

By: Representative Watson

To: Judiciary A

HOUSE BILL NO. 855

1 AN ACT TO ENACT THE UNIFORM CHILD CUSTODY JURISDICTION AND  
 2 ENFORCEMENT ACT, WHICH SHALL SUPERCEDE THE UNIFORM CHILD CUSTODY  
 3 JURISDICTION ACT ADOPTED IN 1982 AND BEING REPEALED IN THIS ACT;  
 4 TO SET FORTH DEFINITIONS; TO PROVIDE THAT THE ACT SHALL APPLY TO  
 5 INDIAN TRIBES AND FOREIGN COUNTRIES; TO PROVIDE FOR THE EFFECT OF  
 6 A CHILD CUSTODY DETERMINATION UNDER THE ACT; TO PROVIDE FOR  
 7 NOTICE AND OTHER PROCEDURAL MATTERS IN JUDICIAL PROCEEDINGS  
 8 INVOLVING CHILD CUSTODY JURISDICTION AND ENFORCEMENT; TO PROVIDE  
 9 RULES FOR DETERMINING JURISDICTION IN CHILD CUSTODY MATTERS UNDER  
 10 THIS ACT; TO PROVIDE PROCEDURES FOR ENFORCEMENT OF CHILD CUSTODY  
 11 DETERMINATIONS UNDER THIS ACT; TO REPEAL SECTIONS 93-23-1 THROUGH  
 12 93-23-47, MISSISSIPPI CODE OF 1972, WHICH CONSTITUTE THE UNIFORM  
 13 CHILD CUSTODY JURISDICTION ACT ADOPTED IN 1982; AND FOR RELATED  
 14 PURPOSES.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

16 SECTION 1. The provisions of this chapter may be cited as  
 17 the Uniform Child Custody Jurisdiction and Enforcement Act.

18 SECTION 2. In this chapter, the following words and phrases  
 19 shall have the meanings ascribed in this section unless the  
 20 context clearly indicates otherwise:

21 (a) "Abandoned" means left without provision for  
 22 reasonable and necessary care or supervision.

23 (b) "Child" means an individual who has not attained  
 24 eighteen (18) years of age.

25 (c) "Child custody determination" means a judgment,  
 26 decree, or other order of a court providing for the legal custody,  
 27 physical custody, or visitation with respect to a child. The term  
 28 includes a permanent, temporary, initial, and modification order.  
 29 The term does not include an order relating to child support or  
 30 other monetary obligation of an individual.

31 (d) "Child custody proceeding" means a proceeding in  
 32 which legal custody, physical custody, or visitation with respect

33 to a child is an issue. The term includes a proceeding for  
34 divorce, separation, neglect, abuse, dependency, guardianship,  
35 paternity, termination of parental rights, and protection from  
36 domestic violence, in which the issue may appear. The term does  
37 not include a proceeding involving juvenile delinquency,  
38 contractual emancipation, or enforcement under Sections 23 through  
39 38 of this act.

40 (e) "Commencement" means the filing of the first  
41 pleading in a proceeding.

42 (f) "Court" means an entity authorized under the law of  
43 a state to establish, enforce, or modify a child custody  
44 determination.

45 (g) "Home state" means the state in which a child lived  
46 with a parent or a person acting as a parent for at least six (6)  
47 consecutive months immediately before the commencement of a child  
48 custody proceeding. In the case of a child less than six (6)  
49 months of age, the term means the state in which the child lived  
50 from birth with any of the persons mentioned. A period of  
51 temporary absence of any of the mentioned persons is part of the  
52 period.

53 (h) "Initial determination" means the first child  
54 custody determination concerning a particular child.

55 (i) "Issuing court" means the court that makes a child  
56 custody determination for which enforcement is sought under this  
57 chapter.

58 (j) "Issuing state" means the state in which a child  
59 custody determination is made.

60 (k) "Modification" means a child custody determination  
61 that changes, replaces, supersedes, or is otherwise made after a  
62 previous determination concerning the same child, whether or not  
63 it is made by the court that made the previous determination.

64 (l) "Person" means an individual, corporation, business  
65 trust, estate, trust, partnership, limited liability company,

66 association, joint venture, government, governmental subdivision,  
67 agency, or instrumentality, public corporation, or any other legal  
68 or commercial entity.

69 (m) "Person acting as a parent" means a person, other  
70 than a parent, who:

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

75 (ii) Has been awarded legal custody by a court or  
76 claims a right to legal custody under the law of this state.

77 (n) "Petitioner" means a person who seeks enforcement  
78 of (i) an order for return of a child under the Hague Convention  
79 on the Civil Aspects of International Child Abduction or (ii) a  
80 child custody determination.

81 (o) "Physical custody" means the physical care and  
82 supervision of a child.

83 (p) "Respondent" means a person against whom a  
84 proceeding has been commenced for enforcement of (i) an order for  
85 return of a child under the Hague Convention on the Civil Aspects  
86 of International Child Abduction or (ii) a child custody  
87 determination.

88 (q) "State" means a state of the United States, the  
89 District of Columbia, Puerto Rico, the United States Virgin  
90 Islands, or any territory or insular possession subject to the  
91 jurisdiction of the United States.

