTITLE, ANY ORDER ISSUED BY A COURT OF THIS STATE UNDER THIS SECTION SHALL SPECIFY IN THE ORDER A PERIOD THAT THE COURT CONSIDERS ADEQUATE TO ALLOW THE PERSON SEEKING AN ORDER TO OBTAIN AN ORDER FROM THE STATE HAVING JURISDICTION UNDER §§ 9.5-201 THROUGH 9.5-203 OF THIS SUBTITLE.

(2) THE ORDER ISSUED IN THIS STATE REMAINS IN EFFECT UNTIL AN ORDER IS OBTAINED FROM THE OTHER STATE WITHIN THE PERIOD SPECIFIED OR THE PERIOD EXPIRES.

(D) (1) A COURT OF THIS STATE THAT HAS BEEN ASKED TO MAKE A CHILD CUSTODY DETERMINATION UNDER THIS SECTION, ON BEING INFORMED THAT A CHILD CUSTODY PROCEEDING HAS BEEN COMMENCED IN, OR A CHILD CUSTODY DETERMINATION HAS BEEN MADE BY, A COURT OF A STATE HAVING JURISDICTION UNDER §§ 9.5-201 THROUGH 9.5-203 OF THIS SUBTITLE, SHALL IMMEDIATELY COMMUNICATE WITH THE OTHER COURT.

(2) A COURT OF THIS STATE THAT IS EXERCISING JURISDICTION IN ACCORDANCE WITH §§ 9.5-201 THROUGH 9.5-203 OF THIS SUBTITLE, ON BEING INFORMED THAT A CHILD CUSTODY PROCEEDING HAS BEEN COMMENCED IN, OR A CHILD CUSTODY DETERMINATION HAS BEEN MADE BY, A COURT OF ANOTHER STATE UNDER A STATUTE SIMILAR TO THIS SECTION SHALL IMMEDIATELY COMMUNICATE WITH THE COURT OF THAT STATE TO RESOLVE THE EMERGENCY, PROTECT THE SAFETY OF THE PARTIES AND THE CHILD, AND DETERMINE A PERIOD FOR THE DURATION OF THE TEMPORARY ORDER.

9.5-205.

(A) BEFORE A CHILD CUSTODY DETERMINATION IS MADE UNDER THIS TITLE, NOTICE AND AN OPPORTUNITY TO BE HEARD IN ACCORDANCE WITH THE STANDARDS OF § 9.5-107 OF THIS TITLE SHALL BE GIVEN TO ALL PERSONS ENTITLED TO NOTICE UNDER THE LAW OF THIS STATE AS IN CHILD CUSTODY PROCEEDINGS BETWEEN RESIDENTS OF THIS STATE, ANY PARENT WHOSE PARENTAL RIGHTS HAVE

NOT BEEN PREVIOUSLY TERMINATED, AND ANY PERSON HAVING PHYSICAL CUSTODY OF THE CHILD.

(B) THIS TITLE DOES NOT GOVERN THE ENFORCEABILITY OF A CHILD CUSTODY DETERMINATION MADE WITHOUT NOTICE OR AN OPPORTUNITY TO BE HEARD.

(C) THE OBLIGATION TO JOIN A PARTY AND THE RIGHT TO INTERVENE AS A PARTY IN A CHILD CUSTODY PROCEEDING UNDER THIS TITLE ARE GOVERNED BY THE LAW OF THIS STATE AS IN CHILD CUSTODY PROCEEDINGS BETWEEN RESIDENTS OF THIS STATE.

9.5-206.

(A) EXCEPT AS OTHERWISE PROVIDED IN § 9.5-204 OF THIS SUBTITLE, A COURT OF THIS STATE MAY NOT EXERCISE ITS JURISDICTION UNDER THIS SUBTITLE IF, AT THE TIME OF THE COMMENCEMENT OF THE PROCEEDING, A PROCEEDING CONCERNING THE CUSTODY OF THE CHILD HAS BEEN COMMENCED IN A COURT OF ANOTHER STATE HAVING JURISDICTION SUBSTANTIALLY IN CONFORMITY WITH THIS TITLE, UNLESS THE PROCEEDING HAS BEEN TERMINATED OR IS STAYED BY THE COURT OF THE OTHER STATE BECAUSE A COURT OF THIS STATE IS A MORE CONVENIENT FORUM UNDER § 9.5-207 OF THIS SUBTITLE.

(B) (1) EXCEPT AS OTHERWISE PROVIDED IN § 9.5-204 OF THIS SUBTITLE, A COURT OF THIS STATE, BEFORE HEARING A CHILD CUSTODY PROCEEDING, SHALL EXAMINE THE COURT DOCUMENTS AND OTHER INFORMATION SUPPLIED BY THE PARTIES UNDER § 9.5-209 OF THIS SUBTITLE.

(2) IF THE COURT DETERMINES THAT A CHILD CUSTODY PROCEEDING HAS BEEN COMMENCED IN A COURT IN ANOTHER STATE HAVING JURISDICTION SUBSTANTIALLY IN ACCORDANCE WITH THIS TITLE, THE COURT OF THIS STATE SHALL STAY ITS PROCEEDING AND COMMUNICATE WITH THE COURT OF THE OTHER STATE.

(3) IF THE COURT OF THE STATE HAVING JURISDICTION SUBSTANTIALLY IN ACCORDANCE WITH THIS TITLE DOES NOT DETERMINE THAT THE COURT OF THIS STATE IS A MORE APPROPRIATE FORUM, THE COURT OF THIS STATE SHALL DISMISS THE PROCEEDING.

