
SENATE BILL No. 90

DIGEST OF INTRODUCED BILL

Citations Affected: IC 29-3-2-1; IC 31-9; IC 31-17; IC 31-17.5.

Synopsis: Uniform child custody jurisdiction and enforcement. Repeals the Uniform Child Custody Jurisdiction Law and replaces it with the Uniform Child Custody Jurisdiction Act providing for clearer standards regarding interstate child custody modification jurisdiction. Establishes a process to enforce interstate child custody and visitation determinations with uniformity and harmonizes the law with respect to simultaneous proceedings and inconvenient forums.

Effective: July 1, 2001.

Simpson

January 8, 2001, read first time and referred to Committee on Judiciary.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

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SENATE BILL No. 90



A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 29-3-2-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) This article applies to the
3 following:
4 (1) The business affairs, physical person, and property of every
5 incapacitated person and minor residing in Indiana.
6 (2) Property located in Indiana of every incapacitated person and
7 minor residing outside Indiana.
8 (3) Property of every incapacitated person or minor, regardless of
9 where the property is located, coming into the control of a
10 fiduciary who is subject to the laws of Indiana.
11 (b) Except as provided in subsections ~~(c)~~ (c) through (e), the court
12 has exclusive original jurisdiction over all matters concerning the
13 following:
14 (1) Guardians.
15 (2) Protective proceedings under IC 29-3-4.
16 (c) A juvenile court has exclusive original jurisdiction over matters
17 relating to minors described in IC 31-30-1-1.



1 (d) Except as provided in subsection (c), courts with child custody
2 jurisdiction under:

3 (1) IC 31-14-10;

4 (2) IC 31-17-2-1; or

5 (3) **IC 31-17.5-5-1 (or IC 31-17-3-3 before its repeal);**

6 have original and continuing jurisdiction over custody matters relating
7 to minors.

8 (e) A mental health division of a superior court under IC 33-5.1-2
9 has jurisdiction concurrent with the court in mental health proceedings
10 under IC 12-26 relating to guardianship and protective orders.

11 (f) Jurisdiction under this section is not dependent on issuance or
12 service of summons.

13 SECTION 2. IC 31-9-1-2 IS AMENDED TO READ AS FOLLOWS
14 [EFFECTIVE JULY 1, 2001]: Sec. 2. Except as otherwise provided,
15 the definitions in this article do not apply to the following:

16 (1) IC 31-11-3.

17 (2) **IC 31-17.5 (or IC 31-17-3 before its repeal).**

18 (3) IC 31-18.

19 (4) IC 31-19-29.

20 (5) IC 31-37-23.

21 SECTION 3. IC 31-9-2-0.4 IS ADDED TO THE INDIANA CODE
22 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
23 **1, 2001]: Sec. 0.4. "Abandoned", for purposes of the Uniform Child**
24 **Custody Jurisdiction Act under IC 31-17.5, has the meaning set**
25 **forth in IC 31-17.5-2-2.**

26 SECTION 4. IC 31-9-2-13 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13. (a) "Child", for
28 purposes of IC 31-15, IC 31-16, and IC 31-17, means a child or
29 children of both parties to the marriage. The term includes the
30 following:

31 (1) Children born out of wedlock to the parties.

32 (2) Children born or adopted during the marriage of the parties.

33 (b) **"Child", for purposes of the Uniform Child Custody**
34 **Jurisdiction Act under IC 31-17.5, has the meaning set forth in**
35 **IC 31-17.5-2-3.**

36 (c) "Child", for purposes of the Uniform Interstate Family Support
37 Act under IC 31-18, has the meaning set forth in IC 31-18-1-2.

38 ~~(c)~~ (d) "Child", for purposes of IC 31-19-5, includes an unborn
39 child.

40 ~~(d)~~ (e) "Child", for purposes of the juvenile law, means:

41 (1) a person who is less than eighteen (18) years of age;

42 (2) a person:

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- 1 (A) who is eighteen (18), nineteen (19), or twenty (20) years
 2 of age; and
 3 (B) who either:
 4 (i) is charged with a delinquent act committed before the
 5 person's eighteenth birthday; or
 6 (ii) has been adjudicated a child in need of services before
 7 the person's eighteenth birthday; or
 8 (3) a person:
 9 (A) who is alleged to have committed an act that would have
 10 been murder if committed by an adult; and
 11 (B) who was less than eighteen (18) years of age at the time of
 12 the alleged act.
 13 (e) (f) "Child", for purposes of the Interstate Compact on Juveniles
 14 under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.
 15 SECTION 5. IC 31-9-2-16.5 IS ADDED TO THE INDIANA CODE
 16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 17 1, 2001]: **Sec. 16.5. "Child custody determination", for purposes of**
 18 **the Uniform Child Custody Jurisdiction Act under IC 31-17.5, has the**
 19 **meaning set forth in IC 31-17.5-2-4.**
 20 SECTION 6. IC 31-9-2-16.7 IS ADDED TO THE INDIANA CODE
 21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 22 1, 2001]: **Sec. 16.7. "Child custody proceeding", for purposes of the**
 23 **Uniform Child Custody Jurisdiction Act under IC 31-17.5, has the**
 24 **meaning set forth in IC 31-17.5-2-5.**
 25 SECTION 7. IC 31-9-2-20.5 IS ADDED TO THE INDIANA CODE
 26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 27 1, 2001]: **Sec. 20.5. "Commencement", for purposes of the Uniform**
 28 **Child Custody Jurisdiction Act under IC 31-17.5, has the meaning**
 29 **set forth in IC 31-17.5-2-6.**
 30 SECTION 8. IC 31-9-2-27 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 27. (a) "Court", for
 32 purposes of IC 31-15, IC 31-16, and IC 31-17, means the circuit,
 33 superior, or other courts of Indiana upon which jurisdiction to enter
 34 dissolution decrees has been or may be conferred.
 35 (b) "Court", for purposes of IC 31-16-15, refers to the court having
 36 jurisdiction over child support orders.
 37 (c) "Court", for purposes of the Uniform Child Custody
 38 Jurisdiction Act under IC 31-17.5, has the meaning set forth in
 39 IC 31-17.5-2-7.
 40 (d) "Court", for purposes of IC 31-37-23, has the meaning set forth
 41 in IC 31-37-23-3.
 42 (e) (e) "Court", for purposes of the Interstate Compact on Juveniles

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1 under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

2 SECTION 9. IC 31-9-2-53 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 53. (a) "Home state",
4 for purposes of the Uniform Child Custody Jurisdiction Law Act under
5 ~~IC 31-17-3~~, **IC 31-17.5**, has the meaning set forth in ~~IC 31-17-3-2~~.
6 **IC 31-17.5-2-8.**

7 (b) "Home state", for purposes of the Uniform Interstate Family
8 Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-5.