92 (r) "Tribe" means an Indian tribe or band, or Alaskan  
93 Native village, which is recognized by federal law or formally  
94 acknowledged by a state.

95 (s) "Warrant" means an order issued by a court  
96 authorizing law enforcement officers to take physical custody of a  
97 child.

98           SECTION 3. This chapter does not govern an adoption  
99 proceeding or a proceeding pertaining to the authorization of  
100 emergency medical care for a child.

101           SECTION 4. (1) A child custody proceeding that pertains to  
102 an Indian child as defined in the Indian Child Welfare Act, 25  
103 USCS Section 1901 et seq., is not subject to this chapter to the  
104 extent that it is governed by the Indian Child Welfare Act.

105           (2) A court of this state shall treat a tribe as if it were  
106 a state of the United States for the purpose of applying Sections  
107 2 through 22 of this act.

108           (3) A child custody determination made by a tribe under  
109 factual circumstances in substantial conformity with the  
110 jurisdictional standards of this chapter must be recognized and  
111 enforced under Sections 23 through 38 of this act.

112           SECTION 5. (1) A court of this state shall treat a foreign  
113 country as if it were a state of the United States for the purpose  
114 of applying Sections 2 through 22 of this act.

115           (2) Except as otherwise provided in subsection (3), a child  
116 custody determination made in a foreign country under factual  
117 circumstances in substantial conformity with the jurisdictional  
118 standards of this chapter must be recognized and enforced under  
119 Sections 23 through 38 of this act.

120           (3) A court of this State need not apply this chapter if the  
121 child custody law of a foreign country violates fundamental  
122 principles of human rights.

123           SECTION 6. A child custody determination made by a court of  
124 this state that had jurisdiction under this chapter binds all  
125 persons who have been served in accordance with the laws of this  
126 state or notified in accordance with Section 8 of this act or who  
127 have submitted to the jurisdiction of the court, and who have been  
128 given an opportunity to be heard.

129           As to those persons, the determination is conclusive as to  
130 all decided issues of law and fact except to the extent the  
131 determination is modified.

132           SECTION 7. If a question of existence or exercise of  
133 jurisdiction under this chapter is raised in a child custody  
134 proceeding, the question, upon request of a party, must be given  
135 priority on the calendar and handled expeditiously.

136           SECTION 8. (1) Notice required for the exercise of  
137 jurisdiction when a person is outside this state may be given in a  
138 manner prescribed by the law of this state for service of process  
139 or by the law of the state in which the service is made. Notice  
140 must be given in a manner reasonably calculated to give actual  
141 notice but may be by publication if other means are not effective.

142           (2) Proof of service may be made in the manner prescribed by  
143 the law of this state or by the law of the state in which the  
144 service is made.

145           (3) Notice is not required for the exercise of jurisdiction  
146 with respect to a person who submits to the jurisdiction of the  
147 court.

148           SECTION 9. (1) A party to a child custody proceeding,  
149 including a modification proceeding, or a petitioner or respondent  
150 in a proceeding to enforce or register a child custody  
151 determination, is not subject to personal jurisdiction in this  
152 state for another proceeding or purpose solely by reason of having  
153 participated, or of having been physically present for the purpose  
154 of participating, in the proceeding.

155           (2) A person who is subject to personal jurisdiction in this  
156 state on a basis other than physical presence is not immune from  
157 service of process in this state. A party present in this state  
158 who is subject to the jurisdiction of another state is not immune  
159 from service of process allowable under the laws of that state.

160           (3) The immunity granted by subsection (1) does not extend  
161 to civil litigation based on acts unrelated to the participation

162 in a proceeding under this chapter committed by an individual  
163 while present in this state.

164 SECTION 10. (1) A court of this state may communicate with  
165 a court in another state concerning a proceeding arising under  
166 this chapter.

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

171 (3) Communication between courts on schedules, calendars,  
172 court records, and similar matters may occur without informing the  
173 parties. A record need not be made of the communication.

174 (4) Except as otherwise provided in subsection (3), a record  
175 must be made of a communication under this section. The parties  
176 must be informed promptly of the communication and granted access  
177 to the record.

178 (5) For the purposes of this section, "record" means  
179 information that is inscribed on a tangible medium or that is  
180 stored in an electronic or other medium and is retrievable in  
181 perceivable form.

182 SECTION 11. (1) In addition to other procedures available  
183 to a party, a party to a child custody proceeding may offer  
184 testimony of witnesses who are located in another state, including  
185 testimony of the parties and the child, by deposition or other  
186 means allowable in this state for testimony taken in another  
187 state. The court on its own motion may order that the testimony  
188 of a person be taken in another state and may prescribe the manner  
189 in which and the terms upon which the testimony is taken.

190 (2) A court of this state may permit an individual residing  
191 in another state to be deposed or to testify by telephone,  
192 audiovisual means, or other electronic means before a designated  
193 court or at another location in that state. A court of this state

194 shall cooperate with courts of other states in designating an  
195 appropriate location for the deposition or testimony.

196 (3) Documentary evidence transmitted from another state to a  
197 court of this state by technological means which do not produce an  
198 original writing may not be excluded from evidence on an objection  
199 based on the means of transmission.