(C) (1) IN A PROCEEDING TO MODIFY A CHILD CUSTODY DETERMINATION, A COURT OF THIS STATE SHALL DETERMINE WHETHER A PROCEEDING TO ENFORCE THE DETERMINATION HAS BEEN COMMENCED IN ANOTHER STATE.

(2) IF A PROCEEDING TO ENFORCE A CHILD CUSTODY DETERMINATION HAS BEEN COMMENCED IN ANOTHER STATE, THE COURT MAY:

(I) STAY THE PROCEEDING FOR MODIFICATION PENDING THE ENTRY OF AN ORDER OF A COURT OF THE OTHER STATE ENFORCING, STAYING, DENYING, OR DISMISSING THE PROCEEDING FOR ENFORCEMENT;

(II) ENJOIN THE PARTIES FROM CONTINUING WITH THE PROCEEDING FOR ENFORCEMENT; OR

(III) PROCEED WITH THE MODIFICATION UNDER CONDITIONS IT CONSIDERS APPROPRIATE.

9.5-207.

(A) (1) A COURT OF THIS STATE THAT HAS JURISDICTION UNDER THIS TITLE TO MAKE A CHILD CUSTODY DETERMINATION MAY DECLINE TO EXERCISE ITS JURISDICTION AT ANY TIME IF IT DETERMINES THAT IT IS AN INCONVENIENT FORUM UNDER THE CIRCUMSTANCES AND THAT A COURT OF ANOTHER STATE IS A MORE APPROPRIATE FORUM.

(2) THE ISSUE OF INCONVENIENT FORUM MAY BE RAISED UPON MOTION OF A PARTY, THE COURT'S OWN MOTION, OR REQUEST OF ANOTHER COURT.

(B) (1) BEFORE DETERMINING WHETHER IT IS AN INCONVENIENT FORUM, A COURT OF THIS STATE SHALL CONSIDER WHETHER IT IS APPROPRIATE FOR A COURT OF ANOTHER STATE TO EXERCISE JURISDICTION.

(2) FOR THE PURPOSE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL ALLOW THE PARTIES TO SUBMIT INFORMATION AND SHALL CONSIDER ALL RELEVANT FACTORS, INCLUDING:

(I) WHETHER DOMESTIC VIOLENCE HAS OCCURRED AND IS LIKELY TO CONTINUE IN THE FUTURE AND WHICH STATE COULD BEST PROTECT THE PARTIES AND THE CHILD;

(II) THE LENGTH OF TIME THE CHILD HAS RESIDED OUTSIDE THIS STATE;

(III) THE DISTANCE BETWEEN THE COURT IN THIS STATE AND THE COURT IN THE STATE THAT WOULD ASSUME JURISDICTION;

(IV) THE RELATIVE FINANCIAL CIRCUMSTANCES OF THE PARTIES;

(V) ANY AGREEMENT OF THE PARTIES AS TO WHICH STATE SHOULD ASSUME JURISDICTION;

(VI) THE NATURE AND LOCATION OF THE EVIDENCE REQUIRED TO RESOLVE THE PENDING LITIGATION, INCLUDING TESTIMONY OF THE CHILD;

(VII) THE ABILITY OF THE COURT OF EACH STATE TO DECIDE THE ISSUE EXPEDITIOUSLY AND THE PROCEDURES NECESSARY TO PRESENT THE EVIDENCE; AND

(VIII) THE FAMILIARITY OF THE COURT OF EACH STATE WITH THE FACTS AND ISSUES IN THE PENDING LITIGATION.

(C) IF A COURT OF THIS STATE DETERMINES THAT IT IS AN INCONVENIENT FORUM AND THAT A COURT OF ANOTHER STATE IS A MORE APPROPRIATE FORUM, IT SHALL STAY THE PROCEEDINGS UPON CONDITION THAT A CHILD CUSTODY PROCEEDING BE PROMPTLY COMMENCED IN ANOTHER DESIGNATED STATE AND MAY IMPOSE ANY OTHER CONDITION THE COURT CONSIDERS JUST AND PROPER.

(D) A COURT OF THIS STATE MAY DECLINE TO EXERCISE ITS JURISDICTION UNDER THIS TITLE IF A CHILD CUSTODY DETERMINATION IS INCIDENTAL TO AN ACTION FOR DIVORCE OR OTHER PROCEEDING WHILE STILL RETAINING JURISDICTION OVER THE DIVORCE OR THE OTHER PROCEEDING.

9.5-208.

(A) EXCEPT AS OTHERWISE PROVIDED IN § 9.5-204 OF THIS SUBTITLE OR BY OTHER LAW OF THIS STATE, IF A COURT OF THIS STATE HAS JURISDICTION UNDER THIS TITLE BECAUSE A PERSON SEEKING TO INVOKE ITS JURISDICTION HAS ENGAGED IN UNJUSTIFIABLE CONDUCT, THE COURT SHALL DECLINE TO EXERCISE ITS JURISDICTION UNLESS:

(1) THE PARENTS AND ALL PERSONS ACTING AS PARENTS HAVE ACQUIESCED IN THE EXERCISE OF JURISDICTION;

(2) A COURT OF THE STATE OTHERWISE HAVING JURISDICTION UNDER §§ 9.5-201 THROUGH 9.5-203 OF THIS SUBTITLE DETERMINES THAT THIS STATE IS A MORE APPROPRIATE FORUM UNDER § 9.5-207 OF THIS SUBTITLE; OR

(3) NO COURT OF ANY OTHER STATE WOULD HAVE JURISDICTION UNDER THE CRITERIA SPECIFIED IN §§ 9.5-201 THROUGH 9.5-203 OF THIS SUBTITLE.

