

SECOND REGULAR SESSION

[PERFECTED]

SENATE BILL NO. 740

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR WIGGINS.

Pre-filed December 1, 2001, and 1,000 copies ordered printed.

Read 2nd time January 14, 2002, and referred to the Committee on Aging, Families and Mental Health.

Reported from the Committee January 29, 2002, with recommendation that the bill do pass and be placed on the Consent Calendar.

Removed from the Consent Calendar January 31, 2002.

Re-reported from the Committee February 5, 2002, with recommendation that the bill do pass.

Taken up for Perfection March 14, 2002. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

2804L.01P

AN ACT

To repeal sections 452.440, 452.445, 452.450, 452.455, 452.460, 452.465, 452.470, 452.475, 452.480, 452.485, 452.490, 452.495, 452.500, 452.505, 452.510, 452.515, 452.520, 452.525, 452.530, 452.535, 452.540, 452.545, 452.550, 454.606, 454.609, 454.615, 454.618, 454.627 and 454.700 RSMo, and to enact in lieu thereof forty-six new sections relating to the uniform child custody jurisdiction act, with an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 452.440, 452.445, 452.450, 452.455, 452.460, 452.465, 452.470, 452.475, 452.480, 452.485, 452.490, 452.495, 452.500, 452.505, 452.510, 452.515, 452.520, 452.525, 452.530, 452.535, 452.540, 452.545, 452.550, 454.606, 454.609, 454.615, 454.618, 454.627 and 454.700, RSMo, are repealed and forty-six new sections enacted in lieu thereof, to be known as sections 452.700, 452.705, 452.710, 452.715, 452.720, 452.725, 452.730, 452.735, 452.740, 452.745, 452.750, 452.755, 452.760, 452.765, 452.770, 452.775, 452.780, 452.785, 452.790, 452.795, 452.800, 452.805, 452.810, 452.815, 452.820, 452.825, 452.830, 452.835,

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

452.840, 452.845, 452.850, 452.855, 452.860, 452.865, 452.870, 452.875, 452.880, 452.885, 452.890, 452.895, 454.606, 454.609, 454.615, 454.618, 454.627 and 454.700, to read as follows:

452.700. Sections 452.700 to 452.895 may be cited as the "Uniform Child Custody Jurisdiction and Enforcement Act".

452.705. As used in sections 452.700 to 452.895:

(1) "Abandoned" means left without provision for reasonable and necessary care or supervision;

(2) "Child" means an individual who has not attained eighteen years of age;

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

(4) "Child custody proceeding" means a proceeding in which legal custody, physical custody or visitation with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights and protection from domestic violence in which the issue may appear. The term shall not include a proceeding involving juvenile delinquency, contractual emancipation or enforcement pursuant to sections 452.810 to 452.885;

(5) "Commencement" means the filing of the first pleading in a proceeding;

(6) "Court" means an entity authorized pursuant to the law of a state to establish, enforce or modify a child custody determination;

(7) "Home state" means the state in which a child has lived with a parent or a person acting as a parent for at least six consecutive months immediately prior to the commencement of a child custody proceeding. In the case of a child less than six months of age, the term means the state in which the child has lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of such period;

(8) "Initial determination" means the first child custody determination concerning a particular child;

(9) "Issuing court" means the court making a child custody determination for which enforcement is sought pursuant to sections 452.700 to 452.895;

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

(11) "Modification" means a child custody determination that changes, replaces, supersedes or is otherwise made after a previous determination;

(12) "Person" includes government, a governmental subdivision, agency or instrumentality, or any other legal or commercial entity;

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

(a) Has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately prior to the commencement of a child custody proceeding; and

(b) Has been awarded legal custody by a court or claims a right to legal custody pursuant to the law of this state;

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

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

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

452.710. Sections 452.700 to 452.895 shall not govern:

(1) An adoption proceeding; or

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

452.715. A child custody proceeding that pertains to an Indian child, as defined in the Indian Child Welfare Act, 25 U.S.C. section 1901 et seq., is not subject to sections 452.700 to 452.895 to the extent that it is governed by the Indian Child Welfare Act.

452.720. 1. A court of this state shall treat a foreign country as a state of the United States for purposes of applying sections 452.700 to 452.805.

2. A child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of sections 452.700 to 452.895 shall be recognized and enforced pursuant to sections 452.810 to 452.885.

3. The court need not apply the provisions of sections 452.700 to 452.895 when the child custody law of the other country violates fundamental principles of human rights.

452.725. A child custody determination made by a court of this state that had jurisdiction pursuant to sections 452.700 to 452.895 binds all persons who have been served in accordance with the laws of this state, or notified in accordance with section 452.735, or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. The determination is conclusive as to such persons as to all decided issues of law and fact except to the extent the determination is

modified.

452.730. If a question of existence or exercise of jurisdiction pursuant to sections 452.700 to 452.895 is raised in a child custody proceeding, the question, upon request of a party, shall be given priority on the calendar and handled expeditiously.

452.735. 1. Notice required for the exercise of jurisdiction when a person is outside this state may be given in a manner prescribed by the law of this state for the service of process or by the law of the state in which the service is made. Notice shall be given in a manner reasonably calculated to give actual notice, but may be by publication if other means are not effective.

2. Proof of service may be made in the manner prescribed by the law of this state or by the law of the state in which the service is made.

3. Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

452.740. 1. A party to a child custody proceeding who is not subject to personal jurisdiction in this state and is a responding party pursuant to sections 452.760 to 452.805, a party in a proceeding to modify a child custody determination pursuant to sections 452.760 to 452.805, or a petitioner in a proceeding to enforce or register a child custody determination pursuant to sections 452.810 to 452.885 may appear and participate in such proceeding without submitting to personal jurisdiction over the party for another proceeding or purpose.

2. A party is not subject to personal jurisdiction in this state solely by being physically present for the purpose of participating in a proceeding pursuant to sections 452.700 to 452.895. If a party is subject to personal jurisdiction in this state on a basis other than physical presence, the party may be served with process in this state. If a party present in this state is subject to the jurisdiction of another state, service of process permissible pursuant to the laws of the other state may be accomplished in this state.

3. The immunity granted by this section shall not extend to civil litigation based on acts unrelated to the participation in a proceeding pursuant to sections 452.700 to 452.895 committed by an individual while present in this state.

452.745. 1. A court of this state may communicate with a court in another state concerning a proceeding arising pursuant to sections 452.700 to 452.895.