9 SECTION 10. IC 31-9-2-59.5 IS ADDED TO THE INDIANA
10 CODE AS A NEW SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2001]: **Sec. 59.5. "Initial determination", for**
12 **purposes of the Uniform Child Custody Jurisdiction Act under**
13 **IC 31-17.5, has the meaning set forth in IC 31-17.5-2-9.**

14 SECTION 11. IC 31-9-2-64.5 IS ADDED TO THE INDIANA
15 CODE AS A NEW SECTION TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2001]: **Sec. 64.5. "Issuing court", for**
17 **purposes of the Uniform Child Custody Jurisdiction Act under**
18 **IC 31-17.5, has the meaning set forth in IC 31-17.5-2-10.**

19 SECTION 12. IC 31-9-2-65 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 65. (a) **"Issuing state",**
21 **for purposes of the Uniform Child Custody Jurisdiction Act under**
22 **IC 31-17.5, has the meaning set forth in IC 31-17.5-2-11.**

23 (b) "Issuing state", for purposes of the Uniform Interstate Family
24 Support Act under IC 31-18, has the meaning set forth in
25 IC 31-18-1-11.

26 SECTION 13. IC 31-9-2-80.5 IS ADDED TO THE INDIANA
27 CODE AS A NEW SECTION TO READ AS FOLLOWS
28 [EFFECTIVE JULY 1, 2001]: **Sec. 80.5. "Modification", for**
29 **purposes of the Uniform Child Custody Jurisdiction Act under**
30 **IC 31-17.5, has the meaning set forth in IC 31-17.5-2-12**

31 SECTION 14. IC 31-9-2-89 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 89. (a) "Person", for
33 purposes of the juvenile law, means:

- 34 (1) a human being;
- 35 (2) a corporation;
- 36 (3) a limited liability company;
- 37 (4) a partnership;
- 38 (5) an unincorporated association; or
- 39 (6) a governmental entity.

40 (b) **"Person", for purposes of the Uniform Child Custody**
41 **Jurisdiction Act under IC 31-17.5, has the meaning set forth in**
42 **IC 31-17.5-2-13.**

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1 SECTION 15. IC 31-9-2-90 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 90. "Person acting as
 3 parent", for purposes of the Uniform Child Custody Jurisdiction ~~Law~~
 4 **Act** under ~~IC 31-17-3~~, **IC 31-17.5**, has the meaning set forth in
 5 ~~IC 31-17.5-2-14~~. **IC 31-17.5-2-14.**

6 SECTION 16. IC 31-9-2-91 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 91. **(a) "Petitioner",**
 8 **for purposes of the Uniform Child Custody Jurisdiction Act under**
 9 **IC 31-17.5, has the meaning set forth in IC 31-17.5-2-15.**

10 **(b) "Petitioner" or "obligee",** for purposes of the Uniform Interstate
 11 Family Support Act under IC 31-18, has the meaning set forth in
 12 IC 31-18-1-14.

13 SECTION 17. IC 31-9-2-92 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 92. "Physical custody",
 15 for purposes of the Uniform Child Custody Jurisdiction ~~Law~~ **Act** under
 16 ~~IC 31-17-3~~, **IC 31-17.5**, has the meaning set forth in ~~IC 31-17-3-2~~.
 17 **IC 31-17.5-2-16.**

18 SECTION 18. IC 31-9-2-102.5 IS ADDED TO THE INDIANA
 19 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2001]: **Sec. 102.5. "Record", for purposes of**
 21 **the Uniform Child Custody Jurisdiction Act under IC 31-17.5, has**
 22 **the meaning set in forth in IC 31-17.5-2-17.**

23 SECTION 19. IC 31-9-2-110 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 110. **(a)**
 25 **"Respondent", for purposes of the Uniform Child Custody**
 26 **Jurisdiction Act under IC 31-17.5, has the meaning set forth in**
 27 **IC 31-17.5-2-18.**

28 **(b) "Respondent" or "obligor",** for purposes of the Uniform
 29 Interstate Family Support Act under IC 31-18, has the meaning set
 30 forth in IC 31-18-1-15.

31 SECTION 20. IC 31-9-2-119 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 119. (a) "State", for
 33 purposes of the Uniform Child Custody Jurisdiction ~~Law~~ **Act** under
 34 ~~IC 31-17-3~~, **IC 31-17.5**, has the meaning set forth in ~~IC 31-17-3-2~~.
 35 **IC 31-17.5-2-19.**

36 **(b) "State",** for purposes of the Uniform Interstate Family Support
 37 Act under IC 31-18, has the meaning set forth in IC 31-18-1-21.

38 **(c) "State",** for purposes of the Interstate Compact on Adoption
 39 Assistance under IC 31-19-29, has the meaning set forth in
 40 IC 31-19-29-2.

41 **(d) "State",** for purposes of the Interstate Compact on Juveniles
 42 under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

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1 SECTION 21. IC 31-9-2-130.5 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2001]: **Sec. 130.5. "Tribe", for purposes of**
 4 **the Uniform Child Custody Jurisdiction Act under IC 31-17.5, has**
 5 **the meaning set forth in IC 31-17.5-2-20.**

6 SECTION 22. IC 31-9-2-135 IS ADDED TO THE INDIANA
 7 CODE AS A NEW SECTION TO READ AS FOLLOWS
 8 [EFFECTIVE JULY 1, 2001]: **Sec. 135. "Warrant", for purposes of**
 9 **the Uniform Child Custody Jurisdiction Act under IC 31-17.5, has**
 10 **the meaning set forth in IC 31-17.5-2-21.**

11 SECTION 23. IC 31-17-2-1 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. Jurisdiction of a
 13 child custody proceeding under:

14 (1) this chapter, IC 31-17-4, IC 31-17-6, and IC 31-17-7; or

15 (2) **IC 31-17.5 (or IC 31-17-3 before its repeal);**

16 shall be determined under **IC 31-17.5 (or IC 31-17-3 before its**
 17 **repeal).**

18 SECTION 24. IC 31-17-5-10 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. If the marriage of
 20 the child's parents has been dissolved in another state, the child's
 21 maternal or paternal grandparent may seek visitation rights if:

22 (1) the custody decree entered in the action for dissolution of
 23 marriage does not bind the grandparent under **IC 31-17.5-3-1 (or**
 24 **IC 31-17-3-12 before its repeal);** and

25 (2) an Indiana court would have jurisdiction under **IC 31-17.5-5-1**
 26 **(or IC 31-17-3-3 before its repeal), IC 31-17.5-5-2, or**
 27 **IC 31-17.5-5-3 (or IC 31-17-3-14 before its repeal)** to grant
 28 visitation rights to the grandparent in a modification decree.