(B) IF A COURT OF THIS STATE DECLINES TO EXERCISE ITS JURISDICTION UNDER SUBSECTION (A) OF THIS SECTION, IT MAY FASHION AN APPROPRIATE REMEDY TO ENSURE THE SAFETY OF THE CHILD AND PREVENT A REPETITION OF THE UNJUSTIFIABLE CONDUCT, INCLUDING STAYING THE PROCEEDING UNTIL A CHILD CUSTODY PROCEEDING IS COMMENCED IN A COURT HAVING JURISDICTION UNDER §§ 9.5-201 THROUGH 9.5-203 OF THIS SUBTITLE.

(C) (1) IF A COURT DISMISSES A PETITION OR STAYS A PROCEEDING BECAUSE IT DECLINES TO EXERCISE ITS JURISDICTION UNDER SUBSECTION (A) OF THIS SECTION, THE COURT SHALL ASSESS AGAINST THE PARTY SEEKING TO INVOKE THE COURT'S JURISDICTION NECESSARY AND REASONABLE EXPENSES, INCLUDING COSTS, COMMUNICATION EXPENSES, ATTORNEY'S FEES, INVESTIGATIVE FEES, EXPENSES FOR WITNESSES, TRAVEL EXPENSES, AND CHILD CARE DURING THE COURSE OF THE PROCEEDINGS, UNLESS THE PARTY FROM WHOM FEES ARE SOUGHT ESTABLISHES THAT THE ASSESSMENT WOULD BE CLEARLY INAPPROPRIATE.

(2) THE COURT MAY NOT ASSESS FEES, COSTS, OR EXPENSES AGAINST THIS STATE UNLESS AUTHORIZED BY LAW OTHER THAN THIS TITLE.

9.5-209.

(A) (1) IN A CHILD CUSTODY PROCEEDING, EACH PARTY, IN ITS FIRST PLEADING OR IN AN ATTACHED AFFIDAVIT, SHALL GIVE INFORMATION, IF REASONABLY ASCERTAINABLE, UNDER OATH AS TO THE CHILD'S PRESENT ADDRESS OR WHEREABOUTS, THE PLACES WHERE THE CHILD HAS LIVED DURING THE LAST 5 YEARS, AND THE NAMES AND PRESENT ADDRESSES OF THE PERSONS WITH WHOM THE CHILD HAS LIVED DURING THAT PERIOD.

(2) THE PLEADING OR AFFIDAVIT MUST STATE WHETHER THE PARTY:

(I) HAS PARTICIPATED, AS A PARTY OR WITNESS OR IN ANY OTHER CAPACITY, IN ANY OTHER PROCEEDING CONCERNING THE CUSTODY OF OR VISITATION WITH THE CHILD AND, IF SO, IDENTIFY THE COURT, THE CASE NUMBER, AND THE DATE OF THE CHILD CUSTODY DETERMINATION, IF ANY;

(II) KNOWS OF ANY PROCEEDING THAT COULD AFFECT THE CURRENT PROCEEDING, INCLUDING PROCEEDINGS FOR ENFORCEMENT AND PROCEEDINGS RELATING TO DOMESTIC VIOLENCE, PROTECTIVE ORDERS, TERMINATION OF PARENTAL RIGHTS, AND ADOPTIONS AND, IF SO, IDENTIFY THE COURT, THE CASE NUMBER, AND THE NATURE OF THE PROCEEDING; AND

(III) KNOWS THE NAMES AND ADDRESSES OF ANY PERSON NOT A PARTY TO THE PROCEEDING WHO HAS PHYSICAL CUSTODY OF THE CHILD OR CLAIMS RIGHTS OF LEGAL CUSTODY OR PHYSICAL CUSTODY OF, OR VISITATION WITH, THE CHILD AND, IF SO, THE NAMES AND ADDRESSES OF THOSE PERSONS.

(B) IF THE INFORMATION REQUIRED BY SUBSECTION (A) OF THIS SECTION IS NOT FURNISHED, THE COURT, UPON MOTION OF A PARTY OR ITS OWN MOTION, MAY STAY THE PROCEEDING UNTIL THE INFORMATION IS FURNISHED.

(C) (1) IF THE DECLARATION AS TO ANY OF THE ITEMS DESCRIBED IN SUBSECTION (A)(2)(I) THROUGH (III) OF THIS SECTION IS IN THE AFFIRMATIVE, THE DECLARANT SHALL GIVE ADDITIONAL INFORMATION UNDER OATH AS REQUIRED BY THE COURT.

(2) THE COURT MAY EXAMINE THE PARTIES UNDER OATH AS TO DETAILS OF THE INFORMATION FURNISHED AND OTHER MATTERS PERTINENT TO THE COURT'S JURISDICTION AND THE DISPOSITION OF THE CASE.

(D) EACH PARTY HAS A CONTINUING DUTY TO INFORM THE COURT OF ANY PROCEEDING IN THIS OR ANY OTHER STATE THAT COULD AFFECT THE CURRENT PROCEEDING.

(E) IF A PARTY ALLEGES IN AN AFFIDAVIT OR A PLEADING UNDER OATH THAT THE HEALTH, SAFETY, OR LIBERTY OF A PARTY OR CHILD WOULD BE JEOPARDIZED BY DISCLOSURE OF IDENTIFYING INFORMATION, THE INFORMATION SHALL BE SEALED AND MAY NOT BE DISCLOSED TO THE OTHER PARTY OR THE PUBLIC UNLESS THE COURT ORDERS THE DISCLOSURE TO BE MADE AFTER A HEARING IN WHICH THE COURT TAKES INTO CONSIDERATION THE HEALTH, SAFETY, OR LIBERTY OF THE

PARTY OR CHILD AND DETERMINES THAT THE DISCLOSURE IS IN THE INTEREST OF JUSTICE.