200 SECTION 12. (1) A court of this state may request the  
201 appropriate court of another state to:

202 (a) Hold an evidentiary hearing;

203 (b) Order a person to produce or give evidence pursuant  
204 to procedures of that state;

205 (c) Order that an evaluation be made with respect to  
206 the custody of a child involved in a pending proceeding;

207 (d) Forward to the court of this state a certified copy  
208 of the transcript of the record of the hearing, the evidence  
209 otherwise presented, and any evaluation prepared in compliance  
210 with the request; and

211 (e) Order a party to a child custody proceeding or any  
212 person having physical custody of the child to appear in the  
213 proceeding with or without the child.

214 (2) Upon request of a court of another state, a court of  
215 this state may hold a hearing or enter an order described in  
216 subsection (1).

217 (3) Travel and other necessary and reasonable expenses  
218 incurred under subsections (1) and (2) may be assessed against the  
219 parties according to the law of this state.

220 (4) A court of this state shall preserve the pleadings,  
221 orders, decrees, records of hearings, evaluations, and other  
222 pertinent records with respect to a child custody proceeding until  
223 the child attains eighteen (18) years of age. Upon appropriate  
224 request by a court or law enforcement official of another state,  
225 the court shall forward a certified copy of those records.

226           SECTION 13. (1) Except as otherwise provided in Section 16  
227 of this act, a court of this state has jurisdiction to make an  
228 initial child custody determination only if:

229           (a) This state is the home state of the child on the  
230 date of the commencement of the proceeding, or was the home state  
231 of the child within six (6) months before the commencement of the  
232 proceeding and the child is absent from this state but a parent or  
233 person acting as a parent continues to live in this state;

234           (b) A court of another state does not have jurisdiction  
235 under paragraph (a), or a court of the home state of the child has  
236 declined to exercise jurisdiction on the ground that this state is  
237 the more appropriate forum under Section 19 or 20 of this act;  
238 and:

239           (i) The child and the child's parents, or the  
240 child and at least one (1) parent or a person acting as a parent,  
241 have a significant connection with this state other than mere  
242 physical presence; and

243           (ii) Substantial evidence is available in this  
244 state concerning the child's care, protection, training, and  
245 personal relationships;

246           (c) All courts having jurisdiction under paragraph (a)  
247 or (b) of this subsection have declined to exercise jurisdiction  
248 on the ground that a court of this state is the more appropriate  
249 forum to determine the custody of the child under Section 19 or 20  
250 of this act; or

251           (d) No court of any other state would have jurisdiction  
252 under the criteria specified in paragraph (a), (b), or (c) of this  
253 section.

254           (2) Subsection (1) is the exclusive jurisdictional basis for  
255 making a child custody determination by a court of this state.

256           (3) Physical presence of, or personal jurisdiction over, a  
257 party or a child is not necessary or sufficient to make a child  
258 custody determination.

259           SECTION 14. (1) Except as otherwise provided in Section 16  
260 of this act, a court of this state which has made a child custody  
261 determination consistent with Section 13 or 15 of this act has  
262 exclusive, continuing jurisdiction over the determination until:

263           (a) A court of this state determines that neither the  
264 child, the child's parents, nor any person acting as a parent does  
265 not have a significant connection with this state and that  
266 substantial evidence is no longer available in this state  
267 concerning the child's care, protection, training, and personal  
268 relationships; or

269           (b) A court of this state or a court of another state  
270 determines that neither the child, the child's parents, nor any  
271 person acting as a parent presently does not reside in this state.

272           (2) A court of this state which has made a child custody  
273 determination and does not have exclusive, continuing jurisdiction  
274 under this section may modify that determination only if it has  
275 jurisdiction to make an initial determination under Section 13 of  
276 this act.

277           SECTION 15. Except as otherwise provided in Section 16 of  
278 this act, a court of this state may not modify a child custody  
279 determination made by a court of another state unless a court of  
280 this state has jurisdiction to make an initial determination under  
281 Section 13(1)(a) or (b) of this act; and:

282           (a) The court of the other state determines it no  
283 longer has exclusive, continuing jurisdiction under Section 14 of  
284 this act or that a court of this state would be a more convenient  
285 forum under Section 19 of this act; or

286           (b) A court of this state or a court of the other state  
287 determines that neither the child, the child's parents, nor any  
288 person acting as a parent presently does not reside in the other  
289 state.

290           SECTION 16. (1) A court of this state has temporary  
291 emergency jurisdiction if the child is present in this state and

292 the child has been abandoned or it is necessary in an emergency to  
293 protect the child because the child, or a sibling or parent of the  
294 child, is subjected to or threatened with mistreatment or abuse.

295 (2) If there is no previous child custody determination that  
296 is entitled to be enforced under this chapter and a child custody  
297 proceeding has not been commenced in a court of a state having  
298 jurisdiction under Sections 13 through 15 of this act, a child  
299 custody determination made under this section remains in effect  
300 until an order is obtained from a court of a state having  
301 jurisdiction under Sections 13 through 15 of this act. If a child  
302 custody proceeding has not been or is not commenced in a court of  
303 a state having jurisdiction under Sections 13 through 15 of this  
304 act, a child custody determination made under this section becomes  
305 a final determination, if it so provides and this state becomes  
306 the home state of the child.

