
SENATE BILL NO. 48--SENATOR CARE

PREFILED JANUARY 30, 2003

Referred to Committee on Judiciary

SUMMARY—Adopts revision of Uniform Child Custody Jurisdiction and Enforcement Act. (BDR 11-382)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to child custody; adopting the revision of the Uniform Child Custody Jurisdiction and Enforcement Act; providing for the transition from the present act to the act as revised; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 125A of NRS is hereby amended by
2 adding thereto the provisions set forth as sections 2 to 59, inclusive,
3 of this act.

4 **Sec. 2.** *This chapter may be cited as the Uniform Child*
5 *Custody Jurisdiction and Enforcement Act.*

6 **Sec. 3.** *As used in this chapter, unless the context otherwise*
7 *requires, the words and terms defined in sections 4 to 19,*
8 *inclusive, of this act have the meanings ascribed to them in those*
9 *sections.*

10 **Sec. 4.** *“Abandoned” means left without provision for*
11 *reasonable and necessary care or supervision.*

12 **Sec. 5.** *“Child” means a person who has not attained 18*
13 *years of age.*

14 **Sec. 6. 1.** *“Child custody determination” means a*
15 *judgment, decree or other order of a court which provides for the*
16 *legal custody, physical custody or visitation with respect to a child.*



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- 1 2. *The term includes a permanent, temporary, initial and*
2 *modification order.*
- 3 3. *The term does not include an order relating to child*
4 *support or other monetary obligation of a natural person.*
- 5 **Sec. 7. 1.** *“Child custody proceeding” means a proceeding*
6 *in which legal custody, physical custody or visitation with respect*
7 *to a child is an issue.*
- 8 2. *The term includes a proceeding for divorce, separation,*
9 *neglect, abuse, dependency, guardianship, paternity, termination*
10 *of parental rights and protection from domestic violence, in which*
11 *the issue may appear.*
- 12 3. *The term does not include a proceeding involving juvenile*
13 *delinquency, contractual emancipation or enforcement pursuant*
14 *to sections 40 to 58, inclusive, of this act.*
- 15 **Sec. 8.** *“Commencement” means the filing of the first*
16 *pleading in a proceeding.*
- 17 **Sec. 9.** *“Court” means an entity authorized pursuant to the*
18 *law of a state to establish, enforce or modify a child custody*
19 *determination.*
- 20 **Sec. 10.** *“Home state” means:*
- 21 1. *The state in which a child lived with a parent or a person*
22 *acting as a parent for at least six consecutive months, including*
23 *any temporary absence from the state, immediately before the*
24 *commencement of a child custody proceeding.*
- 25 2. *In the case of a child less than six months of age, the state*
26 *in which the child lived from birth, including any temporary*
27 *absence from the state, with a parent or a person acting as a*
28 *parent.*
- 29 **Sec. 11.** *“Initial determination” means the first child custody*
30 *determination concerning a particular child.*
- 31 **Sec. 12.** *“Issuing court” means the court that makes a child*
32 *custody determination for which enforcement is sought pursuant*
33 *to the provisions of this chapter.*
- 34 **Sec. 13.** *“Modification” means a child custody determination*
35 *that changes, replaces, supersedes or is otherwise made after a*
36 *previous determination concerning the same child, whether or not*
37 *it is made by the court that made the previous determination.*
- 38 **Sec. 14.** *“Person” means any of the following:*
- 39 1. *A natural person.*
- 40 2. *Any form of business or commercial entity and any other*
41 *nongovernmental legal entity, including, without limitation, a*
42 *corporation, partnership, limited liability company, association,*
43 *joint venture, business trust, estate, trust or unincorporated*
44 *organization.*



1 3. A government, a political subdivision of a government or
2 an agency or instrumentality of a government or a political
3 subdivision of a government.

4 **Sec. 15.** "Person acting as a parent" means a person, other
5 than a parent, who:

6 1. Has physical custody of the child or has had physical
7 custody of the child for a period of six consecutive months,
8 including any temporary absence, within one year immediately
9 before the commencement of a child custody proceeding; and

10 2. Has been awarded legal custody by a court or claims a
11 right to legal custody pursuant to the law of this state.

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

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

18 **Sec. 18.** "Tribe" means an Indian tribe or band or Alaskan
19 native village, which is recognized by federal law or formally
20 acknowledged by a state.

21 **Sec. 19.** "Warrant" means an order issued by a court
22 authorizing law enforcement officers to take physical custody of a
23 child.