9.5-210.

(A) (1) IN A CHILD CUSTODY PROCEEDING IN THIS STATE, THE COURT MAY ORDER A PARTY TO THE PROCEEDING WHO IS IN THIS STATE TO APPEAR BEFORE THE COURT IN PERSON WITH OR WITHOUT THE CHILD.

(2) THE COURT MAY ORDER ANY PERSON WHO IS IN THIS STATE AND WHO HAS PHYSICAL CUSTODY OR CONTROL OF THE CHILD TO APPEAR IN PERSON WITH THE CHILD.

(B) IF A PARTY TO A CHILD CUSTODY PROCEEDING WHOSE PRESENCE IS DESIRED BY THE COURT IS OUTSIDE THIS STATE, THE COURT MAY ORDER THAT A NOTICE GIVEN IN ACCORDANCE WITH § 9.5-107 OF THIS TITLE INCLUDE A STATEMENT DIRECTING THE PARTY TO APPEAR IN PERSON WITH OR WITHOUT THE CHILD AND INFORMING THE PARTY THAT FAILURE TO APPEAR MAY RESULT IN A DECISION ADVERSE TO THE PARTY.

(C) THE COURT MAY ENTER ANY ORDERS NECESSARY TO ENSURE THE SAFETY OF THE CHILD AND OF ANY PERSON ORDERED TO APPEAR UNDER THIS SECTION.

(D) IF A PARTY TO A CHILD CUSTODY PROCEEDING WHO IS OUTSIDE THIS STATE IS DIRECTED TO APPEAR UNDER SUBSECTION (B) OF THIS SECTION OR DESIRES TO APPEAR PERSONALLY BEFORE THE COURT WITH OR WITHOUT THE CHILD, THE COURT MAY REQUIRE ANOTHER PARTY TO PAY REASONABLE AND NECESSARY TRAVEL AND OTHER EXPENSES OF THE PARTY SO APPEARING AND OF THE CHILD.

SUBTITLE 3. ENFORCEMENT.

9.5-301.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "PETITIONER" MEANS A PERSON WHO SEEKS ENFORCEMENT OF AN ORDER FOR RETURN OF A CHILD UNDER THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION OR ENFORCEMENT OF A CHILD CUSTODY DETERMINATION.

(C) "RESPONDENT" MEANS A PERSON AGAINST WHOM A PROCEEDING HAS BEEN COMMENCED FOR ENFORCEMENT OF AN ORDER FOR RETURN OF A CHILD UNDER THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION OR ENFORCEMENT OF A CHILD CUSTODY DETERMINATION.

9.5-302.

UNDER THIS SUBTITLE A COURT OF THIS STATE MAY ENFORCE AN ORDER FOR THE RETURN OF THE CHILD MADE UNDER THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION AS IF IT WERE A CHILD CUSTODY DETERMINATION.

9.5-303.

(A) A COURT OF THIS STATE SHALL RECOGNIZE AND ENFORCE A CHILD CUSTODY DETERMINATION OF A COURT OF ANOTHER STATE IF THE LATTER COURT EXERCISED JURISDICTION IN SUBSTANTIAL CONFORMITY WITH THIS TITLE OR THE DETERMINATION WAS MADE UNDER FACTUAL CIRCUMSTANCES MEETING THE JURISDICTIONAL STANDARDS OF THIS TITLE AND THE DETERMINATION HAS NOT BEEN MODIFIED IN ACCORDANCE WITH THIS TITLE.

(B) (1) A COURT OF THIS STATE MAY UTILIZE ANY REMEDY AVAILABLE UNDER OTHER LAWS OF THIS STATE TO ENFORCE A CHILD CUSTODY DETERMINATION MADE BY A COURT OF ANOTHER STATE.

(2) THE REMEDIES PROVIDED IN THIS SUBTITLE ARE CUMULATIVE AND DO NOT AFFECT THE AVAILABILITY OF OTHER REMEDIES TO ENFORCE A CHILD CUSTODY DETERMINATION.

9.5-304.

(A) A COURT OF THIS STATE THAT DOES NOT HAVE JURISDICTION TO MODIFY A CHILD CUSTODY DETERMINATION MAY ISSUE A TEMPORARY ORDER ENFORCING:

(1) A VISITATION SCHEDULE MADE BY A COURT OF ANOTHER STATE; OR

(2) THE VISITATION PROVISIONS OF A CHILD CUSTODY DETERMINATION OF ANOTHER STATE THAT DOES NOT PROVIDE FOR A SPECIFIC VISITATION SCHEDULE.

(B) (1) IF A COURT OF THIS STATE MAKES AN ORDER UNDER SUBSECTION (A)(2) OF THIS SECTION, IT SHALL SPECIFY IN THE ORDER A PERIOD THAT IT CONSIDERS ADEQUATE TO ALLOW THE PETITIONER TO OBTAIN AN ORDER FROM A COURT HAVING JURISDICTION UNDER THE CRITERIA SPECIFIED IN SUBTITLE 2 OF THIS TITLE.

(2) THE ORDER REMAINS IN EFFECT UNTIL AN ORDER IS OBTAINED FROM THE OTHER COURT OR THE PERIOD EXPIRES.

9.5-305.