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

3. A communication between courts on schedules, calendars, court records and

similar matters may occur without informing the parties. A record need not be made of such communication.

4. Except as provided in subsection 3 of this section, a record shall be made of the communication. The parties shall be informed promptly of the communication and granted access to the record.

5. For the purposes of this section, "record" means information that is inscribed on a tangible medium, or that which is stored in an electronic or other medium and is retrievable in perceivable form. A record includes notes or transcripts of a court reporter who listened to a conference call between the courts, an electronic recording of a telephone call, a memorandum or an electronic record of the communication between the courts, or a memorandum or an electronic record made by a court after the communication.

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

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

3. Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing shall not be excluded from evidence on an objection based on the means of transmission.

452.755. 1. A court of this state may request the appropriate court of another state to:

- (1) Hold an evidentiary hearing;
- (2) Order a person to produce or give evidence pursuant to procedures of that state;
- (3) Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;
- (4) Forward to the court of this state a certified copy of the transcript of the record of the hearing, the evidence otherwise presented and any evaluation prepared in compliance with the request; and
- (5) Order a party to a child custody proceeding or any person having physical

custody of the child to appear in the proceeding with or without the child.

2. Upon request of a court of another state, a court of this state may hold a hearing or enter an order described in subsection 1 of this section.

3. Travel and other necessary and reasonable expenses incurred pursuant to subsection 1 or 2 of this section may be assessed against the parties according to the law of this state.

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

452.760. 1. Except as otherwise provided in section 452.775, a court of this state has jurisdiction to make an initial child custody determination only if:

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

(2) A court of another state does not have jurisdiction pursuant to subdivision (1) of this subsection, or a court of the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum pursuant to section 452.790 or 452.795, and:

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

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

(3) All courts having jurisdiction pursuant to subdivisions (1) and (2) of this subsection have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the child pursuant to section 452.790 or 452.795; or

(4) No state would have jurisdiction pursuant to subdivision (1), (2) or (3) of this subsection.

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

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

452.765. 1. Except as otherwise provided in section 452.775, a court of this state

that has made a child custody determination consistent with section 452.760 or 452.770 has exclusive continuing jurisdiction over the determination until:

(1) A court of this state determines that neither the child, the child and one parent, nor the child and a person acting as a parent have a significant connection with this state, and that substantial evidence is no longer available in this state concerning the child's care, protection, training and personal relationships; or

(2) A court of this state or a court of another state determines that neither the child, nor a parent, nor any person acting as a parent presently resides in this state.

2. A court of this state that has exclusive continuing jurisdiction pursuant to this section may decline to exercise its jurisdiction if the court determines that it is an inconvenient forum pursuant to section 452.790.

3. A court of this state that has made a child custody determination and does not have exclusive continuing jurisdiction pursuant to this section may modify that determination only if it has jurisdiction to make an initial determination pursuant to section 452.760.

452.770. Except as otherwise provided in section 452.775, a court of this state shall not modify a child custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination pursuant to subdivision (1) or (2) of subsection 1 of section 452.760 and:

(1) The court of the other state determines it no longer has exclusive continuing jurisdiction pursuant to section 452.765 or that a court of this state would be a more convenient forum pursuant to section 452.790; or

(2) A court of this state or a court of the other state determines that neither the child, nor a parent, nor any person acting as a parent presently resides in the other state.

452.775. 1. A court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned, or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

2. If there is no previous child custody determination that is entitled to be enforced pursuant to sections 452.700 to 452.895, and if no child custody proceeding has been commenced in a court of a state having jurisdiction pursuant to sections 452.760 to 452.770, a child custody determination made pursuant to this section remains in effect until an order is obtained from a court of a state having jurisdiction pursuant to sections 452.760 to 452.770. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction pursuant to sections 452.760 to 452.770, a child custody determination made pursuant to this section

becomes a final determination if:

- (1) It so provides; and
- (2) This state becomes the home state of the child.

3. If there is a previous child custody determination that is entitled to be enforced pursuant to sections 452.700 to 452.895, or a child custody proceeding has been commenced in a court of a state having jurisdiction pursuant to sections 452.760 to 452.770, any order issued by a court of this state pursuant to this section shall specify in the order a period of time which the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction pursuant to sections 452.760 to 452.770. The order issued in this state remains in effect until an order is obtained from the other state within the period specified or the period expires.

4. A court of this state that has been asked to make a child custody determination pursuant to this section, upon being informed that a child custody proceeding has been commenced, or a child custody determination has been made, by a court of a state having jurisdiction pursuant to sections 452.760 to 452.770, shall immediately communicate with the other court. A court of this state that is exercising jurisdiction pursuant to sections 452.760 to 452.770, upon being informed that a child custody proceeding has been commenced, or a child custody determination has been made by a court of another state pursuant to a statute similar to this section shall immediately communicate with the court of that state. The purpose of such communication is to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

452.780. 1. Before a child custody determination is made pursuant to sections 452.700 to 452.895, notice and an opportunity to be heard in accordance with the standards of section 452.735 shall be given to:

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

2. Sections 452.700 to 452.895 shall not govern the enforceability of a child custody determination made without notice and an opportunity to be heard.

3. The obligation to join a party and the right to intervene as a party in a child custody proceeding pursuant to sections 452.700 to 452.895 are governed by the law of this state as in child custody proceedings between residents of this state.

452.785. 1. Except as otherwise provided in section 452.775, a court of this state shall not exercise its jurisdiction pursuant to sections 452.760 to 452.805 if, at the time

of the commencement of the proceeding, a proceeding concerning the custody of the child had been previously commenced in a court of another state having jurisdiction substantially in conformity with sections 452.700 to 452.895, unless the proceeding has been terminated or is stayed by the court of the other state because a court of this state is a more convenient forum pursuant to section 452.790.

2. Except as otherwise provided in section 452.775, a court of this state, prior to hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to section 452.800. If the court determines that a child custody proceeding was previously commenced in a court in another state having jurisdiction substantially in accordance with sections 452.700 to 452.895, the court of this state shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with sections 452.700 to 452.895 does not determine that the court of this state is a more appropriate forum, the court of this state shall dismiss the proceeding.

3. In a proceeding to modify a child custody determination, a court of this state shall determine if a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child custody determination has been commenced in another state, the court may:

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

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

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

452.790. 1. A court of this state that has jurisdiction pursuant to sections 452.700 to 452.895 to make a child custody determination may decline to exercise its jurisdiction at any time if the court determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon the court's own motion, at the request of another court or upon motion of a party.