24 **Sec. 20.** The provisions of this chapter do not govern an
25 adoption proceeding or a proceeding pertaining to the
26 authorization of emergency medical care for a child.

27 **Sec. 21.** 1. A child custody proceeding that pertains to an
28 Indian child as defined in the Indian Child Welfare Act of 1978,
29 25 U.S.C. §§ 1901 et seq., is not subject to the provisions of this
30 chapter to the extent that the proceeding is governed by the Indian
31 Child Welfare Act.

32 2. A court of this state shall treat a tribe as if it were a state of
33 the United States for the purpose of applying sections 2 to 39,
34 inclusive, of this act.

35 3. A child custody determination made by a tribe under
36 factual circumstances in substantial conformity with the
37 jurisdictional standards of the provisions of this chapter must be
38 recognized and enforced pursuant to sections 40 to 58, inclusive,
39 of this act.

40 **Sec. 22.** 1. A court of this state shall treat a foreign country
41 as if it were a state of the United States for the purpose of applying
42 sections 2 to 39, inclusive, of this act.

43 2. Except as otherwise provided in subsection 3, a child
44 custody determination made in a foreign country under factual
45 circumstances in substantial conformity with the jurisdictional



1 *standards of the provisions of this chapter must be recognized and*
2 *enforced pursuant to sections 40 to 58, inclusive, of this act.*

3 *3. A court of this state need not apply the provisions of this*
4 *chapter if the child custody law of a foreign country violates*
5 *fundamental principles of human rights.*

6 **Sec. 23.** *A child custody determination made by a court of*
7 *this state that had jurisdiction pursuant to the provisions of this*
8 *chapter binds all persons who have been served in accordance*
9 *with the laws of this state or notified in accordance with section 25*
10 *of this act or who have submitted to the jurisdiction of the court,*
11 *and who have been given an opportunity to be heard. As to those*
12 *persons, the determination is conclusive as to all decided issues of*
13 *law and fact except to the extent the determination is modified.*

14 **Sec. 24.** *If a question of existence or exercise of jurisdiction*
15 *pursuant to the provisions of this chapter is raised in a child*
16 *custody proceeding, the question, upon request of a party, must be*
17 *given priority on the calendar and handled expeditiously.*

18 **Sec. 25.** *1. Notice required for the exercise of jurisdiction*
19 *when a person is outside this state may be given in a manner*
20 *prescribed by the law of this state for service of process or by the*
21 *law of the state in which the service is made. Notice must be given*
22 *in a manner reasonably calculated to give actual notice but may*
23 *be by publication if other means are not effective.*

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

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

29 **Sec. 26.** *1. A party to a child custody proceeding, including*
30 *a modification proceeding, or a petitioner or respondent in a*
31 *proceeding to enforce or register a child custody determination, is*
32 *not subject to personal jurisdiction in this state for another*
33 *proceeding or purpose solely by reason of having participated, or*
34 *of having been physically present for the purpose of participating,*
35 *in the proceeding.*

36 *2. A person who is subject to personal jurisdiction in this*
37 *state on a basis other than physical presence is not immune from*
38 *service of process in this state. A party present in this state who is*
39 *subject to the jurisdiction of another state is not immune from*
40 *service of process allowable pursuant to the laws of that state.*

41 *3. The immunity granted pursuant to subsection 1 does not*
42 *extend to civil litigation based on acts unrelated to the*
43 *participation in a proceeding conducted pursuant to the provisions*
44 *of this chapter committed by a natural person while present in this*
45 *state.*



1 **Sec. 27. 1.** *A court of this state may communicate with a*
2 *court in another state concerning a proceeding arising pursuant to*
3 *the provisions of this chapter.*

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

9 3. *Communication between courts concerning schedules,*
10 *calendars, court records and similar matters may occur without*
11 *informing the parties. A record need not be made of the*
12 *communication.*

13 4. *Except as otherwise provided in subsection 3, a record*
14 *must be made of a communication pursuant to this section. The*
15 *parties must be informed promptly of the communication and*
16 *granted access to the record.*

17 5. *For the purposes of this section, "record" means*
18 *information that is inscribed on a tangible medium or that is*
19 *stored in an electronic or other medium and is retrievable in*
20 *perceivable form.*

21 **Sec. 28. 1.** *In addition to other procedures available to a*
22 *party, a party to a child custody proceeding may offer testimony of*
23 *witnesses who are located in another state, including testimony of*
24 *the parties and the child, by deposition or other means allowable*
25 *in this state for testimony taken in another state. The court on its*
26 *own motion may order that the testimony of a person be taken in*
27 *another state and may prescribe the manner in which and the*
28 *terms upon which the testimony is taken.*