29 SECTION 25. IC 31-17.5 IS ADDED TO THE INDIANA CODE
 30 AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY
 31 1, 2001]:

32 **ARTICLE 17.5. UNIFORM CHILD CUSTODY**
 33 **JURISDICTION ACT**

34 **Chapter 1. Applicability**

35 **Sec. 1. This article does not apply to:**

36 (1) **an adoption proceeding; or**

37 (2) **a proceeding pertaining to the authorization of emergency**
 38 **medical care for a child.**

39 **Sec. 2. (a) A child custody proceeding that pertains to an Indian**
 40 **child as defined in the Indian Child Welfare Act, 25 U.S.C. 1901 et**
 41 **seq., is not subject to this article to the extent that it is governed by**
 42 **the Indian Child Welfare Act.**

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1 **(b) An Indiana court shall treat a tribe as if the tribe were a**
 2 **state of the United States for the purposes of applying IC 31-17.5-3**
 3 **through IC 31-17.5-5.**

4 **(c) A child custody determination made by a tribe under factual**
 5 **circumstances in substantial conformity with the jurisdictional**
 6 **standards of this article must be recognized and enforced under**
 7 **IC 31-17.5-6.**

8 **Sec. 3. (a) An Indiana court shall treat a foreign country as if**
 9 **the foreign country were a state of the United States for the**
 10 **purposes of applying IC 31-17.5-3 through IC 31-17.5-5.**

11 **(b) Except as otherwise provided in subsection (c), a child**
 12 **custody determination made in a foreign country under factual**
 13 **circumstances in substantial conformity with the jurisdictional**
 14 **standard of this article must be recognized and enforced under**
 15 **IC 31-17.5-6.**

16 **(c) An Indiana court need not apply this article if the child**
 17 **custody law of a foreign country violates the fundamental**
 18 **principles of human rights.**

19 **Chapter 2. Definitions**

20 **Sec. 1. The definitions in this chapter apply throughout this**
 21 **article.**

22 **Sec. 2. "Abandoned" means left without provision for**
 23 **reasonable and necessary care or supervision.**

24 **Sec. 3. "Child" means a person who is less than eighteen (18)**
 25 **years of age.**

26 **Sec. 4. "Child custody determination" means a judgment,**
 27 **decree, or other court order providing for:**

- 28 **(1) legal custody;**
- 29 **(2) physical custody; or**
- 30 **(3) visitation;**

31 **with respect to a child. The term does not include an order relating**
 32 **to child support or other monetary obligation of a person.**

33 **Sec. 5. "Child custody proceeding" means a proceeding in which**
 34 **legal custody, physical custody, or visitation with respect to a child**
 35 **is an issue. The term includes a proceeding for:**

- 36 **(1) dissolution of marriage or legal separation;**
- 37 **(2) child abuse or neglect;**
- 38 **(3) guardianship;**
- 39 **(4) paternity;**
- 40 **(5) termination of parental rights; and**
- 41 **(6) protection from domestic violence;**

42 **in which the issue of child custody or visitation may appear. The**

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1 term does not include a proceeding involving juvenile delinquency,
2 contractual emancipation, or enforcement of child custody under
3 IC 31-17.5-6.

4 Sec. 6. "Commencement" means the filing of the first pleading
5 in a proceeding.

6 Sec. 7. "Court" means an entity authorized by state law to
7 establish, enforce, or modify a child custody determination.

8 Sec. 8. "Home state" means the state in which a child lived with:

9 (1) a parent; or

10 (2) a person acting as a parent;

11 for at least six (6) consecutive months immediately before the
12 commencement of a child custody proceeding. In the case of a child
13 less than six (6) months of age, the term means the state in which
14 the child lived since birth with a parent or person acting as a
15 parent. A period of temporary absence of the parent or person
16 acting as a parent is part of the period.

17 Sec. 9. "Initial determination" means the first child custody
18 determination concerning a child.

19 Sec. 10. "Issuing court" means the court that makes a child
20 custody determination for which enforcement is sought under this
21 article.

22 Sec. 11. "Issuing state" means the state in which a child custody
23 determination is made.

24 Sec. 12. "Modification" means a child custody determination
25 that changes, replaces, supersedes, or is otherwise made after a
26 previous determination concerning the same child, regardless of
27 whether the determination is made by the court that made the
28 previous determination.

29 Sec. 13. "Person" means an individual, corporation, business
30 trust, estate, trust, partnership, limited liability company,
31 association, joint venture, government, governmental subdivision,
32 agency, or instrumentality, public corporation, or any other legal
33 or commercial entity.

34 Sec. 14. "Person acting as a parent" means a person, other than
35 a parent, who:

36 (1) has physical custody of the child or has had physical
37 custody for a period of at least six (6) consecutive months,
38 including any temporary absence, within one (1) year
39 immediately before the commencement of a child custody
40 proceeding; and

41 (2) has been awarded legal custody by a court or claims a
42 right to legal custody under Indiana law.

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1 **Sec. 15. "Petitioner"** means a person who seeks enforcement of
 2 an order for return of a child under the Hague Convention on the
 3 Civil Aspects of International Child Abduction or enforcement of
 4 a child custody determination.

5 **Sec. 16. "Physical custody"** means the physical care and
 6 supervision of a child.

7 **Sec. 17. "Record"** means information that is:

- 8 (1) inscribed on a tangible medium; or
 9 (2) stored in an electronic or other medium;

10 and is retrievable in a perceivable form.

11 **Sec. 18. "Respondent"** means a person against whom a
 12 proceeding has been commenced for enforcement of:

- 13 (1) an order for return of a child under the Hague Convention
 14 on the Civil Aspects of International Child Abduction; or
 15 (2) a child custody determination.

16 **Sec. 19. "State"** means a state of the United States, the District
 17 of Columbia, Puerto Rico, the United States Virgin Islands, or any
 18 territory or insular possession subject to the jurisdiction of the
 19 United States.

20 **Sec. 20. "Tribe"** means an Indian tribe or band or Alaskan
 21 Native village that is:

- 22 (1) recognized by federal law; or
 23 (2) formally acknowledged by a state.

24 **Sec. 21. "Warrant"** means an order issued by a court
 25 authorizing law enforcement officers to take physical custody of a
 26 child.

27 **Chapter 3. Procedural Considerations**

28 **Sec. 1.** A child custody determination made by an Indiana court
 29 that has jurisdiction under this article binds each person who has:

- 30 (1) been served with notice in accordance with Indiana law;
 31 (2) been notified in accordance with section 3 of this chapter;
 32 or

- 33 (3) submitted to the jurisdiction of the court;

34 and who has been given an opportunity to be heard. A child
 35 custody determination described in this section is conclusive as to
 36 all decided issues of law and fact except to the extent the
 37 determination is modified.