2. Before determining whether the court is an inconvenient forum, a court of this state shall consider whether it is appropriate that a court of another state exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:

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

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

(3) The distance between the court in this state and the court in the state that

would assume jurisdiction;

- (4) The relative financial circumstances of the parties;
- (5) Any agreement of the parties as to which state should assume jurisdiction;
- (6) The nature and location of the evidence required to resolve the pending litigation, including the testimony of the child;
- (7) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and
- (8) The familiarity of the court of each state with the facts and issues of the pending litigation.

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

4. A court of this state may decline to exercise its jurisdiction pursuant to sections 452.700 to 452.895 if a child custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

452.795. 1. Except as otherwise provided in section 452.775, if a court of this state has jurisdiction pursuant to sections 452.700 to 452.895 because a person invoking the jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

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

(2) A court of the state otherwise having jurisdiction pursuant to sections 452.760 to 452.770 determines that this state is a more appropriate forum pursuant to section 452.790; or

(3) No other state would have jurisdiction pursuant to sections 452.760 to 452.770.

2. If a court of this state declines to exercise its jurisdiction pursuant to subsection 1 of this section, the court may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the wrongful conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction pursuant to sections 452.760 to 452.770.

3. If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection 1 of this section, the court shall charge the party invoking the jurisdiction of the court with necessary and reasonable

expenses including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the award would be clearly inappropriate. The court may not assess fees, costs or expenses against this state except as otherwise provided by law other than sections 452.700 to 452.895.

452.800. 1. In a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address, the places where the child has lived during the last five years, and the names and present addresses of the persons with whom the child has lived during such period. The pleading or affidavit shall state whether the party:

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

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

(3) Knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or visitation with, the child and, if so, the names and addresses of such persons.

2. If the information required by subsection 1 of this section is not furnished, the court, upon its own motion or that of a party, may stay the proceeding until the information is furnished.

3. If the declaration as to any of the items described in subdivisions (1) to (3) of subsection 1 of this section is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

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

452.805. 1. A court of this state may order a party to a child custody proceeding who is in this state to appear before the court personally with or without the child. The court may order any person who is in this state and who has physical custody or control of the child to appear physically with the child.

2. If a party to a child custody proceeding whose presence is desired by the court is outside this state, the court may order that a notice given pursuant to section 452.735 include a statement directing the party to appear personally with or without the child and declaring that failure to appear may result in a decision adverse to the party.

3. The court may enter any orders necessary to ensure the safety of the child and of any person ordered to appear pursuant to this section.

4. If a party to a child custody proceeding who is outside this state is directed to appear pursuant to subsection 2 of this section or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel, and other expenses of the party so appearing and of the child.

452.810. As used in sections 452.810 to 452.885:

(1) "Petitioner" means a person who seeks enforcement of a child custody determination or enforcement of an order for the return of the child under the Hague Convention on the Civil Aspects of International Child Abduction;

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

452.815. 1. Sections 452.810 to 452.885 may be invoked to enforce:

(1) A child custody determination; and

(2) An order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction.

2. A court of this state which does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:

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

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

3. If a court of this state makes an order pursuant to subdivision (2) of subsection 2 of this section, the court shall specify in the order a period of time which it considers adequate to allow the person seeking the order to obtain an order from the state having jurisdiction pursuant to sections 452.760 to 452.805. The order remains in effect until an order is obtained from the other state or the period expires.

452.820. 1. A court of this state shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction that was in substantial conformity with sections 452.700 to 452.895 or the determination

was made under factual circumstances meeting the jurisdictional standards of sections 452.700 to 452.895 and the determination has not been modified in accordance with sections 452.700 to 452.895.

2. A court may utilize any remedy available pursuant to the provisions of other laws of this state to enforce a child custody determination made by a court of another state. The procedure provided by sections 452.810 to 452.885 shall not affect the availability of other remedies to enforce a child custody determination.

452.825. 1. A child custody determination issued by a court of another state may be registered in this state, with or without a simultaneous request for enforcement, by sending the appropriate court in this state:

- (1) A letter or other document requesting registration;
- (2) Two copies, including one certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and
- (3) Except as otherwise provided in section 452.800, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

2. On receipt of the documents required by subsection 1 of this section, the registering court shall:

- (1) Cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form; and
- (2) Serve notice upon the persons named pursuant to subdivision (3) of subsection 1 of this section and provide such persons with an opportunity to contest the registration in accordance with this section.

3. The notice required by subdivision (2) of subsection 2 of this section shall state:

- (1) That a registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this state;
- (2) That a hearing to contest the validity of the registered determination must be requested within twenty days after service of notice; and
- (3) That failure to contest the registration will result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

4. A person seeking to contest the validity of a registered order shall request a hearing within twenty days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration

establishes that:

(1) The issuing court did not have jurisdiction pursuant to sections 452.760 to 452.805;

(2) The child custody determination sought to be registered has been vacated, stayed or modified by a court of a state having jurisdiction to do so pursuant to sections 452.760 to 452.805; or

(3) The person contesting registration was entitled to notice, but notice was not given in accordance with the standards of section 452.735 in the proceedings before the court that issued the order for which registration is sought.

5. If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served shall be notified of the confirmation.

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

452.830. 1. A court of this state may grant any relief normally available pursuant to the provisions of the laws of this state to enforce a registered child custody determination made by a court of another state.

2. A court of this state shall recognize and enforce, but shall not modify, except in accordance with sections 452.760 to 452.805, a registered child custody determination of another state.

452.835. If a proceeding for enforcement pursuant to sections 452.810 to 452.885 has been or is commenced in this state and a court of this state determines that a proceeding to modify the determination has been commenced in another state having jurisdiction to modify the determination pursuant to sections 452.760 to 452.805, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

452.840. 1. A petition pursuant to sections 452.810 to 452.885 shall be verified. Certified copies of all orders sought to be enforced and of the order confirming registration, if any, shall be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

2. A petition for enforcement of a child custody determination shall state:

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

(2) Whether the determination for which enforcement is sought has been vacated, stayed or modified by a court whose decision shall be enforced pursuant to

sections 452.700 to 452.895 or federal law and, if so, identify the court, case number of the proceeding and action taken;

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

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

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

3. If the child custody determination has been registered and confirmed pursuant to section 452.825, the petition shall also state the date and place of registration.