29 2. *A court of this state:*

30 (a) *May permit a natural person residing in another state to be*
31 *deposed or to testify by telephone, audiovisual means or other*
32 *electronic means before a designated court or at another location*
33 *in that state; and*

34 (b) *Shall cooperate with courts of other states in designating*
35 *an appropriate location for the deposition or testimony.*

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

40 **Sec. 29. 1.** *A court of this state may request the appropriate*
41 *court of another state to:*

42 (a) *Hold an evidentiary hearing;*

43 (b) *Order a person to produce or give evidence pursuant to*
44 *procedures of that state;*



- 1 (c) Order that an evaluation be made with respect to the
- 2 custody of a child involved in a pending proceeding;
- 3 (d) Forward to the court of this state a certified copy of the
- 4 transcript of the record of the hearing, the evidence otherwise
- 5 presented and any evaluation prepared in compliance with the
- 6 request; and
- 7 (e) Order a party to a child custody proceeding or any person
- 8 having physical custody of the child to appear in the proceeding
- 9 with or without the child.
- 10 2. Upon request of a court of another state, a court of
- 11 this state may hold a hearing or enter an order described in
- 12 subsection 1.
- 13 3. Travel and other necessary and reasonable expenses
- 14 incurred pursuant to subsections 1 and 2 may be assessed against
- 15 the parties according to the law of this state.
- 16 4. A court of this state shall preserve the pleadings, orders,
- 17 decrees, records of hearings, evaluations and other pertinent
- 18 records with respect to a child custody proceeding until the child
- 19 attains 18 years of age. Upon appropriate request by a court or law
- 20 enforcement officer of another state, the court shall forward a
- 21 certified copy of those records.
- 22 **Sec. 30. 1. Except as otherwise provided in section 33 of**
- 23 **this act, a court of this state has jurisdiction to make an initial**
- 24 **child custody determination only if:**
- 25 (a) This state is the home state of the child on the date of the
- 26 commencement of the proceeding or was the home state of
- 27 the child within six months before the commencement of the
- 28 proceeding and the child is absent from this state but a parent or
- 29 person acting as a parent continues to live in this state;
- 30 (b) A court of another state does not have jurisdiction
- 31 pursuant to paragraph (a) or a court of the home state of the child
- 32 has declined to exercise jurisdiction on the ground that this state is
- 33 the more appropriate forum pursuant to section 36 or 37 of this
- 34 act and:
 - 35 (1) The child and the child's parents, or the child and at
 - 36 least one parent or a person acting as a parent, have a significant
 - 37 connection with this state other than mere physical presence; and
 - 38 (2) Substantial evidence is available in this state
 - 39 concerning the child's care, protection, training and personal
 - 40 relationships;
 - 41 (c) All courts having jurisdiction pursuant to paragraph (a) or
 - 42 (b) have declined to exercise jurisdiction on the ground that a
 - 43 court of this state is the more appropriate forum to determine the
 - 44 custody of the child pursuant to section 36 or 37 of this act; or



1 (d) No court of any other state would have jurisdiction
2 pursuant to the criteria specified in paragraph (a), (b) or (c).

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

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

8 **Sec. 31.** 1. Except as otherwise provided in section 33 of
9 this act, a court of this state which has made a child custody
10 determination consistent with section 30 or 32 of this act has
11 exclusive, continuing jurisdiction over the determination until:

12 (a) A court of this state determines that the child, the child's
13 parents and any person acting as a parent do not have a
14 significant connection with this state and that substantial evidence
15 is no longer available in this state concerning the child's care,
16 protection, training and personal relationships; or

17 (b) A court of this state or a court of another state determines
18 that the child, the child's parents and any person acting as a
19 parent do not presently reside in this state.

20 2. A court of this state which has made a child custody
21 determination and does not have exclusive, continuing jurisdiction
22 pursuant to this section may modify that determination only if it
23 has jurisdiction to make an initial determination pursuant to
24 section 30 of this act.

25 **Sec. 32.** Except as otherwise provided in section 33 of this
26 act, a court of this state may not modify a child custody
27 determination made by a court of another state unless a court of
28 this state has jurisdiction to make an initial determination
29 pursuant to paragraph (a) or (b) of subsection 1 of section 30 of
30 this act and:

31 1. The court of the other state determines it no longer has
32 exclusive, continuing jurisdiction pursuant to section 31 of this act
33 or that a court of this state would be a more convenient forum
34 pursuant to section 36 of this act; or

35 2. A court of this state or a court of the other state determines
36 that the child, the child's parents and any person acting as a
37 parent do not presently reside in the other state.