307 (3) If there is a previous child custody determination that  
308 is entitled to be enforced under this chapter, or a child custody  
309 proceeding has been commenced in a court of a state having  
310 jurisdiction under Sections 13 through 15 of this act, any order  
311 issued by a court of this state under this section must specify in  
312 the order a period that the court considers adequate to allow the  
313 person seeking an order to obtain an order from the state having  
314 jurisdiction under Sections 13 through 15 of this act. The order  
315 issued in this state remains in effect until an order is obtained  
316 from the other state within the period specified or the period  
317 expires.

318 (4) A court of this state which has been asked to make a  
319 child custody determination under this section, upon being  
320 informed that a child custody proceeding has been commenced in, or  
321 a child custody determination has been made by, a court of a state  
322 having jurisdiction under Sections 13 through 15 of this act,  
323 shall immediately communicate with the other court. A court of  
324 this state which is exercising jurisdiction pursuant to Sections

325 13 through 15 of this act, upon being informed that a child  
326 custody proceeding has been commenced in, or a child custody  
327 determination has been made by, a court of another state under a  
328 statute similar to this section shall immediately communicate with  
329 the court of that state to resolve the emergency, protect the  
330 safety of the parties and the child, and determine a period for  
331 the duration of the temporary order.

332           SECTION 17. (1) Before a child custody determination  
333 is made under this chapter, notice and an opportunity to be heard  
334 in accordance with the standards of Section 8 of this act must be  
335 given to all persons entitled to notice under the law of this  
336 state as in child custody proceedings between residents of this  
337 state, any parent whose parental rights have not been previously  
338 terminated, and any person having physical custody of the child.

339           (2) This chapter does not govern the enforceability of a  
340 child custody determination made without notice or an opportunity  
341 to be heard.

342           (3) The obligation to join a party and the right to  
343 intervene as a party in a child custody proceeding under this  
344 chapter are governed by the law of this state as in child custody  
345 proceedings between residents of this state.

346           SECTION 18. (1) Except as otherwise provided in Section 16  
347 of this act, a court of this state may not exercise its  
348 jurisdiction under this act if, at the time of the commencement of  
349 the proceeding, a proceeding concerning the custody of the child  
350 has been commenced in a court of another state having jurisdiction  
351 substantially in conformity with this chapter, unless the  
352 proceeding has been terminated or is stayed by the court of the  
353 other state because a court of this State is a more convenient  
354 forum under Section 19 of this act.

355           (2) Except as otherwise provided in Section 16 of this act,  
356 a court of this state, before hearing a child custody proceeding,  
357 shall examine the court documents and other information supplied

358 by the parties pursuant to Section 21 of this act. If the court  
359 determines that a child custody proceeding has been commenced in a  
360 court in another state having jurisdiction substantially in  
361 accordance with this chapter, the court of this state shall stay  
362 its proceeding and communicate with the court of the other state.  
363 If the court of the state having jurisdiction substantially in  
364 accordance with this chapter does not determine that the court of  
365 this state is a more appropriate forum, the court of this state  
366 shall dismiss the proceeding.

367 (3) In a proceeding to modify a child custody determination,  
368 a court of this state shall determine whether a proceeding to  
369 enforce the determination has been commenced in another state. If  
370 a proceeding to enforce a child custody determination has been  
371 commenced in another state, the court may:

372 (a) Stay the proceeding for modification pending the  
373 entry of an order of a court of the other state enforcing,  
374 staying, denying, or dismissing the proceeding for enforcement;

375 (b) Enjoin the parties from continuing with the  
376 proceeding for enforcement; or

377 (c) Proceed with the modification under conditions it  
378 considers appropriate.

379 SECTION 19. (1) A court of this state which has  
380 jurisdiction under this chapter to make a child custody  
381 determination may decline to exercise its jurisdiction at any time  
382 if it determines that it is an inconvenient forum under the  
383 circumstances and that a court of another state is a more  
384 appropriate forum. The issue of inconvenient forum may be raised  
385 upon motion of a party, the court's own motion, or request of  
386 another court.

387 (2) Before determining whether it is an inconvenient forum,  
388 a court of this state shall consider whether it is appropriate for  
389 a court of another state to exercise jurisdiction. For this

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

392 (a) Whether domestic violence has occurred and is  
393 likely to continue in the future and which state could best  
394 protect the parties and the child;

395 (b) The length of time the child has resided outside  
396 this state;

397 (c) The distance between the court in this state and  
398 the court in the state that would assume jurisdiction;

399 (d) The relative financial circumstances of the  
400 parties;

401 (e) Any agreement of the parties as to which state  
402 should assume jurisdiction;

403 (f) The nature and location of the evidence required to  
404 resolve the pending litigation, including testimony of the child;

405 (g) The ability of the court of each state to decide  
406 the issue expeditiously and the procedures necessary to present  
407 the evidence; and

408 (h) The familiarity of the court of each state with the  
409 facts and issues in the pending litigation.