4. The court shall issue an order directing the respondent to appear with or without the child at a hearing and may enter any orders necessary to ensure the safety of the parties and the child.

5. The hearing shall be held on the next judicial day following service of process unless such date is impossible. In such event, the court shall hold the hearing on the first day possible. The court may extend the date of hearing at the request of the petitioner.

6. The order shall state the time and place of the hearing, and shall advise the respondent that at the hearing the court will order the delivery of the child and payment of fees, costs and expenses pursuant to section 452.860, and may set an additional hearing to determine if further relief is appropriate, unless the respondent appears and establishes that:

(1) The child custody determination is not registered and confirmed pursuant to section 452.825, and:

(a) The issuing court did not have jurisdiction pursuant to sections 452.760 to 452.805;

(b) The child custody determination for which enforcement is sought has been vacated, stayed or modified by a court of a state having jurisdiction to do so pursuant to sections 452.760 to 452.805 or federal law; or

(c) The respondent was entitled to notice, but notice was not given in accordance with the standards of section 452.735 in the proceedings before the court that issued the order for which enforcement is sought; or

(2) The child custody determination for which enforcement is sought was registered and confirmed pursuant to section 452.825, but has been vacated, stayed or

modified by a court of a state having jurisdiction to do so pursuant to sections 452.760 to 452.805 or federal law.

452.845. Except as otherwise provided in section 452.855, the petition and order shall be served by any method authorized by the laws of this state upon the respondent and any person who has physical custody of the child.

452.850. 1. Unless the court enters a temporary emergency order pursuant to section 452.775, upon a finding that a petitioner is entitled to the physical custody of the child immediately, the court shall order the child delivered to the petitioner unless the respondent establishes that:

(1) The child custody determination has not been registered and confirmed pursuant to section 452.825, and that:

(a) The issuing court did not have jurisdiction pursuant to sections 452.760 to 452.805;

(b) The child custody determination for which enforcement is sought has been vacated, stayed or modified by a court of a state having jurisdiction to do so pursuant to sections 452.760 to 452.805 or federal law; or

(c) The respondent was entitled to notice, but notice was not given in accordance with the standards of section 452.735 in the proceedings before the court that issued the order for which enforcement is sought; or

(2) The child custody determination for which enforcement is sought was registered and confirmed pursuant to section 452.825, but has been vacated, stayed or modified by a court of a state having jurisdiction to do so pursuant to sections 452.760 to 452.805 or federal law.

2. The court shall award the fees, costs and expenses authorized pursuant to section 452.860 and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine if additional relief is appropriate.

3. If a party called to testify refuses to answer on the grounds that the testimony may be self-incriminating, the court may draw an adverse inference from such refusal.

4. A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife, or parent and child shall not be invoked in a proceeding pursuant to sections 452.810 to 452.885.

452.855. 1. Upon the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is likely to suffer serious imminent physical harm or removal from this state.

2. If the court, upon the testimony of the petitioner or other witnesses, finds that the child is likely to suffer serious imminent physical harm or be imminently removed from this state, the court may issue a warrant to take physical custody of the child. The petition shall be heard on the next judicial day after the warrant is executed. The warrant shall include the statements required pursuant to subsection 2 of section 452.840.

3. A warrant to take physical custody of a child shall:

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

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

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

4. The respondent shall be served with the petition, warrant and order immediately after the child is taken into physical custody.

5. A warrant to take physical custody of a child is enforceable throughout this state. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, the court may authorize law enforcement officers to enter private property to take physical custody of the child. If required by the exigency of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

6. The court may impose conditions on the placement of a child to ensure the appearance of the child and the child's custodian.

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

2. The court shall not assess fees, costs or expenses against a state except as otherwise provided by law other than sections 452.700 to 452.895.

452.865. A court of this state shall accord full faith and credit to an order made consistently with sections 452.700 to 452.895 which enforces a child custody determination by a court of another state unless the order has been vacated, stayed or modified by a court authorized to do so pursuant to sections 452.760 to 452.805.

452.870. An appeal may be taken from a final order in a proceeding pursuant to sections 452.810 to 452.885 in accordance with appellate procedures in other civil cases. Unless the court enters a temporary emergency order pursuant to section

452.775. the enforcing court shall not stay an order enforcing a child custody determination pending appeal.

452.875. 1. In a case arising pursuant to sections 452.700 to 452.895 or involving the Hague Convention on the Civil Aspects of International Child Abduction, the appropriate public official may take any lawful action, including resort to a proceeding pursuant to sections 452.810 to 452.885 or any other available civil proceeding to locate a child, obtain the return of a child or enforce a child custody determination if there is:

- (1) An existing child custody determination;**
- (2) A request from a court in a pending child custody case;**
- (3) A reasonable belief that a criminal statute has been violated; or**
- (4) A reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.**

2. A prosecutor or an appropriate public official shall act on behalf of the court and shall not represent any party to a child custody determination.

452.880. At the request of a prosecutor or other appropriate public official acting pursuant to section 452.875, a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and assist such prosecutor or public official with responsibilities pursuant to section 452.875.

452.885. If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the prosecutor or other appropriate public official and law enforcement officers pursuant to sections 452.875 and 452.880.

452.890. If any provision of sections 452.700 to 452.895 or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of sections 452.700 to 452.895 which can be given effect without the invalid provision or application, and to this end the provisions of sections 452.700 to 452.895 are severable.

452.895. A motion or other request for relief made in a child custody or enforcement proceeding which was commenced before August 28, 2000, is governed by the law in effect at the time the motion or other request was made.

454.606. 1. In all IV-D cases in which income withholding for child support is to be initiated on the effective date of the order pursuant to section 452.350, RSMo, and section 454.505, respectively, the circuit clerk or division, as appropriate, shall send a notice to the employer or union of the parent who has been ordered to provide the health benefit plan coverage at the same time the support order withholding notice is issued. In cases in which the

division enforces an order to obtain health benefit plan coverage, it also shall send a notice to the employer or union of the parent who has been ordered to provide the health benefit plan coverage.

2. The notice shall be sent to the employer or union by certified mail, return receipt requested.

3. [The notice shall contain the following information:

(1) The parent's name and Social Security number;

(2) A statement that the parent has been required to provide and maintain health benefit plan coverage for a dependent minor child;

(3) The name, date of birth and Social Security number, if available, for each child.