38 **Sec. 2.** If a question of existence or exercise of jurisdiction under
 39 this article is raised in a child custody proceeding, the question,
 40 upon a request of a party, must be given priority on the calendar
 41 and handled expeditiously.

42 **Sec. 3. (a)** Notice required for the exercise of jurisdiction when

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a person is outside Indiana may be given in a manner prescribed by:

- (1) Indiana law for service of process; or
- (2) the law of the state in which the service is made.

Notice must be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

(b) Proof of service may be made in the manner prescribed by:

- (1) Indiana law; or
- (2) 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.

Sec. 4. 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 Indiana 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.

Sec. 5. A person who is subject to personal jurisdiction in Indiana on a basis other than physical presence is not immune from service of process in Indiana. A party present in Indiana who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

Sec. 6. The immunity granted by section 4 of this chapter does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this article committed by an individual while present in Indiana.

Chapter 4. Communication and Cooperation Between Courts

Sec. 1. An Indiana court may communicate with a court in another state concerning a proceeding arising under this article.

Sec. 2. The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, the parties must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

Sec. 3. Communication between courts regarding:

- (1) schedules;
- (2) calendars;
- (3) court records; and
- (4) similar matters;

may occur without informing the parties. A record need not be

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1 made of the communication.

2 **Sec. 4. A record must be made of a communication under**
3 **sections 1 and 2 of this chapter. The parties must be:**

- 4 (1) promptly informed of the communication; and
5 (2) granted access to the record.

6 **Sec. 5. In addition to other procedures available to a party, a**
7 **party to a child custody proceeding may offer testimony of**
8 **witnesses who are located in another state, including testimony of**
9 **the parties and the child, by deposition or other means allowable**
10 **in Indiana for testimony taken in another state. The court on its**
11 **own motion may:**

- 12 (1) order that the testimony of a person be taken in another
13 state; and
14 (2) prescribe the manner in which and the terms upon which
15 the testimony is taken.

16 **Sec. 6. An Indiana court may permit a person residing in**
17 **another state to be deposed or to testify by:**

- 18 (1) telephone;
19 (2) audiovisual means; or
20 (3) other electronic means;

21 before a designated court or another location in that state. An
22 Indiana court shall cooperate with courts in other states in
23 designating an appropriate location for the deposition or
24 testimony.

25 **Sec. 7. Documentary evidence transmitted from another state to**
26 **an Indiana court by technological means that do not produce an**
27 **original writing may not be excluded from evidence on an**
28 **objection based on the means of transmission.**

29 **Sec. 8. An Indiana court may request the appropriate court of**
30 **another state to do the following:**

- 31 (1) Hold an evidentiary hearing.
32 (2) Order a person to produce or give evidence under the
33 procedures of the other state.
34 (3) Order that an evaluation be made with respect to the
35 custody of a child involved in a pending proceeding.
36 (4) Forward to the Indiana court:
37 (A) a certified copy of the transcript of the record of the
38 hearing;
39 (B) the evidence otherwise presented; and
40 (C) any evaluation prepared in compliance with the
41 request.
42 (5) Order:

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- (A) a party to a child custody proceeding; or
 - (B) any person having physical custody of the child;
- to appear in the proceeding with or without the child.

Sec. 9. Upon the request of a court of another state, an Indiana court may:

- (1) hold a hearing; and
- (2) enter an order described in section 8 of this chapter.

Sec. 10. Travel and other necessary and reasonable expenses incurred under sections 8 and 9 of this chapter may be assessed against the parties according to Indiana law.

Sec. 11. An Indiana court shall preserve the:

- (1) pleadings;
- (2) orders;
- (3) decrees;
- (4) records of hearings;
- (5) evaluations; and
- (6) other pertinent records;

with respect to a child custody proceeding until the child becomes eighteen (18) years of age. Upon appropriate request by a court or law enforcement official of another state, the Indiana court shall forward a certified copy of the records to the court of the other state.

Chapter 5. Jurisdiction

Sec. 1. (a) Except as otherwise provided in section 4 of this chapter, an Indiana court has jurisdiction to make an initial child custody determination only if one (1) of the following applies:

- (1) Indiana is the home state of the child on the date of the commencement of the proceeding or was the home state of the child within six (6) months before the commencement of the proceeding and the child is absent from Indiana but a parent or person acting as a parent continues to live in Indiana.
- (2) A court of another state does not have jurisdiction under subdivision (1), or a court of the home state of the child has declined to exercise jurisdiction on the ground that Indiana is the more appropriate forum under section 8 or 9 of this chapter, and:

- (A) the child and the child's parents, or the child and at least one (1) parent or person acting as a parent, have a significant connection with Indiana other than mere physical presence; and
- (B) substantial evidence is available in Indiana concerning the child's care, protection, training, and personal

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- 1 relationships.
- 2 (3) All courts having jurisdiction under subdivision (1) or (2)
- 3 have declined to exercise jurisdiction on the ground that an
- 4 Indiana court is the more appropriate forum to determine the
- 5 custody of the child under section 8 or 9 of this chapter.
- 6 (4) No court of any other state would have jurisdiction under
- 7 the criteria specified in subdivision (1), (2), or (3).
- 8 (b) The jurisdictional requirements described in this section
- 9 provide the exclusive jurisdictional basis for making a child
- 10 custody determination by an Indiana court.
- 11 (c) Physical presence of, or personal jurisdiction over, a party
- 12 or a child is not necessary or sufficient to make a child custody
- 13 determination.
- 14 Sec. 2. (a) Except as otherwise provided in section 4 of this
- 15 chapter, an Indiana court that has made a child custody
- 16 determination consistent with section 1 or 3 of this chapter has
- 17 exclusive, continuing jurisdiction over the determination until:
- 18 (1) an Indiana court determines that:
- 19 (A) neither:
- 20 (i) the child;
- 21 (ii) the child's parents; nor
- 22 (iii) any person acting as a parent;
- 23 has a significant connection with Indiana; and
- 24 (B) substantial evidence is no longer available in Indiana
- 25 concerning the child's care, protection, training, and
- 26 personal relationships; or
- 27 (2) an Indiana court or a court of another state determines
- 28 that:
- 29 (A) the child;
- 30 (B) the child's parents; and
- 31 (C) any person acting as a parent;
- 32 do not presently reside in Indiana.
- 33 (b) An Indiana court that:
- 34 (1) has made a child custody determination; and
- 35 (2) does not have exclusive, continuing jurisdiction under this
- 36 section;
- 37 may modify the determination only if the Indiana court has
- 38 jurisdiction to make an initial determination under section 1 of this
- 39 chapter.
- 40 Sec. 3. Except as provided in section 4 of this chapter, an
- 41 Indiana court may not modify a child custody determination made
- 42 by a court of another state unless an Indiana court has jurisdiction