(A) A CHILD CUSTODY DETERMINATION ISSUED BY A COURT OF ANOTHER STATE MAY BE REGISTERED IN THIS STATE, WITH OR WITHOUT A SIMULTANEOUS REQUEST FOR ENFORCEMENT, BY SENDING TO THE APPROPRIATE COURT IN THIS STATE:

(1) A LETTER OR OTHER DOCUMENT REQUESTING REGISTRATION;

(2) TWO COPIES, INCLUDING ONE CERTIFIED COPY, OF THE DETERMINATION SOUGHT TO BE REGISTERED, AND A STATEMENT UNDER PENALTY OF PERJURY THAT TO THE BEST OF THE KNOWLEDGE AND BELIEF OF THE PERSON SEEKING REGISTRATION THE ORDER HAS NOT BEEN MODIFIED; AND

(3) EXCEPT AS OTHERWISE PROVIDED IN § 9.5-209 OF THIS TITLE, THE NAME AND ADDRESS OF THE PERSON SEEKING REGISTRATION AND ANY PARENT OR PERSON ACTING AS A PARENT WHO HAS BEEN AWARDED CUSTODY OR VISITATION IN THE CHILD CUSTODY DETERMINATION SOUGHT TO BE REGISTERED.

(B) ON RECEIPT OF THE DOCUMENTS REQUIRED BY SUBSECTION (A) OF THIS SECTION, THE REGISTERING COURT SHALL:

(1) CAUSE THE DETERMINATION TO BE FILED AS A FOREIGN JUDGMENT, TOGETHER WITH ONE COPY OF ANY ACCOMPANYING DOCUMENTS AND INFORMATION, REGARDLESS OF THEIR FORM; AND

(2) SERVE NOTICE UPON THE PERSONS NAMED IN SUBSECTION (A)(3) OF THIS SECTION AND PROVIDE THEM WITH AN OPPORTUNITY TO CONTEST THE REGISTRATION IN ACCORDANCE WITH THIS SECTION.

(C) THE NOTICE REQUIRED BY SUBSECTION (B)(2) OF THIS SECTION SHALL STATE THAT:

(1) A REGISTERED DETERMINATION IS ENFORCEABLE AS OF THE DATE OF THE REGISTRATION IN THE SAME MANNER AS A DETERMINATION ISSUED BY A COURT OF THIS STATE;

(2) ANY REQUEST FOR A HEARING TO CONTEST THE VALIDITY OF THE REGISTERED DETERMINATION SHALL BE MADE WITHIN 20 DAYS AFTER SERVICE OF NOTICE; AND

(3) FAILURE TO CONTEST THE REGISTRATION WILL RESULT IN CONFIRMATION OF THE CHILD CUSTODY DETERMINATION AND PRECLUDE FURTHER CONTEST OF THAT DETERMINATION WITH RESPECT TO ANY MATTER THAT COULD HAVE BEEN ASSERTED.

(D) (1) A PERSON SEEKING TO CONTEST THE VALIDITY OF A REGISTERED ORDER SHALL REQUEST A HEARING WITHIN 20 DAYS AFTER SERVICE OF THE NOTICE.

(2) AT THAT HEARING, THE COURT SHALL CONFIRM THE REGISTERED ORDER UNLESS THE PERSON CONTESTING REGISTRATION ESTABLISHES THAT:

(I) THE ISSUING COURT DID NOT HAVE JURISDICTION UNDER SUBTITLE 2 OF THIS TITLE;

(II) THE CHILD CUSTODY DETERMINATION SOUGHT TO BE REGISTERED HAS BEEN VACATED, STAYED, OR MODIFIED BY A COURT HAVING JURISDICTION TO DO SO UNDER SUBTITLE 2 OF THIS TITLE; OR

(III) THE PERSON CONTESTING REGISTRATION WAS ENTITLED TO NOTICE, BUT NOTICE WAS NOT GIVEN IN ACCORDANCE WITH THE STANDARDS OF § 9.5-107 OF THIS TITLE, IN THE PROCEEDINGS BEFORE THE COURT THAT ISSUED THE ORDER FOR WHICH REGISTRATION IS SOUGHT.

(E) IF A TIMELY REQUEST FOR A HEARING TO CONTEST THE VALIDITY OF THE REGISTRATION IS NOT MADE, THE REGISTRATION IS CONFIRMED AS A MATTER OF LAW AND THE PERSON REQUESTING REGISTRATION AND ALL PERSONS SERVED SHALL BE NOTIFIED OF THE CONFIRMATION.

(F) CONFIRMATION OF A REGISTERED ORDER, WHETHER BY OPERATION OF LAW OR AFTER NOTICE AND HEARING, PRECLUDES FURTHER CONTEST OF THE ORDER WITH RESPECT TO ANY MATTER THAT COULD HAVE BEEN ASSERTED AT THE TIME OF REGISTRATION.

9.5-306.

(A) A COURT OF THIS STATE MAY GRANT ANY RELIEF NORMALLY AVAILABLE UNDER THE LAW OF THIS STATE TO ENFORCE A REGISTERED CHILD CUSTODY DETERMINATION MADE BY A COURT OF ANOTHER STATE.

(B) A COURT OF THIS STATE SHALL RECOGNIZE AND ENFORCE, BUT MAY NOT MODIFY, EXCEPT IN ACCORDANCE WITH SUBTITLE 2 OF THIS TITLE, A REGISTERED CHILD CUSTODY DETERMINATION OF A COURT OF ANOTHER STATE.

9.5-307.

(A) IF A PROCEEDING FOR ENFORCEMENT UNDER THIS SUBTITLE IS COMMENCED IN A COURT OF THIS STATE AND THE COURT DETERMINES THAT A PROCEEDING TO MODIFY THE DETERMINATION IS PENDING IN A COURT OF ANOTHER STATE HAVING JURISDICTION TO MODIFY THE DETERMINATION UNDER SUBTITLE 2 OF THIS TITLE, THE ENFORCING COURT SHALL IMMEDIATELY COMMUNICATE WITH THE MODIFYING COURT.