410 (3) If a court of this state determines that it is an  
411 inconvenient forum and that a court of another state is a more  
412 appropriate forum, it shall stay the proceedings upon condition  
413 that a child custody proceeding be promptly commenced in another  
414 designated state and may impose any other condition the  
415 court considers just and proper.

416 (4) A court of this state may decline to exercise its  
417 jurisdiction under this chapter if a child custody determination  
418 is incidental to an action for divorce or another proceeding while  
419 still retaining jurisdiction over the divorce or other proceeding.

420 SECTION 20. (1) Except as otherwise provided in Section 16  
421 of this act or by other law of this state, if a court of this  
422 state has jurisdiction under this chapter because a person seeking

423 to invoke its jurisdiction has engaged in unjustifiable conduct,  
424 the court shall decline to exercise its jurisdiction unless:

425 (a) The parents and all persons acting as parents have  
426 acquiesced in the exercise of jurisdiction;

427 (b) A court of the state otherwise having jurisdiction  
428 under Sections 13 through 15 of this act determines that this  
429 state is a more appropriate forum under Section 19 of this act; or

430 (c) No court of any other state would have jurisdiction  
431 under the criteria specified in Sections 13 through 15 of this  
432 act.

433 If a court of this state declines to exercise its  
434 jurisdiction pursuant to subsection (1), it may fashion an  
435 appropriate remedy to ensure the safety of the child and prevent a  
436 repetition of the unjustifiable conduct, including staying the  
437 proceeding until a child custody proceeding is commenced in a  
438 court having jurisdiction under Sections 13 through 15 of this  
439 act.

440 (3) If a court dismisses a petition or stays a proceeding  
441 because it declines to exercise its jurisdiction under subsection  
442 (1), it shall assess against the party seeking to invoke its  
443 jurisdiction necessary and reasonable expenses including court  
444 costs, communication expenses, attorney's fees, investigative  
445 fees, expenses for witnesses, travel expenses, and expensive for  
446 child care during the course of the proceedings, unless the party  
447 from whom fees are sought establishes that the assessment would be  
448 clearly inappropriate. The court may not assess fees, costs, or  
449 expenses against this state unless authorized by law other than  
450 this chapter.

451 SECTION 21. (1) Subject to any law providing for the  
452 confidentiality of procedures, addresses, and other identifying  
453 information, in a child custody proceeding, each party, in its  
454 first pleading or in an attached affidavit, shall give  
455 information, if reasonably ascertainable, under oath as to the

456 child's present address or whereabouts, the places where the child  
457 has lived during the last five (5) years, and the names and  
458 present addresses of the persons with whom the child has lived  
459 during that period. The pleading or affidavit must state whether  
460 the party:

461 (a) Has participated, as a party or witness or in any  
462 other capacity, in any other proceeding concerning the custody of  
463 or visitation with the child and, if so, identify the court, the  
464 case number, and the date of the child custody determination, if  
465 any;

466 (b) Knows of any proceeding that could affect the  
467 current proceeding, including proceedings for enforcement and  
468 proceedings relating to domestic violence, protective orders,  
469 termination of parental rights, and adoptions and, if so, identify  
470 the court, the case number, and the nature of the proceeding; and

471 (c) Knows the names and addresses of any person not a  
472 party to the proceeding who has physical custody of the child or  
473 claims rights of legal custody or physical custody of, or  
474 visitation with, the child and, if so, the names and addresses of  
475 those persons.

476 (2) If the information required by subsection (1) is not  
477 furnished, the court, upon motion of a party or its own motion,  
478 may stay the proceeding until the information is furnished.

479 (3) If the declaration as to any of the items described in  
480 subsection (1)(a) through (c) is in the affirmative, the declarant  
481 shall give additional information under oath as required by the  
482 court. The court may examine the parties under oath as to details  
483 of the information furnished and other matters pertinent to the  
484 court's jurisdiction and the disposition of the case.

485 (4) Each party has a continuing duty to inform the court of  
486 any proceeding in this or any other state that could affect the  
487 current proceeding.

488 (5) If a party alleges in an affidavit or a pleading under  
489 oath that the health, safety, or liberty of a party or child would  
490 be jeopardized by disclosure of identifying information, the  
491 information must be sealed and may not be disclosed to the other  
492 party or the public, unless the court orders the disclosure to be  
493 made after a hearing in which the court takes into consideration  
494 the health, safety, or liberty of the party or child and  
495 determines that the disclosure is in the interest of justice.

496 SECTION 22. (1) In a child custody proceeding in this  
497 state, the court may order a party to the proceeding who is in  
498 this state to appear before the court in person with or without  
499 the child. The court may order any person who is in this state  
500 and who has physical custody or control of the child to appear in  
501 person with the child.

502 (2) If a party to a child custody proceeding whose presence  
503 is desired by the court is outside this state, the court may order  
504 that a notice given under Section 8 of this act include a  
505 statement directing the party to appear in person with or without  
506 the child and informing the party that failure to appear may  
507 result in a decision adverse to the party.

508 (3) The court may enter any orders necessary to ensure the  
509 safety of the child and of any person ordered to appear under this  
510 section.