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1 to make an initial determination under section 1(a)(1) or 1(a)(2) of
 2 this chapter and:
 3 (1) the court of the other state determines that:
 4 (A) it no longer has exclusive, continuing jurisdiction
 5 under section 2 of this chapter; or
 6 (B) an Indiana court would be a more convenient forum
 7 under section 8 of this chapter; or
 8 (2) an Indiana court or a court of the other state determines
 9 that:
 10 (A) the child;
 11 (B) the child's parents; and
 12 (C) any person acting as a parent;
 13 do not presently reside in the other state.
 14 Sec. 4. (a) An Indiana court has temporary emergency
 15 jurisdiction if the child is present in Indiana and:
 16 (1) the child has been abandoned; or
 17 (2) it is necessary in an emergency to protect the child
 18 because:
 19 (A) the child;
 20 (B) the child's sibling; or
 21 (C) the child's parent;
 22 is subjected to or threatened with mistreatment or abuse.
 23 (b) If:
 24 (1) there is no previous child custody determination that is
 25 entitled to be enforced under this article; and
 26 (2) a child custody proceeding has not been commenced in a
 27 court of a state having jurisdiction under sections 1 through
 28 3 of this chapter;
 29 a child custody determination made under this section remains in
 30 effect until an order is obtained from a court of a state having
 31 jurisdiction under sections 1 through 3 of this chapter.
 32 (c) If a child custody proceeding has not been or is not
 33 commenced in a court of a state having jurisdiction under sections
 34 1 through 3 of this chapter, a child custody determination made
 35 under this section becomes a final determination, and, if it so
 36 provides, Indiana becomes the home state of the child.
 37 (d) If:
 38 (1) there is a previous child custody determination that is
 39 entitled to be enforced under this article; or
 40 (2) a child custody proceeding has been commenced in a court
 41 of a state having jurisdiction under sections 1 through 3 of
 42 this chapter;

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any order issued by an Indiana court under this section must 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 sections 1 through 3 of this chapter.

(e) The order issued in Indiana remains in effect until an order is obtained from the other state within the period specified or the period expires.

(f) An Indiana court that has been asked to make a child custody determination under this section, upon being informed that:

- (1) a child custody proceeding has been commenced in; or
 - (2) a child custody determination has been made by;
- a court of a state having jurisdiction under sections 1 through 3 of this chapter, shall immediately communicate with the other court.

(g) An Indiana court that is exercising jurisdiction under sections 1 through 3 of this chapter, upon being informed that:

- (1) a child custody proceeding has been commenced in; or
 - (2) 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 the other 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.

Sec. 5. (a) Before a child custody determination is made under this article, notice and an opportunity to be heard in accordance with the standards of IC 31-17.5-3-3 must be given to the following persons:

- (1) All persons entitled to notice under Indiana law as in child custody proceedings between residents of Indiana.
- (2) Any parent whose parental rights have not been previously terminated.
- (3) Any person having physical custody of the child.

(b) This article 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 article are governed by Indiana law in the same manner as in child custody proceedings between Indiana residents.

Sec. 6. (a) Except as otherwise provided in section 4 of this chapter, an Indiana court may not exercise its jurisdiction under this article if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been

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1 commenced in a court of another state having jurisdiction
2 substantially in conformity with this article, unless the proceeding:

- 3 (1) has been terminated; or
4 (2) is stayed by the court of the other state because an Indiana
5 court is a more convenient forum under section 8 of this
6 chapter.

7 (b) Except as otherwise provided in section 4 of this chapter, an
8 Indiana court, before hearing a child custody proceeding, shall
9 examine the court documents and other information supplied by
10 the parties under sections 10 through 13 of this chapter. If the
11 court determines that a child custody proceeding has been
12 commenced in a court in another state having jurisdiction
13 substantially in accordance with this article, the Indiana court
14 shall:

- 15 (1) stay its proceeding; and
16 (2) communicate with the court of the other state.

17 If the court of the state having jurisdiction substantially in
18 accordance with this article does not determine that the Indiana
19 court is a more appropriate forum, the Indiana court shall dismiss
20 the proceeding.

21 **Sec. 7.** In a proceeding to modify a child custody determination,
22 an Indiana court shall determine whether a proceeding to enforce
23 the determination has been commenced in another state. If a
24 proceeding to enforce a child custody determination has been
25 commenced in another state, the Indiana court may:

- 26 (1) stay the proceeding for modification pending the entry of
27 an order of a court of the other state enforcing, staying,
28 denying, or dismissing the proceeding for enforcement;
29 (2) enjoin the parties from continuing with the proceeding for
30 enforcement; or
31 (3) proceed with the modification under conditions the
32 Indiana court considers appropriate.

33 **Sec. 8. (a)** An Indiana court that has jurisdiction under this
34 article to make a child custody determination may decline to
35 exercise its jurisdiction at any time if the Indiana court determines
36 that:

- 37 (1) the Indiana court is an inconvenient forum under the
38 circumstances; and
39 (2) a court of another state is a more appropriate forum.

40 The issue of inconvenient forum may be raised upon motion of a
41 party, the court's own motion, or request of another court.

42 (b) Before determining whether an Indiana court is an

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1 **inconvenient forum, the Indiana court shall consider whether it is**
2 **appropriate for a court of another state to exercise jurisdiction.**
3 **For this purpose, the Indiana court shall allow the parties to**
4 **submit information and shall consider all relevant factors,**
5 **including the following:**

6 (1) **Whether domestic violence has occurred and is likely to**
7 **continue in the future and which state is best able to protect**
8 **the parties and the child.**

9 (2) **The length of time the child has resided outside Indiana.**

10 (3) **The distance between the Indiana court and the court in**
11 **the state that would assume jurisdiction.**

12 (4) **The relative financial circumstances of the parties.**

13 (5) **Any agreement of the parties as to which state should**
14 **assume jurisdiction.**

15 (6) **The nature and location of the evidence required to resolve**
16 **the pending litigation, including the child's testimony.**

17 (7) **The ability of the court of each state to decide the issue**
18 **expeditiously and the procedures necessary to present the**
19 **evidence.**

20 (8) **The familiarity of the court of each state with the facts and**
21 **issues in the pending litigation.**

22 (c) **If an Indiana court determines that it is an inconvenient**
23 **forum and that a court of another state is a more appropriate**
24 **forum, the Indiana court:**