(B) THE PROCEEDING FOR ENFORCEMENT CONTINUES UNLESS THE ENFORCING COURT, AFTER CONSULTATION WITH THE MODIFYING COURT, STAYS OR DISMISSES THE PROCEEDING.

9.5-308.

(A) (1) A PETITION UNDER THIS SUBTITLE SHALL BE VERIFIED.

(2) CERTIFIED COPIES OF ALL ORDERS SOUGHT TO BE ENFORCED AND OF ANY ORDER CONFIRMING REGISTRATION SHALL BE ATTACHED TO THE PETITION.

(3) A COPY OF A CERTIFIED COPY OF AN ORDER MAY BE ATTACHED INSTEAD OF THE ORIGINAL.

(B) A PETITION FOR ENFORCEMENT OF A CHILD CUSTODY DETERMINATION SHALL STATE:

(1) WHETHER THE COURT THAT ISSUED THE DETERMINATION IDENTIFIED THE JURISDICTIONAL BASIS IT RELIED ON IN EXERCISING JURISDICTION AND, IF SO, WHAT THE BASIS WAS;

(2) WHETHER THE DETERMINATION FOR WHICH ENFORCEMENT IS SOUGHT HAS BEEN VACATED, STAYED, OR MODIFIED BY A COURT WHOSE DECISION IS REQUIRED TO BE ENFORCED UNDER THIS TITLE AND, IF SO, IDENTIFY THE COURT, THE CASE NUMBER, AND THE NATURE OF THE PROCEEDING;

(3) WHETHER ANY PROCEEDING HAS BEEN COMMENCED THAT COULD AFFECT THE CURRENT PROCEEDING, INCLUDING PROCEEDINGS RELATING TO DOMESTIC VIOLENCE, PROTECTIVE ORDERS, TERMINATION OF PARENTAL RIGHTS, AND ADOPTIONS AND, IF SO, IDENTIFY THE COURT, THE CASE NUMBER, AND THE NATURE OF THE PROCEEDING;

(4) THE PRESENT PHYSICAL ADDRESS OF THE CHILD AND THE RESPONDENT, IF KNOWN;

(5) WHETHER RELIEF IN ADDITION TO THE IMMEDIATE PHYSICAL CUSTODY OF THE CHILD AND ATTORNEY'S FEES IS SOUGHT, INCLUDING A REQUEST FOR ASSISTANCE FROM LAW ENFORCEMENT OFFICIALS AND, IF SO, THE RELIEF SOUGHT; AND

(6) IF THE CHILD CUSTODY DETERMINATION HAS BEEN REGISTERED AND CONFIRMED UNDER § 9.5-305 OF THIS SUBTITLE, THE DATE AND PLACE OF REGISTRATION.

(C) (1) ON THE FILING OF A PETITION, THE COURT SHALL ISSUE AN ORDER DIRECTING THE RESPONDENT TO APPEAR IN PERSON WITH OR WITHOUT THE CHILD AT A HEARING AND MAY ENTER ANY ORDER NECESSARY TO ENSURE THE SAFETY OF THE PARTIES AND THE CHILD.

(2) (I) THE HEARING SHALL BE HELD ON THE NEXT JUDICIAL DAY AFTER SERVICE OF THE ORDER UNLESS THAT DATE IS IMPOSSIBLE.

(II) IN THAT EVENT, THE COURT SHALL HOLD THE HEARING ON THE FIRST JUDICIAL DAY POSSIBLE.

(III) THE COURT MAY EXTEND THE DATE OF HEARING AT THE REQUEST OF THE PETITIONER.

(D) AN ORDER ISSUED UNDER SUBSECTION (C) OF THIS SECTION SHALL STATE THE TIME AND PLACE OF THE HEARING AND ADVISE THE RESPONDENT THAT AT THE HEARING THE COURT WILL ORDER THAT THE PETITIONER MAY TAKE

IMMEDIATE PHYSICAL CUSTODY OF THE CHILD AND THE PAYMENT OF FEES, COSTS, AND EXPENSES UNDER § 9.5-312 OF THIS SUBTITLE, AND MAY SCHEDULE A HEARING TO DETERMINE WHETHER FURTHER RELIEF IS APPROPRIATE, UNLESS THE RESPONDENT APPEARS AND ESTABLISHES THAT:

(1) THE CHILD CUSTODY DETERMINATION HAS NOT BEEN REGISTERED AND CONFIRMED UNDER § 9.5-305 OF THIS SUBTITLE AND THAT:

(I) THE ISSUING COURT DID NOT HAVE JURISDICTION UNDER SUBTITLE 2 OF THIS TITLE;

(II) THE CHILD CUSTODY DETERMINATION FOR WHICH ENFORCEMENT IS SOUGHT HAS BEEN VACATED, STAYED, OR MODIFIED BY A COURT HAVING JURISDICTION TO DO SO UNDER SUBTITLE 2 OF THIS TITLE; OR

(III) THE RESPONDENT WAS ENTITLED TO NOTICE, BUT NOTICE WAS NOT GIVEN IN ACCORDANCE WITH THE STANDARDS OF § 9.5-107 OF THIS TITLE, IN THE PROCEEDINGS BEFORE THE COURT THAT ISSUED THE ORDER FOR WHICH ENFORCEMENT IS SOUGHT; OR

(2) THE CHILD CUSTODY DETERMINATION FOR WHICH ENFORCEMENT IS SOUGHT WAS REGISTERED AND CONFIRMED UNDER § 9.5-305 OF THIS SUBTITLE, BUT HAS BEEN VACATED, STAYED, OR MODIFIED BY A COURT OF A STATE HAVING JURISDICTION TO DO SO UNDER SUBTITLE 2 OF THIS TITLE.