511 (4) If a party to a child custody proceeding who is outside  
512 this state is directed to appear under subsection (2) or desires  
513 to appear personally before the court with or without the child,  
514 the court may require another party to pay reasonable and  
515 necessary travel and other expenses of the party so appearing and  
516 of the child.

517 SECTION 23. Under Sections 23 through 38 of this act, a  
518 court of this state may enforce an order for the return of the  
519 child made under the Hague Convention on the Civil Aspects of

520 International Child Abduction as if it were a child custody  
521 determination.

522       SECTION 24. (1) A court of this state shall recognize and  
523 enforce a child custody determination of a court of another state  
524 if the latter court exercised jurisdiction in substantial  
525 conformity with this chapter or the determination was made under  
526 factual circumstances meeting the jurisdictional standards of this  
527 chapter and the determination has not been modified in accordance  
528 with this chapter.

529       (2) A court of this state may utilize any remedy available  
530 under other law of this state to enforce a child custody  
531 determination made by a court of another state. The remedies  
532 provided in Sections 23 through 38 of this act are cumulative and  
533 do not affect the availability of other remedies to enforce a  
534 child custody determination.

535       SECTION 25. (1) A court of this state which does not have  
536 jurisdiction to modify a child custody determination, may issue a  
537 temporary order enforcing:

538           (a) A visitation schedule made by a court of another  
539 state; or

540           (b) The visitation provisions of a child custody  
541 determination of another state that does not provide for a  
542 specific visitation schedule.

543       (2) If a court of this State makes an order under subsection  
544 (1)(a), it shall specify in the order a period that it considers  
545 adequate to allow the petitioner to obtain an order from a court  
546 having jurisdiction under the criteria specified in Sections 13  
547 through 22 of this act. The order remains in effect until an  
548 order is obtained from the other court or the period expires.

549       SECTION 26. (1) A child custody determination issued by a  
550 court of another state may be registered in this state, with or  
551 without a simultaneous request for enforcement, by sending to the  
552 chancery clerk's office of any county in this state:

553           (a) A letter or other document requesting registration;  
554           (b) Two (2) copies, including one (1) certified copy,  
555 of the determination sought to be registered, and a statement  
556 under penalty of perjury that to the best of the knowledge and  
557 belief of the person seeking registration the order has not been  
558 modified; and

559           (c) Except as otherwise provided in Section 21 of this  
560 act, the name and address of the person seeking registration and  
561 any parent or person acting as a parent who has been awarded  
562 custody or visitation in the child custody determination sought to  
563 be registered.

564           (2) On receipt of the documents required by subsection (1),  
565 the registering court shall:

566           (a) Cause the determination to be filed as a foreign  
567 judgment, together with one (1) copy of any accompanying documents  
568 and information, regardless of their form; and

569           (b) Serve notice upon the persons named under  
570 subsection (1)(c) and provide them with an opportunity to contest  
571 the registration in accordance with this section.

572           (3) The notice required by subsection (2)(b) must state  
573 that:

574           (a) A registered determination is enforceable as of the  
575 date of the registration in the same manner as a determination  
576 issued by a court of this state;

577           (b) A hearing to contest the validity of the registered  
578 determination must be requested within twenty (20) days after  
579 service of notice; and

580           (c) Failure to contest the registration will result in  
581 confirmation of the child custody determination and preclude  
582 further contest of that determination with respect to any matter  
583 that could have been asserted.

584           (4) A person seeking to contest the validity of a registered  
585 order must request a hearing within twenty (20) days after service

586 of the notice. At that hearing, the court shall confirm the  
587 registered order unless the person contesting registration  
588 establishes that:

589 (a) The issuing court did not have jurisdiction under  
590 Sections 13 through 23 of this act;

591 (b) The child custody determination sought to be  
592 registered has been vacated, stayed, or modified by a court having  
593 jurisdiction to do so under Sections 13 through 23 of this act; or

594 (c) The person contesting registration was entitled to  
595 notice, but notice was not given in accordance with the standards  
596 of Section 8 of this act, in the proceedings before the court that  
597 issued the order for which registration is sought.

598 (5) If a timely request for a hearing to contest the  
599 validity of the registration is not made, the registration is  
600 confirmed as a matter of law and the person requesting  
601 registration and all persons served must be notified of the  
602 confirmation.

603 (6) Confirmation of a registered order, whether by operation  
604 of law or after notice and hearing, precludes further contest of  
605 the order with respect to any matter that could have been asserted  
606 at the time of registration.

607 SECTION 27. (1) A court of this state may grant any relief  
608 normally available under the law of this state to enforce a  
609 registered child custody determination made by a court of another  
610 state.

611 (2) A court of this state shall recognize and enforce, but  
612 may not modify, except in accordance with Sections 13 through 22  
613 of this act, a registered child custody determination of a court  
614 of another state.

615 SECTION 28. If a proceeding for enforcement under Sections  
616 23 through 38 of this act is commenced in a court of this state  
617 and the court determines that a proceeding to modify the  
618 determination is pending in a court of another state having

619 jurisdiction to modify the determination under Sections 13 through  
620 22 of this act, the enforcing court shall immediately communicate  
621 with the modifying court. The proceeding for enforcement  
622 continues unless the enforcing court, after consultation with the  
623 modifying court, stays or dismisses the proceeding.