4. The notice to withhold sufficient funds from the earnings due the obligor to cover employee contributions or premiums, when necessary to comply with the order to provide health benefit plan coverage, is binding on current and successor employers for current and subsequent periods of employment. Such notice continues until further notice by the court or the division.

5. The withholding of health benefit plan employee contributions or premiums from income, if required to comply with the order, shall not be held in abeyance pending the outcome of any hearing provided pursuant to section 454.609.] **The division shall use the National Medical Support Notice required by 42 U.S.C. Section 666(a)(19) and 45 C.F.R. Section 303.32 to enforce health benefit plan coverage under this chapter. All employers, unions, and plan administrators shall comply with the terms of the National Medical Support Notice, including the instructions therein, whether issued by the division or the IV-D agency of another state which appears on its face. The division shall:**

(1) Transfer the National Medical Support Notice to an employer within two business days after the date of entry of an employee who is an obligor in a IV-D case in the state directory of new hires; and

(2) Promptly notify the appropriate employer or union if a current order for medical support for which the division is responsible is no longer in effect.

4. The notice issued by the circuit clerk shall contain, at a minimum, the following information:

(1) The parent's name and Social Security number;

(2) A statement that the parent is required to provide and maintain health benefit plan coverage for a dependent minor child; and

(3) The name, date of birth, and Social Security number, if available, for each child.

5. The notice to withhold sufficient funds from the earnings due the obligor to cover employee contributions or premiums, when necessary to comply with the order to provide health benefit plan coverage, is binding on current and successor

employers for current and subsequent periods of employment. Such notice shall continue until further notice by the court or division.

6. The withholding of health benefit plan employee contributions or premiums from income, if required to comply with the order, shall not be held in abeyance pending the outcome of any hearing provided pursuant to section 454.609.

454.609. 1. At the same time an employer **or union** notice is sent pursuant to section 454.606, the circuit clerk or the division, as appropriate, shall send a notice to the obligor by any form of mail to the obligor's last known address. The information contained in that notice shall include:

(1) A statement that the parent has been directed to provide and maintain health benefit plan coverage for the benefit of a minor child;

(2) The name and date of birth of the minor child;

(3) A statement that the income withholding for health benefit coverage applies to current and subsequent periods of employment;

(4) [The procedure available to] **A statement that the parent may within thirty days of the mailing date of the order or notice submit a written contest to** the withholding on the grounds that the withholding is not proper because of mistake of fact or because the obligor [has purchased] **provides** other insurance that **was obtained prior to issuance of the withholding order or notice that** is comparable to the health benefit plan available through the employer or union or nonemployer or nonunion group;

(5) A statement that if the obligor contests the withholding, the obligor shall be afforded an opportunity to present his **or her** case to the court or the division within thirty days of receipt of the notice of contest;

(6) A statement of exemptions which may apply to limit the portion of the obligated party's disposable earnings which are subject to the withholding under federal or state law;

(7) The Social Security number of the obligor, if available;

(8) A statement that state law prohibits employers from retaliating against an obligor under an order to provide health benefit plan coverage and that the court or the division should be contacted if the obligor has been retaliated against by his **or her** employer as a result of the order for health benefit plan coverage.

2. The only grounds to contest a withholding order or notice for health benefit plan coverage sent to an employer or union shall be mistake of fact or [the obligor's purchase of] **that the obligor obtained** other insurance **prior to issuance of the withholding order or notice** that is comparable to the health benefit plan available through the employer or union, or nonemployer or nonunion group. For purposes of sections 454.600 to 454.645, "mistake of fact" means an error as to the identity of the obligor.

3. If the obligor contests the withholding order **or notice** for health plan coverage

because of mistake of fact or [the purchase of] **because the obligor obtained** comparable insurance [within fifteen days of the mail date of the notice] **prior to issuance of the withholding order or notice**, the court or the director shall hold a hearing, enter an order disposing of all issues disputed by the obligor[, indicate the date that withholding will commence, if appropriate,] and notify the obligated party of the determination and date, within forty-five days of the date of receipt of the obligated party's notice of contest.

454.615. 1. Upon receipt of a court or administrative order, or notice, for health benefit plan coverage, the employer or union shall [forward a copy of] **transfer** the order or notice to the [health benefit plan administrator or insurer, as applicable] **appropriate group health plan providing the health plan coverage for which the child is eligible, excluding any severable notice to withhold for health care coverage directing the employer or union to withhold any mandatory employee contribution to the plan, within twenty business days after the date of the order or notice.**

2. **Within forty business days after the date of the order or notice, the plan administrator shall:**

(1) **Notify the issuing agency whether coverage of the child is available under the terms of the plan and, if so, whether such child is covered under the plan and either the effective date of such coverage or, if necessary, any steps to be taken by the custodial parent or issuing agency to effectuate such coverage; and**

(2) **Provide to the custodial parent or issuing agency a description of the coverage available and any forms or documents necessary to effectuate such coverage.**

454.618. 1. Upon receipt of the court or administrative order, or notice, for health benefit plan coverage, or upon application of the obligor pursuant to that order, the employer or union shall **take necessary action to** enroll the minor child as an eligible dependent in the health benefit plan and, upon enrollment, withhold any required employee contribution or premium from the obligor's income or wages **necessary for the coverage of the child and send any amount withheld directly to the health benefit plan administrator.** If more than one health benefit plan is offered by the employer or union, the minor child shall be enrolled in the plan in which the obligor is enrolled. When one or more plans are available and the obligor is not enrolled in a plan that covers dependents or is not enrolled in any plan, the [employer or union shall enroll the] minor child and the obligor if necessary **shall be enrolled** under the least costly plan that provides service to the area where the child resides **if the order or notice for health benefit plan coverage is not a National Medical Support Notice issued by the division or IV-D agency of another state. If the notice for health benefit plan coverage is a National Medical Support Notice issued by the division or IV-D agency of another state, the health benefit plan administrator shall provide to the issuing agency copies**

of the applicable summary plan descriptions or other documents that describe available coverage, including the additional participant contribution necessary to obtain coverage for the child under each option and whether there is a limited service area for any option. The issuing agency, in consultation with the custodial parent, must promptly select from the available plan options. If the issuing agency does not make such selection within twenty business days from the date the plan administrator provided the option, the plan administrator shall enroll the child in the plan's default option, if any. If the plan does not have a default option, the plan administrator shall enroll the child in the option selected by the issuing agency.