38 **Sec. 33.** 1. A court of this state has temporary emergency
39 jurisdiction if the child is present in this state and the child has
40 been abandoned or it is necessary in an emergency to protect the
41 child because the child, or a sibling or parent of the child, is
42 subjected to or threatened with mistreatment or abuse.

43 2. If there is no previous child custody determination that is
44 entitled to be enforced pursuant to the provisions of this chapter
45 and a child custody proceeding has not been commenced in a



1 *court of a state having jurisdiction pursuant to sections 30, 31 and*
2 *32 of this act, a child custody determination made pursuant to this*
3 *section remains in effect until an order is obtained from a court of*
4 *a state having jurisdiction pursuant to sections 30, 31 and 32 of*
5 *this act. If a child custody proceeding has not been or is not*
6 *commenced in a court of a state having jurisdiction pursuant to*
7 *sections 30, 31 and 32 of this act, a child custody determination*
8 *made pursuant to this section becomes a final determination, if it*
9 *so provides, and this state becomes the home state of the child.*

10 3. *If there is a previous child custody determination that is*
11 *entitled to be enforced pursuant to the provisions of this chapter,*
12 *or a child custody proceeding has been commenced in a court of a*
13 *state having jurisdiction pursuant to sections 30, 31 and 32 of this*
14 *act, any order issued by a court of this state pursuant to this*
15 *section must specify in the order a period that the court considers*
16 *adequate to allow the person seeking an order to obtain an order*
17 *from the state having jurisdiction pursuant to sections 30, 31 and*
18 *32 of this act. The order issued in this state remains in effect until*
19 *an order is obtained from the other state within the period*
20 *specified or the period expires.*

21 4. *A court of this state which has been asked to make a child*
22 *custody determination pursuant to this section, upon being*
23 *informed that a child custody proceeding has been commenced in,*
24 *or a child custody determination has been made by, a court of a*
25 *state having jurisdiction pursuant to sections 30, 31 and 32 of this*
26 *act, shall immediately communicate with the other court. A court*
27 *of this state which is exercising jurisdiction pursuant to sections*
28 *30, 31 and 32 of this act, upon being informed that a child custody*
29 *proceeding has been commenced in, or a child custody*
30 *determination has been made by, a court of another state pursuant*
31 *to a statute similar to this section shall immediately communicate*
32 *with the court of that state to resolve the emergency, protect the*
33 *safety of the parties and the child, and determine a period for the*
34 *duration of the temporary order.*

35 **Sec. 34.** 1. *Before a child custody determination is made*
36 *pursuant to the provisions of this chapter, notice and an*
37 *opportunity to be heard in accordance with the standards of*
38 *section 25 of this act must be given to all persons entitled to notice*
39 *pursuant to the law of this state as in child custody proceedings*
40 *between residents of this state, any parent whose parental rights*
41 *have not been previously terminated and any person having*
42 *physical custody of the child.*

43 2. *The provisions of this chapter do not govern the*
44 *enforceability of a child custody determination made without*
45 *notice or an opportunity to be heard.*



1 3. *The obligation to join a party and the right to intervene as*
2 *a party in a child custody proceeding conducted pursuant to the*
3 *provisions of this chapter are governed by the law of this state as*
4 *in child custody proceedings between residents of this state.*

5 **Sec. 35.** *1. Except as otherwise provided in section 33 of*
6 *this act, a court of this state may not exercise its jurisdiction*
7 *pursuant to sections 30 to 39, inclusive, of this act if, at the time of*
8 *the commencement of the proceeding, a proceeding concerning*
9 *the custody of the child has been commenced in a court of another*
10 *state having jurisdiction substantially in conformity with the*
11 *provisions of this chapter, unless the proceeding has been*
12 *terminated or is stayed by the court of the other state because a*
13 *court of this state is a more convenient forum pursuant to section*
14 *36 of this act.*