25 (1) **shall stay the proceedings upon condition that a child**
26 **custody proceeding be promptly commenced in another**
27 **designated state; and**

28 (2) **may impose any other condition the Indiana court**
29 **considers just and proper.**

30 (d) **An Indiana court may decline to exercise its jurisdiction**
31 **under this article if a child custody determination is incidental to**
32 **an action for dissolution of marriage or another proceeding while**
33 **still retaining jurisdiction over the dissolution of marriage or other**
34 **proceeding.**

35 **Sec. 9. (a) Except as otherwise provided in section 4 of this**
36 **chapter or by any other Indiana law, if an Indiana court has**
37 **jurisdiction under this article because a person seeking to invoke**
38 **its jurisdiction has engaged in unjustifiable conduct, the court shall**
39 **decline to exercise its jurisdiction unless:**

40 (1) **the child's parents and any person acting as a parent have**
41 **acquiesced in the exercise of jurisdiction;**

42 (2) **a court of the state otherwise having jurisdiction under**

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1 sections 1 through 3 of this chapter determines that Indiana
 2 is a more appropriate forum under section 8 of this chapter;
 3 or

4 (3) no court of any other state would have jurisdiction under
 5 the criteria specified in sections 1 through 3 of this chapter.

6 (b) If an Indiana court declines to exercise its jurisdiction under
 7 subsection (a), the Indiana court may fashion an appropriate
 8 remedy to:

9 (1) ensure the safety of the child; and

10 (2) prevent a repetition of the unjustifiable conduct;
 11 including staying the proceeding until a child custody proceeding
 12 is commenced in a court having jurisdiction under sections 1
 13 through 3 of this chapter.

14 (c) If a court dismisses a petition or stays a proceeding because
 15 it declines to exercise its jurisdiction under subsection (a), the court
 16 shall assess against the party seeking to invoke its jurisdiction
 17 necessary and reasonable expenses including:

18 (1) costs;

19 (2) communication expenses;

20 (3) attorney's fees;

21 (4) investigative fees;

22 (5) expenses for witnesses;

23 (6) travel expenses; and

24 (7) child care during the course of the proceedings;

25 unless the party from whom fees are sought establishes that the
 26 assessment would be clearly inappropriate. The court may not
 27 assess fees, costs, or expenses against Indiana unless authorized by
 28 law other than this article.

29 Sec. 10. (a) Subject to local law providing for the confidentiality
 30 of procedures, addresses, and other identifying information in a
 31 child custody proceeding, each party, in its first pleading or in an
 32 attached affidavit, shall provide information, under oath,
 33 regarding:

34 (1) the child's present address or whereabouts and the places
 35 where the child has lived during the immediately preceding
 36 five (5) years; and

37 (2) the names and present addresses of the persons with whom
 38 the child has lived during that period.

39 (b) The pleading or affidavit must state the following:

40 (1) Whether the party has participated, as a party or witness
 41 or in any other capacity, in any other proceeding concerning
 42 the custody of or visitation with the child and, if so, identify:

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1 (A) the court;
 2 (B) the case number; and
 3 (C) the date of the child custody determination, if any.
 4 (2) Whether the party knows of any proceeding that may
 5 affect the current proceeding, including proceedings for
 6 enforcement and proceedings relating to:
 7 (A) domestic violence;
 8 (B) protective orders;
 9 (C) termination of parental rights; and
 10 (D) adoptions;
 11 and, if so, identify the court, the case number, and the nature
 12 of the proceeding.
 13 (3) Whether the party knows the names and addresses of any
 14 person not a party to the proceeding who:
 15 (A) has physical custody of the child; or
 16 (B) claims rights of legal custody or physical custody of, or
 17 visitation with, the child;
 18 and, if so, the names and addresses of the persons.
 19 (c) If the information required by subsection (a) is not
 20 furnished, the court, upon motion of a party or its own motion,
 21 may stay the proceeding until the information is furnished.
 22 Sec. 11. If the declaration as to any of the items described in
 23 section 10(b)(1) through 10(b)(3) of this chapter is in the
 24 affirmative, the declarant shall give additional information under
 25 oath as required by the court. The court may examine the parties
 26 under oath as to details of the information furnished and other
 27 matters pertinent to:
 28 (1) the court's jurisdiction; and
 29 (2) the disposition of the case.
 30 Sec. 12. Each party has a continuing duty to inform the court of
 31 any proceeding in Indiana or any other state that may affect the
 32 current proceeding.
 33 Sec. 13. If a party alleges in an affidavit or a pleading under
 34 oath that the health, safety, or liberty of a party or child would be
 35 jeopardized by disclosure of identifying information, the
 36 information must be sealed and may not be disclosed to the other
 37 party or the public unless the court orders the disclosure to be
 38 made after a hearing in which the court:
 39 (1) takes into consideration the health, safety, or liberty of the
 40 party or child; and
 41 (2) determines that the disclosure is in the interest of justice.
 42 Sec. 14. (a) In a child custody proceeding in Indiana, the court

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1 may order a party to the proceeding who is in Indiana to appear
 2 before the court in person with or without the child. The court may
 3 order any person who:

4 (1) is in Indiana; and

5 (2) has physical custody or control of the child;

6 to appear in person with the child.

7 (b) If a party to a child custody proceeding whose presence is
 8 desired by the court is outside Indiana, the court may order that a
 9 notice given under IC 31-17.5-3-3 include a statement:

10 (1) directing the party to appear in person with or without the
 11 child; and

12 (2) informing the party that failure to appear may result in a
 13 decision adverse to the party.

14 (c) The court may enter any orders necessary to ensure the
 15 safety of:

16 (1) the child; and

17 (2) any person ordered to appear under this section.

18 (d) If a party to a child custody proceeding who is outside
 19 Indiana:

20 (1) is directed to appear under subsection (b); or

21 (2) desires to appear personally before the court with or
 22 without the child;

23 the court may require another party to pay reasonable and
 24 necessary travel and other expenses of the party who appears and
 25 of the child.

26 **Chapter 6. Enforcement**

27 **Sec. 1.** Under this chapter, an Indiana court may enforce an
 28 order for the return of the child made under the Hague Convention
 29 on the Civil Aspects of International Child Abduction as if it were
 30 a child custody determination.

31 **Sec. 2. (a)** An Indiana court shall recognize and enforce a child
 32 custody determination of a court of another state if the latter court
 33 exercised jurisdiction in substantial conformity with this article or
 34 the determination:

35 (1) was made under factual circumstances meeting the
 36 jurisdictional standards of this article; and

37 (2) has not been modified in accordance with this article.