9.5-309.

EXCEPT AS OTHERWISE PROVIDED IN § 9.5-311 OF THIS SUBTITLE, THE PETITION AND ORDER MUST BE SERVED, BY ANY METHOD AUTHORIZED BY THE LAW OF THIS STATE, ON THE RESPONDENT AND ANY PERSON WHO HAS PHYSICAL CUSTODY OF THE CHILD.

9.5-310.

(A) UNLESS THE COURT ISSUES A TEMPORARY EMERGENCY ORDER IN ACCORDANCE WITH § 9.5-204 OF THIS TITLE, ON A FINDING THAT A PETITIONER IS ENTITLED TO IMMEDIATE PHYSICAL CUSTODY OF THE CHILD, THE COURT SHALL ORDER THAT THE PETITIONER MAY TAKE IMMEDIATE PHYSICAL CUSTODY OF THE CHILD UNLESS THE RESPONDENT ESTABLISHES THAT:

(1) THE CHILD CUSTODY DETERMINATION HAS NOT BEEN REGISTERED AND CONFIRMED UNDER § 9.5-305 OF THIS SUBTITLE AND THAT:

(I) THE ISSUING COURT DID NOT HAVE JURISDICTION UNDER SUBTITLE 2 OF THIS TITLE;

(II) THE CHILD CUSTODY DETERMINATION FOR WHICH ENFORCEMENT IS SOUGHT HAS BEEN VACATED, STAYED, OR MODIFIED BY A COURT OF A STATE HAVING JURISDICTION TO DO SO UNDER SUBTITLE 2 OF THIS TITLE; OR

(III) THE RESPONDENT WAS ENTITLED TO NOTICE, BUT NOTICE WAS NOT GIVEN IN ACCORDANCE WITH THE STANDARDS OF § 9.5-107 OF THIS TITLE, IN THE PROCEEDINGS BEFORE THE COURT THAT ISSUED THE ORDER FOR WHICH ENFORCEMENT IS SOUGHT; OR

(2) THE CHILD CUSTODY DETERMINATION FOR WHICH ENFORCEMENT IS SOUGHT WAS REGISTERED AND CONFIRMED UNDER § 9.5-305 OF THIS SUBTITLE BUT HAS BEEN VACATED, STAYED, OR MODIFIED BY A COURT OF A STATE HAVING JURISDICTION TO DO SO UNDER SUBTITLE 2 OF THIS TITLE.

(B) THE COURT SHALL AWARD THE FEES, COSTS, AND EXPENSES AUTHORIZED UNDER § 9.5-312 OF THIS SUBTITLE AND MAY GRANT ADDITIONAL RELIEF, INCLUDING A REQUEST FOR THE ASSISTANCE OF LAW ENFORCEMENT OFFICIALS, AND SET A FURTHER HEARING TO DETERMINE WHETHER ADDITIONAL RELIEF IS APPROPRIATE.

(C) IF A PARTY CALLED TO TESTIFY REFUSES TO ANSWER ON THE GROUND THAT THE TESTIMONY MAY BE SELF-INCRIMINATING, THE COURT MAY DRAW AN ADVERSE INFERENCE FROM THE REFUSAL.

(D) A PRIVILEGE AGAINST DISCLOSURE OF COMMUNICATIONS BETWEEN SPOUSES AND A DEFENSE OF IMMUNITY BASED ON THE RELATIONSHIP OF HUSBAND AND WIFE OR PARENT AND CHILD MAY NOT BE INVOKED IN A PROCEEDING UNDER THIS SUBTITLE.

9.5-311.

(A) ON THE FILING OF A PETITION SEEKING ENFORCEMENT OF A CHILD CUSTODY DETERMINATION, THE PETITIONER MAY FILE A VERIFIED APPLICATION FOR THE ISSUANCE OF A WARRANT TO TAKE PHYSICAL CUSTODY OF THE CHILD IF THE CHILD IS IMMEDIATELY LIKELY TO SUFFER SERIOUS PHYSICAL HARM OR BE REMOVED FROM THIS STATE.

(B) (1) IF THE COURT, ON THE TESTIMONY OF THE PETITIONER OR OTHER WITNESS, FINDS THAT THE CHILD IS IMMINENTLY LIKELY TO SUFFER SERIOUS PHYSICAL HARM OR BE REMOVED FROM THIS STATE, IT MAY ISSUE A WARRANT TO TAKE PHYSICAL CUSTODY OF THE CHILD.

(2) (I) THE PETITION SHALL BE HEARD ON THE NEXT JUDICIAL DAY AFTER THE WARRANT IS EXECUTED UNLESS THAT DATE IS IMPOSSIBLE.

(II) IN THAT EVENT, THE COURT SHALL HOLD THE HEARING ON THE FIRST JUDICIAL DAY POSSIBLE.

(3) THE APPLICATION FOR THE WARRANT SHALL INCLUDE THE STATEMENTS REQUIRED BY § 9.5-308(B) OF THIS SUBTITLE.

(C) A WARRANT TO TAKE PHYSICAL CUSTODY OF A CHILD SHALL:

(1) RECITE THE FACTS ON WHICH A CONCLUSION OF IMMINENT SERIOUS PHYSICAL HARM OR REMOVAL FROM THE JURISDICTION IS BASED;

(2) DIRECT LAW ENFORCEMENT OFFICERS TO TAKE PHYSICAL CUSTODY OF THE CHILD IMMEDIATELY; AND

(3) PROVIDE FOR THE PLACEMENT OF THE CHILD PENDING FINAL RELIEF.