2. In those instances where the obligor fails or refuses to execute any document necessary to enroll the minor child in the health benefit plan ordered by the court, the required information and authorization may be provided by the division or the custodial parent or guardian of the minor child.

3. Information and authorization provided by the division or the custodial parent or guardian of the minor child shall be valid for the purpose of meeting enrollment requirements of the health benefit plan and shall not affect the obligation of the employer or union and the insurer to enroll the minor child in the health benefit plan for which other eligibility, enrollment, underwriting terms and other requirements are met. However, any health benefit plan provision which denies or restricts coverage to a minor child of the obligor due to birth out of wedlock shall be void as against public policy.

4. A minor child that an obligor is required to cover as an eligible dependent pursuant to sections 454.600 to 454.645 shall be considered for health benefit plan coverage purposes as a dependent of the obligor until the child's right to parental support terminates or until further order of the court, but in no event past the limiting age set forth in the health benefit plan.

454.627. When an order for health benefit plan coverage pursuant to sections 454.600 to 454.645 is in effect, upon termination of the obligor's employment, or upon termination of the health benefit plan coverage, the employer, union or health benefit plan administrator, as appropriate, shall make a good faith effort to notify the obligee, [and] **or** in IV-D cases, the division, within ten days of the termination date with notice of continuation or conversion privileges. **In addition, in IV-D cases, upon termination of the obligor's employment, the employer shall promptly notify the division or IV-D agency of another state, as applicable, of the obligor's last known address and the name and address of the obligor's new employer, if known.**

454.700. 1. In any case in which a parent is required by a court or administrative order to provide medical coverage for a child, under any health benefit plan, as defined in section 454.600, and a parent is eligible through employment, under the provisions of the federal Comprehensive Omnibus Budget Reconciliation Act (COBRA) or the provisions of section 376.892,

RSMo, or for health coverage through an insurer or group health plan, any insurers, including group health plans as defined in section 607(1) of the federal Employee Retirement Income Security Act of 1974, offering, issuing, or renewing policies in this state on or after July 1, 1994, shall:

(1) Permit such parent to enroll under such coverage any such child who is otherwise eligible for such coverage, without regard to any enrollment season restrictions;

(2) Permit enrollment of a child under coverage upon application by the child's other parent [or by], the division of child support enforcement [or], the division of medical services, **or the tribunal of another state**, if the parent required by a court or administrative order to provide health coverage fails to make application to obtain coverage for such child;

(3) Not disenroll or eliminate coverage of a child unless [the insurer is provided satisfactory written evidence that]:

(a) **The insurer is provided satisfactory written evidence that** such court or administrative order is no longer in effect; or

(b) **The insurer is provided satisfactory written evidence that** the child is or will be enrolled in comparable health coverage through another insurer which will take effect no later than the effective date of the disenrollment; **or**

(c) **The employer or union eliminates family health coverage for all of its employees or members; or**

(d) **Any available continuation coverage is not elected or the period of such coverage expires.**

2. In any case in which a parent is required by a court or administrative order to provide medical coverage for a child, under any health benefit plan, as defined in section 454.600, and the parent is eligible for such health coverage through an employer doing business in Missouri, the employer **or union** shall:

(1) Permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage, without regard to any enrollment season restrictions;

(2) Enroll a child under family coverage upon application by the child's other parent [or by], the division of child support enforcement [or], the division of medical services, **or a tribunal of another state**, if a parent is enrolled but fails to make application to obtain coverage of such child; and

(3) Not disenroll or eliminate coverage of any such child unless [the employer is provided satisfactory written evidence that]:

(a) **The employer or union is provided satisfactory written evidence that** such court or administrative order is no longer in effect; or

(b) **The employer or union is provided satisfactory written evidence that** the child is or will be enrolled in comparable health coverage through another insurer which will take

effect not later than the effective date of such disenrollment; or

(c) The employer **or union** has eliminated family health coverage for all of its employees **or members**.

3. No insurer may impose any requirements on a state agency, which has been assigned the rights of an individual eligible for medical assistance under chapter 208, RSMo, and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

4. All insurers shall in any case in which a child has health coverage through the insurer of a noncustodial parent:

(1) Provide such information to the custodial parent or legal guardian as may be necessary for the child to obtain benefits through such coverage;

(2) Permit the custodial parent or legal guardian, or provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and

(3) Make payment on claims submitted in accordance with subdivision (2) of this subsection directly to the parent, the provider, or the division of medical services.

5. The division of medical services may garnish the wages, salary, or other employment income of, and require withholding amounts from state tax refunds, pursuant to section 143.783, RSMo, to any person who:

(1) Is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under Medicaid; and

(2) Has received payment from a third party for the costs of such services to such child, but has not used such payment to reimburse, as appropriate, either the other parent or guardian of such child or the provider of such services, to the extent necessary to reimburse the division of medical services for expenditures for such costs under its plan. However, claims for current or past due child support shall take priority over claims by the division of medical services.

6. The remedies for the collection and enforcement of medical support established in this section are in addition to and not in substitution for other remedies provided by law and apply without regard to when the order was entered.

[452.440. Sections 452.440 to 452.550 may be cited as the "Uniform Child Custody Jurisdiction Act".]

[452.445. As used in sections 452.440 to 452.550:

(1) "Custody determination" means a court decision and court orders and instructions providing for the custody of a child, including visitation rights. This term does not include a decision relating to child support or any other monetary obligation of any person; but the court shall have the right in any custody determination where jurisdiction is had pursuant to section 452.460 and where it is in the best interest of the

child to adjudicate the issue of child support;

(2) "Custody proceeding" includes proceedings in which a custody determination is one of several issues, such as an action for dissolution of marriage, legal separation, separate maintenance, appointment of a guardian of the person, child neglect or abandonment, but excluding actions for violation of a state law or municipal ordinance;

(3) "Decree" or "custody decree" means a custody determination contained in a judicial decree or order made in a custody proceeding, and includes an initial decree and a modification decree;

(4) "Home state" means the state in which, immediately preceding the filing of custody proceeding, the child lived with his parents, a parent, an institution; or a person acting as parent, for at least six consecutive months; or, in the case of a child less than six months old, the state in which the child lived from birth with any of the persons mentioned. Periods of temporary absence of any of the named persons are counted as part of the six-month or other period;

(5) "Initial decree" means the first custody decree concerning a particular child;

(6) "Litigant" means a person, including a parent, grandparent, or step-parent, who claims a right to custody or visitation with respect to a child.】

[452.450. 1. A court of this state which is competent to decide child custody matters has jurisdiction to make a child custody determination by initial or modification decree if:

(1) This state:

(a) Is the home state of the child at the time of commencement of the proceeding;

or

(b) Had been the child's home state within six months before commencement of the proceeding and the child is absent from this state for any reason, and a parent or person acting as parent continues to live in this state; or

(2) It is in the best interest of the child that a court of this state assume jurisdiction because:

(a) The child and his parents, or the child and at least one litigant, have a significant connection with this state; and

(b) There is available in this state substantial evidence concerning the child's present or future care, protection, training, and personal relationships; or

(3) The child is physically present in this state and:

(a) The child has been abandoned; or

(b) It is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse, or is otherwise being neglected;

or

(4) It appears that no other state would have jurisdiction under prerequisites substantially in accordance with subdivision (1), (2), or (3), or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine the custody of the child, and it is in the best interest of the child that this court assume jurisdiction.