38 (b) An Indiana court may utilize any remedy available under
 39 any other law of Indiana to enforce a child custody determination
 40 made by a court of another state. The remedies provided in this
 41 article:

42 (1) are cumulative; and

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1 (2) do not affect the availability of other remedies to enforce
2 a child custody determination.

3 **Sec. 3. (a) An Indiana court that does not have jurisdiction to**
4 **modify a child custody determination may issue a temporary order**
5 **enforcing:**

6 (1) a visitation schedule made by a court of another state; or
7 (2) the visitation provisions of a child custody determination
8 of another state that does not provide for a specific visitation
9 schedule.

10 **(b) If an Indiana court makes an order under subsection (a)(2),**
11 **the Indiana court shall specify in the order a period that it**
12 **considers adequate to allow the petitioner to obtain an order from**
13 **a court having jurisdiction under the criteria specified in**
14 **IC 31-17.5-5. The order remains in effect until:**

15 (1) an order is obtained from the other court; or
16 (2) the period expires.

17 **Sec. 4. (a) A child custody determination issued by a court of**
18 **another state may be registered in Indiana, with or without a**
19 **simultaneous request for enforcement, by sending the following to**
20 **the appropriate Indiana court:**

21 (1) A letter or other document requesting registration.
22 (2) Two (2) copies, including one (1) certified copy, of the
23 determination sought to be registered and a statement under
24 penalty of perjury that to the best of the knowledge and belief
25 of the person seeking registration the order has not been
26 modified.

27 (3) Except as otherwise provided in section 13 of this chapter:
28 (A) the name and address of the person seeking
29 registration; and
30 (B) the name of any parent or person acting as a parent
31 who has been awarded custody or visitation in the child
32 custody determination sought to be registered.

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

35 (1) cause the determination to be filed as a foreign judgment,
36 together with one (1) copy of any accompanying documents
37 and information, regardless of their form; and
38 (2) serve notice upon each person named under subsection
39 (a)(3) and provide the person with an opportunity to contest
40 the registration in accordance with this section.

41 **(c) The notice required by subsection (b)(2) must state the**
42 **following:**

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1 (1) A registered determination is enforceable as of the date of
 2 the registration in the same manner as a child custody
 3 determination issued by an Indiana court.

4 (2) A hearing to contest the validity of the registered
 5 determination must be requested not more than twenty (20)
 6 days after service of notice.

7 (3) Failure to contest the registration:

8 (A) shall result in confirmation of the child custody
 9 determination; and

10 (B) preclude further contest of that determination with
 11 respect to any matter that may have otherwise been
 12 asserted.

13 **Sec. 5. (a) A person seeking to contest the validity of a registered**
 14 **order must request a hearing not more than twenty (20) days after**
 15 **service of the notice. At the hearing, the court shall confirm the**
 16 **registered order unless the person contesting the registration**
 17 **establishes that:**

18 (1) the issuing court did not have jurisdiction under
 19 IC 31-17.5-5;

20 (2) the child custody determination sought to be registered has
 21 been:

22 (A) vacated;

23 (B) stayed; or

24 (C) modified;

25 by a court having jurisdiction to do so under IC 31-17.5-5; or

26 (3) the person contesting registration was entitled to notice,
 27 but notice was not given in accordance with the standards of
 28 IC 31-17.5-3-3 in the proceedings before the court that issued
 29 the order for which registration is sought.

30 (b) If a timely request for a hearing to contest the validity of the
 31 registration is not made:

32 (1) the registration is confirmed as a matter of law; and

33 (2) the person requesting registration and each person served
 34 must be notified of the confirmation.

35 (c) Confirmation of a registered order:

36 (1) whether by operation of law; or

37 (2) after notice and hearing;

38 precludes further contest of the order with respect to any matter
 39 that may have been asserted at the time of registration.

40 **Sec. 6. (a) An Indiana court may grant any relief normally**
 41 **available under Indiana law to enforce a registered child custody**
 42 **determination made by a court of another state.**

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1 (b) An Indiana court shall recognize and enforce, but may not
2 modify, except in accordance with IC 31-17.5-5, a registered child
3 custody determination of a court of another state.

4 Sec. 7. If a proceeding for enforcement under this article is
5 commenced in an Indiana court and the court determines that a
6 proceeding to modify the determination is pending in a court of
7 another state having jurisdiction to modify the determination
8 under IC 31-17.5-5, the enforcing court shall immediately
9 communicate with the modifying court. The proceeding for
10 enforcement continues unless the enforcing court, after
11 consultation with the modifying court, stays or dismisses the
12 proceeding.

13 Sec. 8. (a) A petition under this article must be verified.
14 Certified copies of:

- 15 (1) all orders sought to be enforced; and
- 16 (2) any order confirming registration must be attached to the
17 petition.

18 A copy of a certified copy of an order may be attached instead of
19 the original.

20 (b) A petition for enforcement of a child custody determination
21 must state the following:

22 (1) Whether the court that issued the determination identified
23 the jurisdictional basis it relied upon in exercising jurisdiction
24 and, if so, what the basis was.

25 (2) Whether the determination for which enforcement is
26 sought has been vacated, stayed, or modified by a court whose
27 decision must be enforced under this article and, if so,
28 identify:

- 29 (A) the court;
- 30 (B) the case number; and
- 31 (C) the nature of the proceeding.

32 (3) Whether any proceeding has been commenced that may
33 affect the current proceeding, including proceedings relating
34 to:

- 35 (A) domestic violence;
- 36 (B) protective orders;
- 37 (C) termination of parental rights; and
- 38 (D) adoptions;

39 and, if so, identify the court, the case number, and the nature
40 of the proceeding.

41 (4) The present physical address of the child and the
42 respondent, if known.

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(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.

(6) If the child custody determination has been registered and confirmed under sections 4 and 5 of this chapter, the date and place of registration.

Sec. 9. (a) Upon the filing of a petition, the court shall:

- (1) issue an order directing the respondent to appear in person with or without the child at a hearing; and
- (2) may enter any order necessary to ensure the safety of the parties and the child.

The hearing must be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

(b) An order issued under subsection (a) must 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 section 15 of this chapter 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 sections 4 and 5 of this chapter and that:
 - (A) the issuing court did not have jurisdiction under IC 31-17.5-5;
 - (B) the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction under IC 31-17.5-5; or
 - (C) the respondent was entitled to notice, but notice was not given in accordance with the standards of IC 31-17.5-3-3 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 section 3 of this chapter but has been vacated, stayed, or modified by a court of a state having jurisdiction under IC 31-17.5-5.

Sec. 10. Except as otherwise provided in section 13 or 14 of this chapter, the petition and order must be served, by any method authorized by Indiana law, upon the respondent and any person who has physical custody of the child.

