

By: Representative Watson

To: Judiciary A

HOUSE BILL NO. 753

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 3 JURISDICTION ACT ADOPTED IN 1982 AND BEING REPEALED IN THIS ACT;  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           (i) The child and the child's parents, or the  
239 child and at least one (1) parent or a person acting as a parent,  
240 have a significant connection with this state other than mere  
241 physical presence; and

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

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

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

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

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





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

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

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

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

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

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

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

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



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

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

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

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



324 13 through 15 of this act, upon being informed that a child  
325 custody proceeding has been commenced in, or a child custody  
326 determination has been made by, a court of another state under a  
327 statute similar to this section shall immediately communicate with  
328 the court of that state to resolve the emergency, protect the  
329 safety of the parties and the child, and determine a period for  
330 the duration of the temporary order.

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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





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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

623 **SECTION 29.** (1) A petition under Sections 23 through 38 of  
624 this act must be verified. Certified copies of all orders sought  
625 to be enforced and of any order confirming registration must be  
626 attached to the petition. A copy of a certified copy of an order  
627 may be attached instead of the original.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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





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

785 (a) An existing child custody determination;

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

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

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

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

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

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

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

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



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

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

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

826         **SECTION 43.** This act shall take effect and be in force from  
827 and after July 1, 2002.