2. Except as provided in subdivisions (3) and (4) of subsection 1 of this section, physical presence of the child, or of the child and one of the litigants, in this state is not sufficient alone to confer jurisdiction on a court of this state to make a child custody determination.

3. Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine his custody.】

[452.455. 1. Any petition for modification of child custody decrees filed under the provisions of section 452.410, or sections 452.440 to 452.450, shall be verified and, if the original proceeding originated in the state of Missouri, shall be filed in that original case, but service shall be obtained and responsive pleadings may be filed as in any original proceeding.

2. Before making a decree under the provisions of section 452.410, or sections 452.440 to 452.450, the litigants, any parent whose parental rights have not been previously terminated, and any person who has physical custody of the child must be served in the manner provided by the rules of civil procedure and applicable court rules and may within thirty days after the date of service (forty-five days if service by publication) file a verified answer.

If any of these persons is outside this state, notice and opportunity to be heard shall be given pursuant to section 452.460.】

[452.460. 1. The notice required for the exercise of jurisdiction over a person outside this state shall be given in a manner reasonably calculated to give actual notice, and may be given in any of the following ways:

(1) By personal delivery outside this state in the manner prescribed for service of process within this state;

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

(3) By certified or registered mail; or

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

2. Proof of service outside this state may be made by affidavit of the individual who made the service, or in the manner prescribed by the law of this state, the order pursuant to which the service is made, or the law of the place in which the service is

made. If service is made by mail, proof of service may be a receipt signed by the addressee or other evidence of delivery to the addressee.

3. The notice provided for in this section is not required for a person who submits to the jurisdiction of the court.]

[452.465. 1. A court of this state shall not exercise its jurisdiction under sections 452.440 to 452.550 if, at the time of filing the petition, a proceeding concerning the custody of the child was pending in a court of another state exercising jurisdiction substantially in conformity with sections 452.440 to 452.550, unless the proceeding is stayed by the court of that other state for any reason.

2. Before hearing the petition in a custody proceeding, the court shall examine the pleadings and other information supplied by the parties under section 452.480 and shall consult the child custody registry established under section 452.515 concerning the pendency of proceedings with respect to the child in other states. If the court has reason to believe that proceedings may be pending in another state, it shall direct an inquiry to the state court administrator or other appropriate official of that state.

3. If the court is informed during the course of the proceeding that a proceeding concerning the custody of the child was pending in another state before the court assumed jurisdiction, it shall stay the proceeding and communicate with the court in which the other proceeding is pending in order that the issue may be litigated in the more appropriate forum and that information may be exchanged in accordance with sections 452.530 to 452.550. If a court of this state has made a custody decree before being informed of a pending proceeding in a court of another state, it shall immediately inform that court of the fact. If the court is informed that a proceeding was commenced in another state after it assumed jurisdiction, it shall likewise inform the other court in order that the issues may be litigated in the more appropriate forum.]

[452.470. 1. A court which has jurisdiction under this act* to make an initial or modification decree may decline to exercise its jurisdiction any time before making a decree if it finds that it is an inconvenient forum to make a custody determination under the circumstances of the case and that a court of another state is a more appropriate forum.

2. A finding that a court is an inconvenient forum under subsection 1 above may be made upon the court's own motion or upon the motion of a party or a guardian ad litem or other representative of the child. In determining if it is an inconvenient forum, the court shall consider if it is in the interest of the child that another state assume jurisdiction.

3. Before determining whether to decline or retain jurisdiction the court may communicate with a court of another state and exchange information pertinent to the

assumption of jurisdiction by either court, with a view to assuring that jurisdiction will be exercised by the more appropriate court and that a forum will be available to the parties.

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

5. The court may decline to exercise its jurisdiction under this act if a custody determination is incidental to an action for dissolution of marriage or another proceeding while retaining jurisdiction over the dissolution of marriage or other proceeding.

6. If it appears to the court that it is clearly an inappropriate forum, it may require the party who commenced the proceedings to pay, in addition to the costs of the proceedings in this state, necessary travel and other expenses, including attorneys' fees, incurred by other parties or their witnesses. Payment is to be made to the clerk of the court for remittance to the proper party.

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

8. Any communication received from another state informing this state of a finding that a court of this state is the more appropriate forum shall be filed in the custody registry of the appropriate court. Upon assuming jurisdiction the court of this state shall inform the original court of this fact.]

[452.475. 1. If the petitioner for an initial decree has wrongfully taken the child from another state or has engaged in similar reprehensible conduct, the court may decline to exercise jurisdiction if this is just and proper under the circumstances.

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

3. In appropriate cases a court dismissing a petition under this section may charge

the petitioner with necessary travel and other expenses, including attorneys' fees, incurred by other parties or their witnesses.]

[452.480. 1. In his first pleading, or in an affidavit attached to that pleading, every party in a custody proceeding shall give information under oath as to the child's present address, with whom the child is presently living and with whom and where the child lived, other than on a temporary basis, within the past six months. In this pleading or affidavit every party shall further declare under oath whether:

(1) He has participated in any capacity in any other litigation concerning the custody of the same child in this or any other state;

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

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

2. If the declaration as to any of the items listed in subdivisions (1) through (3) of subsection 1 above is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and as to other matters pertinent to the court's jurisdiction and the disposition of the case.

3. Each party has a continuing duty to inform the court of any change in information required by subsection 1 of this section.]