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1 **Sec. 11. Unless the court issues a temporary emergency order**
 2 **under IC 31-17.5-5-4, upon a finding that a petitioner is entitled to**
 3 **immediate physical custody of the child, the court shall order that**
 4 **the petitioner may take immediate physical custody of the child**
 5 **unless the respondent establishes that:**

6 **(1) the child custody determination has not been registered**
 7 **and confirmed under sections 4 and 5 of this chapter and that:**

8 **(A) the issuing court did not have jurisdiction under**
 9 **IC 31-17.5-5;**

10 **(B) the child custody determination for which enforcement**
 11 **is sought has been vacated, stayed, or modified by a court**
 12 **of a state having jurisdiction to do so under IC 31-17.5-5;**
 13 **or**

14 **(C) the respondent was entitled to notice, but notice was**
 15 **not given in accordance with the standards of**
 16 **IC 31-17.5-3-3 in the proceedings before the court that**
 17 **issued the order for which enforcement is sought; or**

18 **(2) the child custody determination for which enforcement is**
 19 **sought was registered and confirmed under sections 4 and 5**
 20 **of this chapter but has been vacated, stayed, or modified by a**
 21 **court of a state having jurisdiction under IC 31-17.5-5.**

22 **Sec. 12. (a) The court:**

23 **(1) shall award the fees, costs, and expenses authorized under**
 24 **section 15 of this chapter; and**

25 **(2) may grant additional relief, including a request for the**
 26 **assistance of law enforcement officials, and set a further**
 27 **hearing to determine whether additional relief is appropriate.**

28 **(b) If a party called to testify refuses to answer on the ground**
 29 **that the testimony may be self-incriminating, the court may draw**
 30 **an adverse inference from the refusal.**

31 **(c) A privilege against disclosure of communications between**
 32 **spouses and a defense of immunity based on the relationship of**
 33 **husband and wife or parent and child may not be invoked in a**
 34 **proceeding under this chapter.**

35 **Sec. 13. (a) Upon the filing of a petition seeking enforcement of**
 36 **a child custody determination, the petitioner may file a verified**
 37 **application for the issuance of a warrant to take physical custody**
 38 **of the child if the child is immediately likely to:**

39 **(1) suffer serious physical harm; or**

40 **(2) be removed from Indiana.**

41 **(b) If the court, upon the testimony of the petitioner or other**
 42 **witness, finds that the child is imminently likely to suffer serious**

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1 physical harm or be removed from Indiana, the court may issue a
 2 warrant to take physical custody of the child. The petition must be
 3 heard on the next judicial day after the warrant is executed unless
 4 that date is impossible. In that event, the court shall hold the
 5 hearing on the first judicial day possible. The application for the
 6 warrant must include the statements required by section 8(b) of
 7 this chapter.

8 **Sec. 14. (a) A warrant to take physical custody of a child must:**

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

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

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

15 (b) The respondent must be served with the petition, warrant,
 16 and order immediately after the child is taken into physical
 17 custody.

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

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

27 **Sec. 15. (a) The court shall award the prevailing party, including**
 28 **a state, necessary and reasonable expenses incurred by or on behalf**
 29 **of the party, including:**

30 (1) costs;

31 (2) communication expenses;

32 (3) attorney's fees;

33 (4) investigative fees;

34 (5) expenses for witnesses;

35 (6) travel expenses; and

36 (7) child care during the course of the proceedings;

37 unless the party from whom fees or expenses are sought establishes
 38 that the award would be clearly inappropriate.

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

41 **Sec. 16. An Indiana court shall accord full faith and credit to an**
 42 **order issued by another state and consistent with this article that**

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1 enforces a child custody determination by a court of another state
 2 unless the order has been vacated, stayed, or modified by a court
 3 having jurisdiction under IC 31-17.5-5.

4 **Sec. 17.** An appeal may be taken from a final order in a
 5 proceeding under this article in accordance with expedited
 6 appellate procedures in other civil cases. Unless the court enters a
 7 temporary emergency order under IC 31-17.5-5-4, the enforcing
 8 court may not stay an order enforcing a child custody
 9 determination pending appeal.

10 **Sec. 18. (a)** In a case arising under this article or involving the
 11 Hague Convention on the Civil Aspects of International Child
 12 Abduction, a prosecuting attorney or other appropriate public
 13 official may take any lawful action, including resorting to a
 14 proceeding under this article or any other available civil
 15 proceeding to locate a child, obtain the return of a child, or enforce
 16 a child custody determination if there is:

- 17 (1) an existing child custody determination;
- 18 (2) a request to do so from a court in a pending child custody
 19 proceeding;
- 20 (3) a reasonable belief that a criminal statute has been
 21 violated; or
- 22 (4) a reasonable belief that the child has been wrongfully
 23 removed or retained in violation of the Hague Convention on
 24 the Civil Aspects of International Child Abduction.

25 **(b)** A prosecuting attorney or other appropriate public official
 26 acting under this section acts on behalf of the court and may not
 27 represent any party.

28 **Sec. 19.** At the request of a prosecuting attorney or other
 29 appropriate public official acting under section 18 of this chapter,
 30 a law enforcement officer:

- 31 (1) may take any lawful action reasonably necessary to locate
 32 a child or a party; and
- 33 (2) assist a prosecutor or appropriate public official with
 34 responsibilities under section 18 of this chapter.

35 **Sec. 20.** If the respondent is not the prevailing party, the court
 36 may assess against the respondent all direct expenses and costs
 37 incurred by the prosecutor or other appropriate public official and
 38 law enforcement officers under section 18 or 19 of this chapter.

39 Chapter 7. Miscellaneous Provisions

40 **Sec. 1.** In applying and construing this article, consideration
 41 must be given to the need to promote uniformity of the law with
 42 respect to its subject matter among states that enact it.

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1 **Sec. 2. If any provision of this article or its application to a**
2 **person or circumstance is held invalid, the invalidity does not affect**
3 **other provisions or applications of this article that can be given**
4 **effect without the invalid provision or application, and to this end**
5 **the provisions of this article are severable.**

6 **Sec. 3. A motion or other request for relief made:**
7 **(1) in a child custody proceeding; or**
8 **(2) to enforce a child custody determination;**
9 **that was commenced before July 1, 2001 is governed by the law in**
10 **effect at the time the motion or other request was made.**

11 SECTION 26. THE FOLLOWING ARE REPEALED [EFFECTIVE
12 JULY 1, 2001]: IC 31-9-2-23; IC 31-9-2-32; IC 31-9-2-33;
13 IC 31-9-2-34; IC 31-9-2-35; IC 31-9-2-59; IC 31-9-2-81; IC 31-17-3.

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