(D) THE RESPONDENT SHALL BE SERVED WITH THE PETITION, WARRANT, AND ORDER IMMEDIATELY AFTER THE CHILD IS TAKEN INTO PHYSICAL CUSTODY.

(E) (1) A WARRANT TO TAKE PHYSICAL CUSTODY OF A CHILD IS ENFORCEABLE THROUGHOUT THIS STATE.

(2) IF THE COURT FINDS ON THE BASIS OF THE TESTIMONY OF THE PETITIONER OR OTHER WITNESS THAT A LESS INTRUSIVE REMEDY IS NOT EFFECTIVE, THE COURT MAY AUTHORIZE LAW ENFORCEMENT OFFICERS TO ENTER PRIVATE PROPERTY TO TAKE PHYSICAL CUSTODY OF THE CHILD.

(3) IF REQUIRED BY EXIGENT CIRCUMSTANCES OF THE CASE, THE COURT MAY AUTHORIZE LAW ENFORCEMENT OFFICERS TO MAKE A FORCIBLE ENTRY AT ANY HOUR.

(F) THE COURT MAY IMPOSE CONDITIONS ON PLACEMENT OF A CHILD TO ENSURE THE APPEARANCE OF THE CHILD AND THE CHILD'S CUSTODIAN.

9.5-312.

(A) THE COURT SHALL AWARD THE PREVAILING PARTY, INCLUDING A STATE, NECESSARY AND REASONABLE EXPENSES INCURRED BY OR ON BEHALF OF THE PARTY, INCLUDING COSTS, COMMUNICATION EXPENSES, ATTORNEY'S FEES, INVESTIGATIVE FEES, EXPENSES FOR WITNESSES, TRAVEL EXPENSES, AND CHILD CARE EXPENSES DURING THE COURSE OF THE PROCEEDINGS, UNLESS THE PARTY FROM WHOM FEES OR EXPENSES ARE SOUGHT ESTABLISHES THAT THE AWARD WOULD BE CLEARLY INAPPROPRIATE.

(B) THE COURT MAY NOT ASSESS FEES, COSTS, OR EXPENSES AGAINST A STATE UNLESS AUTHORIZED BY LAW OTHER THAN THIS TITLE.

9.5-313.

A COURT OF THIS STATE SHALL ACCORD FULL FAITH AND CREDIT TO AN ORDER ISSUED BY ANOTHER STATE AND CONSISTENT WITH THIS TITLE THAT ENFORCES A CHILD CUSTODY DETERMINATION BY A COURT OF ANOTHER STATE UNLESS THE ORDER HAS BEEN VACATED, STAYED, OR MODIFIED BY A COURT HAVING JURISDICTION TO DO SO UNDER SUBTITLE 2 OF THIS TITLE.

9.5-314.

(A) AN APPEAL MAY BE TAKEN FROM A FINAL ORDER IN A PROCEEDING UNDER THIS SUBTITLE IN ACCORDANCE WITH EXPEDITED APPELLATE PROCEDURES IN OTHER CIVIL CASES.

(B) UNLESS THE COURT ENTERS A TEMPORARY EMERGENCY ORDER UNDER § 9.5-204 OF THIS TITLE, THE ENFORCING COURT MAY NOT STAY AN ORDER ENFORCING A CHILD CUSTODY DETERMINATION PENDING APPEAL.

9.5-315.

(A) IN A CASE ARISING UNDER THIS TITLE OR INVOLVING THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION, THE ATTORNEY GENERAL MAY TAKE ANY LAWFUL ACTION, INCLUDING RESORT TO A PROCEEDING UNDER THIS SUBTITLE OR ANY OTHER AVAILABLE CIVIL PROCEEDING TO LOCATE A CHILD, OBTAIN THE RETURN OF A CHILD, OR ENFORCE A CHILD CUSTODY DETERMINATION IF THERE IS:

(1) AN EXISTING CHILD CUSTODY DETERMINATION;

(2) A REQUEST TO DO SO FROM A COURT IN A PENDING CHILD CUSTODY PROCEEDING;

(3) A REASONABLE BELIEF THAT A CRIMINAL STATUTE HAS BEEN VIOLATED; OR

(4) A REASONABLE BELIEF THAT THE CHILD HAS BEEN WRONGFULLY REMOVED OR RETAINED IN VIOLATION OF THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION.

(B) THE ATTORNEY GENERAL ACTING UNDER THIS SECTION ON BEHALF OF THE COURT MAY NOT REPRESENT ANY PARTY.

9.5-316.

AT THE REQUEST OF THE ATTORNEY GENERAL ACTING UNDER § 9.5-315 OF THIS SUBTITLE, A LAW ENFORCEMENT OFFICER MAY TAKE ANY LAWFUL ACTION REASONABLY NECESSARY TO LOCATE A CHILD OR A PARTY AND ASSIST THE ATTORNEY GENERAL WITH RESPONSIBILITIES UNDER § 9.5-315 OF THIS SUBTITLE.

9.5-317.

IF THE RESPONDENT IS NOT THE PREVAILING PARTY, THE COURT MAY ASSESS AGAINST THE RESPONDENT ALL DIRECT EXPENSES AND COSTS INCURRED BY THE ATTORNEY GENERAL AND LAW ENFORCEMENT OFFICERS UNDER § 9.5-315 OR § 9.5-316 OF THIS SUBTITLE.

9.5-318.

THIS TITLE MAY BE CITED AS THE UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT.

SECTION 3. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act applies only to cases filed to establish or modify child custody or motions or other requests for relief filed in child custody cases on or after the effective date of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2004.