15 2. *Except as otherwise provided in section 33 of this act, a*
16 *court of this state, before hearing a child custody proceeding, shall*
17 *examine the court documents and other information supplied by*
18 *the parties pursuant to section 38 of this act. If the court*
19 *determines that a child custody proceeding has been commenced*
20 *in a court in another state having jurisdiction substantially in*
21 *accordance with the provisions of this chapter, the court of this*
22 *state shall stay its proceeding and communicate with the court of*
23 *the other state. If the court of the state having jurisdiction*
24 *substantially in accordance with the provisions of this chapter*
25 *does not determine that the court of this state is a more*
26 *appropriate forum, the court of this state shall dismiss the*
27 *proceeding.*

28 3. *In a proceeding to modify a child custody determination, a*
29 *court of this state shall determine whether a proceeding to enforce*
30 *the determination has been commenced in another state. If a*
31 *proceeding to enforce a child custody determination has been*
32 *commenced in another state, the court may:*

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

36 (b) *Enjoin the parties from continuing with the proceeding for*
37 *enforcement; or*

38 (c) *Proceed with the modification under conditions it considers*
39 *appropriate.*

40 **Sec. 36.** *1. A court of this state which has jurisdiction*
41 *pursuant to the provisions of this chapter to make a child custody*
42 *determination may decline to exercise its jurisdiction at any time if*
43 *it determines that it is an inconvenient forum under the*
44 *circumstances and that a court of another state is a more*
45 *appropriate forum. The issue of inconvenient forum may be raised*



1 upon motion of a party, the court's own motion or request of
2 another court.

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

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

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

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

14 (d) The relative financial circumstances of the parties;

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

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

19 (g) The ability of the court of each state to decide the issue
20 expeditiously and the procedures necessary to present the
21 evidence; and

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

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

30 4. A court of this state may decline to exercise its jurisdiction
31 pursuant to the provisions of this chapter if a child custody
32 determination is incidental to an action for divorce or another
33 proceeding while still retaining jurisdiction over the divorce or
34 other proceeding.

35 **Sec. 37. 1.** Except as otherwise provided in section 33 of
36 this act or by other state law, if a court of this state has jurisdiction
37 pursuant to the provisions of this chapter because a person
38 seeking to invoke its jurisdiction has engaged in unjustifiable
39 conduct, the court shall decline to exercise its jurisdiction unless:

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

42 (b) A court of the state otherwise having jurisdiction pursuant
43 to sections 30, 31 and 32 of this act determines that this state is a
44 more appropriate forum pursuant to section 36 of this act; or



1 (c) No court of any other state would have jurisdiction
2 pursuant to the criteria specified in sections 30, 31 and 32 of this
3 act.

4 2. If a court of this state declines to exercise its jurisdiction
5 pursuant to subsection 1, it may fashion an appropriate remedy to
6 ensure the safety of the child and prevent a repetition of the
7 unjustifiable conduct, including staying the proceeding until a
8 child custody proceeding is commenced in a court having
9 jurisdiction pursuant to sections 30, 31 and 32 of this act.

10 3. If a court dismisses a petition or stays a proceeding
11 because it declines to exercise its jurisdiction pursuant to
12 subsection 1, it shall assess against the party seeking to invoke its
13 jurisdiction necessary and reasonable expenses including costs,
14 communication expenses, attorney's fees, investigative fees,
15 expenses for witnesses, travel expenses and child care during the
16 course of the proceedings, unless the party from whom fees are
17 sought establishes that the assessment would be clearly
18 inappropriate. The court may not assess fees, costs or expenses
19 against this state unless authorized by law other than the
20 provisions of this chapter.

21 **Sec. 38.** 1. Except as otherwise provided by state law, in a
22 child custody proceeding, each party, in its first pleading or in an
23 attached affidavit, shall give information, if reasonably
24 ascertainable, under oath as to the child's present address or
25 whereabouts, the places where the child has lived during the last
26 five years, and the names and present addresses of the persons
27 with whom the child has lived during that period. The pleading or
28 affidavit must state whether the party:

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

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

38 (c) Knows the names and addresses of any person not a party
39 to the proceeding who has physical custody of the child or claims
40 rights of legal custody or physical custody of, or visitation with,
41 the child and, if so, the names and addresses of those persons.