624 SECTION 29. A petition under Sections 23 through 38 of this  
625 act must be verified. Certified copies of all orders sought to be  
626 enforced and of any order confirming registration must be attached  
627 to the petition. A copy of a certified copy of an order may be  
628 attached instead of the original.

629 (2) A petition for enforcement of a child custody  
630 determination must state:

631 (a) Whether the court that issued the determination  
632 identified the jurisdictional basis it relied upon in exercising  
633 jurisdiction and, if so, what the basis was;

634 (b) Whether the determination for which enforcement is  
635 sought has been vacated, stayed, or modified by a court whose  
636 decision must be enforced under this chapter and, if so, identify  
637 the court, the case number, and the nature of the proceeding;

638 (c) Whether any proceeding has been commenced that  
639 could affect the current proceeding, including proceedings  
640 relating to domestic violence, protective orders, termination of  
641 parental rights, and adoptions and, if so, identify the court, the  
642 case number, and the nature of the proceeding;

643 (d) The present physical address of the child and the  
644 respondent, if known;

645 (e) Whether relief in addition to the immediate  
646 physical custody of the child and attorney's fees is sought,  
647 including a request for assistance from law enforcement officials  
648 and, if so, the relief sought; and

649 (f) If the child custody determination has been  
650 registered and confirmed under Section 26 of this act, the date  
651 and place of registration.

652           (3) Upon the filing of a petition, the court shall issue an  
653 order directing the respondent to appear in person with or without  
654 the child at a hearing and may enter any order necessary to ensure  
655 the safety of the parties and the child. The hearing must be held  
656 on the next judicial day after service of the order unless that  
657 date is impossible. In that event, the court shall hold the  
658 hearing on the first judicial day possible. The court may extend  
659 the date of hearing at the request of the petitioner.

660           (4) An order issued under subsection (3) must state the time  
661 and place of the hearing and advise the respondent that at the  
662 hearing the court will order that the petitioner may take  
663 immediate physical custody of the child and the payment of fees,  
664 costs, and expenses under Section 33 of this act, and may schedule  
665 a hearing to determine whether further relief is appropriate,  
666 unless the respondent appears and establishes that:

667           (a) The child custody determination has not been  
668 registered and confirmed under Section 26 of this act and that:

669                   (i) The issuing court did not have jurisdiction  
670 under this act;

671                   (ii) The child custody determination for which  
672 enforcement is sought has been vacated, stayed, or modified by a  
673 court having jurisdiction to do so under Sections 13 through 22 of  
674 this act;

675                   (iii) The respondent was entitled to notice, but  
676 notice was not given in accordance with the standards of Section 8  
677 of this act, in the proceedings before the court that issued the  
678 order for which enforcement is sought; or

679           (b) The child custody determination for which  
680 enforcement is sought was registered and confirmed under Section  
681 25 of this act, but has been vacated, stayed, or modified by a  
682 court of a state having jurisdiction to do so under this act.

683           SECTION 30. Except as otherwise provided in Section 32 of  
684 this act, the petition and order must be served, by any method

685 authorized by the law of this state, upon respondent and any  
686 person who has physical custody of the child.

687 SECTION 31. (1) Unless the court issues a temporary  
688 emergency order under Section 16 of this act, upon a finding that  
689 a petitioner is entitled to immediate physical custody of the  
690 child, the court shall order that the petitioner may take  
691 immediate physical custody of the child unless the respondent  
692 establishes that:

693 (a) The child custody determination has not been  
694 registered and confirmed under Section 26 of this act and that:

695 (i) The issuing court did not have jurisdiction  
696 under this act;

697 (ii) The child custody determination for which  
698 enforcement is sought has been vacated, stayed, or modified by a  
699 court of a state having jurisdiction to do so under Section 13  
700 through 22 of this act; or

701 (iii) The respondent was entitled to notice, but  
702 notice was not given in accordance with the standards of Section 8  
703 of this act, in the proceedings before the court that issued the  
704 order for which enforcement is sought; or

705 (b) The child custody determination for which  
706 enforcement is sought was registered and confirmed under Section  
707 26 of this act but has been vacated, stayed, or modified by a  
708 court of a state having jurisdiction to do so under Sections 13  
709 through 22 of this act.

710 (2) The court shall award the fees, costs, and expenses  
711 authorized under Section 33 of this act and may grant additional  
712 relief, including a request for the assistance of law enforcement  
713 officials, and set a further hearing to determine whether  
714 additional relief is appropriate.

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

718 (4) A privilege against disclosure of communications between  
719 spouses and a defense of immunity based on the relationship of  
720 husband and wife or parent and child may not be invoked in a  
721 proceeding under this act.

722 SECTION 32. (1) Upon the filing of a petition seeking  
723 enforcement of a child custody determination, the petitioner may  
724 file a verified application for the issuance of a warrant to take  
725 physical custody of the child if the child is immediately likely  
726 to suffer serious physical harm or be removed from this state.