[452.485. If the court learns from information furnished by the parties pursuant to section 452.480 or from other sources that a person not a party to the custody proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child, it may order that person to be joined as a party and to be duly notified of the pendency of the proceeding and of his joinder as a party. If the person joined as a party is outside this state he shall be served with process or otherwise notified in accordance with section 452.460.]

[452.490. 1. The court may order any party to the proceeding who is in this state to appear personally before the court. If the court finds the physical presence of the child in court to be in the best interests of the child, the court may order that the party who has physical custody of the child appear personally with the child.

2. If a party to the proceeding whose presence is desired by the court is outside this state, with or without the child, the court may order that the notice given under section 452.460 include a statement directing that party to appear personally with or without the child.

3. If a party to the proceeding who is outside this state is directed to appear under subsection 1* of this section or desires to appear personally before the court with or

without the child, the court may require another party to pay to the clerk of the court travel and other necessary expenses of the party so appearing and of the child, if this is just and proper under the circumstances.

4. If the court finds it to be in the best interest of the child that a guardian ad litem be appointed, the court may appoint a guardian ad litem for the child. The guardian ad litem so appointed shall be an attorney licensed to practice law in the state of Missouri. Disqualification of a guardian ad litem shall be ordered in any legal proceeding pursuant to chapter 210, RSMo, or this chapter, upon the filing of a written application by any party within ten days of appointment, or within ten days of August 28, 1998, if the appointment occurs prior to August 28, 1998. Each party shall be entitled to one disqualification of a guardian ad litem in each proceeding, except a party may be entitled to additional disqualifications of a guardian ad litem for good cause shown. The guardian ad litem may, for the purpose of determining custody of the child only, participate in the proceedings as if such guardian ad litem were a party. The court shall enter judgment allowing a reasonable fee to the guardian ad litem.]

[452.495. A custody decree rendered by a court of this state which had jurisdiction under section 452.450 binds all parties who have been served in this state or notified in accordance with section 452.460, or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to these parties the custody decree is conclusive as to all issues of law and fact decided and as to the custody determination made, unless and until that determination is modified pursuant to law, including the provisions of section 452.410 and sections 452.440 to 452.550.]

[452.500. The courts of this state shall recognize and enforce an initial or modification decree of a court of another state which had assumed jurisdiction under statutory provisions substantially in accordance with sections 452.440 to 452.550, or which was made under factual circumstances meeting the jurisdictional standards of sections 452.440 to 452.550, so long as this decree has not been modified in accordance with jurisdictional standards substantially similar to those of sections 452.440 to 452.550.]

[452.505. If a court of another state has made a custody decree, a court of this state shall not modify that decree unless it appears to the court of this state that the court which rendered the decree does not now have jurisdiction under jurisdictional prerequisites substantially in accordance with sections 452.440 to 452.550 or has declined to assume jurisdiction to modify the decree and the court of this state has jurisdiction.]

[452.510. 1. A certified copy of a custody decree of another state may be filed in the office of the clerk of any circuit court of this state. The clerk shall treat the decree in the same manner as a custody decree of the circuit court of this state. A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this state.

2. A person violating a custody decree of another state which makes it necessary to enforce the decree in this state may be required to pay necessary travel and other expenses, including attorneys' fees, incurred by the party entitled to the custody or his witnesses.]

[452.515. The clerk of each circuit court shall maintain a registry in which he shall enter the following:

- (1) Certified copies of custody decrees of other states received for filing;
- (2) Communications as to the pendency of custody proceedings in other states;
- (3) Communications concerning findings of inconvenient forum under section 452.470 by a court of another state; and
- (4) Other communications or documents concerning custody proceedings in another state which in the opinion of the circuit judge may affect the jurisdiction of a court of this state or the disposition to be made by it in a custody proceeding.]

[452.520. The clerk of the circuit court of this state, at the request of the court of another state or at the request of any person who is affected by or has a legitimate interest in a custody decree, may, upon payment therefor, certify and forward a copy of the decree to that court or person.]

[452.525. In addition to other procedural devices available to a party, any party to the proceeding or a guardian ad litem or other representative of the child may obtain the testimony of witnesses, including parties and the child, by deposition or otherwise, in another state. The court on its own motion may direct that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony shall be taken.]

[452.530. 1. A court of this state may request the appropriate court of another state to hold a hearing to obtain evidence, to order persons within that state to produce or give evidence under other procedures of that state, or to have social studies made with respect to the custody of a child involved in proceedings pending in the court of this state; and to forward to the court of this state certified copies of the transcript of the record of the hearing, the evidence otherwise obtained, or any social studies prepared in compliance with the request. The cost

of the services may be assessed against the parties.

2. A court of this state may request the appropriate court of another state to order a party to custody proceedings pending in the court of this state to appear in the proceedings and, if that party has physical custody of the child, to appear with the child. The request may state that travel and other necessary expenses of the party and of the child whose appearance is desired will be assessed against the appropriate party.】

[452.535. 1. Upon request of the court of another state, the courts of this state which are competent to hear custody matters may order a person in this state to appear at a hearing to obtain evidence or to produce or give evidence under other procedures available in this state for use in a custody proceeding in another state. A certified copy of the transcript of the record of the hearing or the evidence otherwise obtained may, in the discretion of the court and upon payment therefor, be forwarded to the requesting court.

2. A person within this state may voluntarily give his testimony or statement in this state for use in a custody proceeding outside this state.

3. Upon request of the court of another state, a competent court of this state may order a person in this state to appear alone or with the child in a custody proceeding in another state. The court may condition compliance with the request upon assurance by the other state that travel and other necessary expenses will be advanced or reimbursed.】

[452.540. In any custody proceeding in this state the court shall preserve the pleadings, orders and decrees, any record that has been made of its hearings, social studies, and other pertinent documents until the child reaches eighteen years of age. When requested by the court of another state the court may, upon payment therefor, forward to the other court certified copies of any or all of such documents.】

[452.545. If a custody decree has been rendered in another state concerning a child involved in a custody proceeding pending in a court of this state, the court of this state, upon taking jurisdiction of the case, shall request of the court of the other state a certified copy of the transcript of any court record and other documents mentioned in section 452.540.】

[452.550. Upon the request of a party to a custody proceeding which raises a question of existence or exercise of jurisdiction under sections 452.440 to 452.550, determination of jurisdiction shall be given calendar priority and handled expeditiously.】

Section B. Because immediate action is necessary to comply with federal mandates

section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect on July 1, 2002, or upon its passage and approval, whichever later occurs.

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Unofficial

Bill

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