727 (2) If the court, upon the testimony of the petitioner or  
728 other witness, finds that the child is imminently likely to suffer  
729 serious physical harm or be removed from this state, it may issue  
730 a warrant to take physical custody of the child. The petition  
731 must be heard on the next judicial day after the warrant is  
732 executed unless that date is impossible. In that event, the court  
733 shall hold the hearing on the first judicial day possible. The  
734 application for the warrant must include the statements required  
735 by Section 29(2) of this act.

736 (3) A warrant to take physical custody of a child must:

737 (a) Recite the facts upon which a conclusion of  
738 imminent serious physical harm or removal from the jurisdiction is  
739 based;

740 (b) Direct law enforcement officers to take physical  
741 custody of the child immediately; and

742 (c) Provide for the placement of the child pending  
743 final relief.

744 (4) The respondent must be served with the petition,  
745 warrant, and order immediately after the child is taken into  
746 physical custody.

747 (5) A warrant to take physical custody of a child is  
748 enforceable throughout this state. If the court finds on the  
749 basis of the testimony of the petitioner or other witness that a  
750 less intrusive remedy is not effective, it may authorize law

751 enforcement officers to enter private property to take physical  
752 custody of the child. If required by exigent circumstances of the  
753 case, the court may authorize law enforcement officers to make a  
754 forcible entry at any hour.

755 (6) The court may impose conditions upon placement of a  
756 child to ensure the appearance of the child and the child's  
757 custodian.

758 SECTION 33. (1) The court shall award the prevailing party,  
759 including a state, necessary and reasonable expenses incurred by  
760 or on behalf of the party, including costs, communication  
761 expenses, attorney's fees, investigative fees, expenses for  
762 witnesses, travel expenses, and child care during the course of  
763 the proceedings, unless the party from whom fees or expenses are  
764 sought establishes that the award would be clearly inappropriate.

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

767 SECTION 34. A court of this state shall accord full faith  
768 and credit to an order issued by another state and consistent with  
769 this chapter which enforces a child custody determination by a  
770 court of another state unless the order has been vacated, stayed,  
771 or modified by a court having jurisdiction to do so under Sections  
772 13 through 22 of this act.

773 SECTION 35. An appeal may be taken from a final order in a  
774 proceeding under Sections 23 through 38 of this act in accordance  
775 with expedited appellate procedures in other civil cases. Unless  
776 the court enters a temporary emergency order under Section 16 of  
777 this act, the enforcing court may not stay an order enforcing a  
778 child custody determination pending appeal.

779 SECTION 36. (1) In a case arising under this chapter or  
780 involving the Hague Convention on the Civil Aspects of  
781 International Child Abduction, the prosecutor or other appropriate  
782 public official may take any lawful action, including resort to a  
783 proceeding under Sections 23 through 38 of this act or any other

784 available civil proceeding to locate a child, obtain the return of  
785 a child, or enforce a child custody determination if there is:

786 (a) An existing child custody determination;

787 (b) A request to do so from a court in a pending child  
788 custody proceeding;

789 (c) A reasonable belief that a criminal statute has  
790 been violated; or

791 (d) A reasonable belief that the child has been  
792 wrongfully removed or retained in violation of the Hague  
793 Convention on the Civil Aspects of International Child Abduction.

794 (2) A prosecutor or appropriate public official acting under  
795 this section acts on behalf of the court and may not represent any  
796 party.

797 SECTION 37. At the request of a prosecutor or other  
798 appropriate public official acting under Section 36 of this act, a  
799 law enforcement officer may take any lawful action reasonably  
800 necessary to locate a child or a party and assist a prosecutor or  
801 appropriate public official with responsibilities under Section 36  
802 of this act.

803 SECTION 38. If the respondent is not the prevailing party,  
804 the court may assess against the respondent all direct expenses  
805 and costs incurred by the prosecutor or other appropriate public  
806 official and law enforcement officers under Section 36 or 37 of  
807 this act.

808 SECTION 39. Sections 93-23-1, 93-23-3, 93-23-5, 93-23-7,  
809 93-23-9, 93-23-11, 93-23-13, 93-23-15, 93-23-17, 93-23-19,  
810 93-23-21, 93-23-23, 93-23-25, 93-23-27, 93-23-29, 93-23-31,  
811 93-23-33, 93-23-35, 93-23-37, 93-23-39, 93-23-41, 93-23-43,  
812 93-23-45, and 93-23-47, Mississippi Code of 1972, which constitute  
813 the Uniform Child Custody Jurisdiction Act adopted in 1982, are  
814 hereby repealed.

815 SECTION 40. In applying and construing this uniform act,  
816 consideration must be given to the need to promote uniformity of

817 the law with respect to its subject matter among states that enact  
818 it.

819        SECTION 41. A motion or other request for relief made in a  
820 child custody proceeding or to enforce a child custody  
821 determination which was commenced before the effective date of  
822 this chapter is governed by the law in effect at the time the  
823 motion or other request was made.

824        SECTION 42. The provisions of Sections 1 through 41 of this  
825 act shall be codified as a separate chapter in Title 93,  
826 Mississippi Code of 1972.

827        SECTION 43. This act shall take effect and be in force from  
828 and after July 1, 2001.