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



1 3. *If the declaration as to any of the items described in*
2 *paragraphs (a), (b) and (c) of subsection 1 is in the affirmative, the*
3 *declarant shall give additional information under oath as required*
4 *by the court. The court may examine the parties under oath as to*
5 *details of the information furnished and other matters pertinent to*
6 *the court's jurisdiction and the disposition of the case.*

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

10 5. *If a party alleges in an affidavit or a pleading under oath*
11 *that the health, safety or liberty of a party or child would be*
12 *jeopardized by disclosure of identifying information, the*
13 *information must be sealed and may not be disclosed to the other*
14 *party or the public unless the court orders the disclosure to be*
15 *made after a hearing in which the court takes into consideration*
16 *the health, safety or liberty of the party or child and determines*
17 *that the disclosure is in the interest of justice.*

18 **Sec. 39. 1.** *In a child custody proceeding in this state, the*
19 *court may order a party to the proceeding who is in this state to*
20 *appear before the court in person with or without the child. The*
21 *court may order any person who is in this state and who has*
22 *physical custody or control of the child to appear in person with*
23 *the child.*

24 2. *If a party to a child custody proceeding whose presence is*
25 *desired by the court is outside this state, the court may order that a*
26 *notice given pursuant to section 25 of this act include a statement*
27 *directing the party to appear in person with or without the child*
28 *and informing the party that failure to appear may result in a*
29 *decision adverse to the party.*

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

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

39 **Sec. 40.** *As used in sections 40 to 58, inclusive, of this act,*
40 *unless the context otherwise requires, the words and terms defined*
41 *in sections 41 and 42 of this act have the meanings ascribed to*
42 *them in those sections.*

43 **Sec. 41.** *“Petitioner” means a person who seeks enforcement*
44 *of an order for return of a child pursuant to the Hague*



1 *Convention on the Civil Aspects of International Child Abduction*
2 *or enforcement of a child custody determination.*

3 **Sec. 42.** *“Respondent” means a person against whom a*
4 *proceeding has been commenced for enforcement of an order for*
5 *return of a child pursuant to the Hague Convention on the Civil*
6 *Aspects of International Child Abduction or enforcement of a*
7 *child custody determination.*

8 **Sec. 43.** *Pursuant to sections 40 to 58, inclusive, of this act, a*
9 *court of this state may enforce an order for the return of a child*
10 *made pursuant to the Hague Convention on the Civil Aspects of*
11 *International Child Abduction as if it were a child custody*
12 *determination.*

13 **Sec. 44.** 1. *A court of this state shall recognize and enforce*
14 *a child custody determination of a court of another state if the*
15 *latter court exercised jurisdiction in substantial conformity with*
16 *the provisions of this chapter or the determination was made*
17 *under factual circumstances meeting the jurisdictional standards*
18 *of the provisions of this chapter and the determination has not*
19 *been modified in accordance with the provisions of this chapter.*

20 2. *A court of this state may utilize any remedy available*
21 *pursuant to other law of this state to enforce a child custody*
22 *determination made by a court of another state. The remedies*
23 *provided pursuant to sections 40 to 58, inclusive, of this act are*
24 *cumulative and do not affect the availability of other remedies to*
25 *enforce a child custody determination.*

26 **Sec. 45.** 1. *A court of this state which does not have*
27 *jurisdiction to modify a child custody determination, may issue a*
28 *temporary order enforcing:*

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

30 (b) *The visitation provisions of a child custody determination*
31 *of another state that does not provide for a specific visitation*
32 *schedule.*

33 2. *If a court of this state makes an order pursuant to*
34 *paragraph (b) of subsection 1, it shall specify in the order a period*
35 *that it considers adequate to allow the petitioner to obtain an order*
36 *from a court having jurisdiction pursuant to the criteria specified*
37 *in sections 30 to 39, inclusive, of this act. The order remains in*
38 *effect until an order is obtained from the other court or the period*
39 *expires.*

40 **Sec. 46.** 1. *A child custody determination issued by a court*
41 *of another state may be registered in this state, with or without a*
42 *simultaneous request for enforcement, by sending to a court of*
43 *this state which is competent to hear custody matters:*

44 (a) *A letter or other document requesting registration;*



1 (b) Two copies, including one certified copy, of the
2 determination sought to be registered, and a statement under
3 penalty of perjury that to the best of the knowledge and belief of
4 the person seeking registration the order has not been modified;
5 and

6 (c) Except as otherwise provided in section 38 of this act, the
7 name and address of the person seeking registration and any
8 parent or person acting as a parent who has been awarded custody
9 or visitation in the child custody determination sought to be
10 registered.

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

13 (a) Cause the determination to be filed as a foreign judgment,
14 together with one copy of any accompanying documents and
15 information, regardless of their form; and

16 (b) Serve notice upon the persons named pursuant to
17 paragraph (c) of subsection 1 and provide them with an
18 opportunity to contest the registration in accordance with this
19 section.

20 3. The notice required by paragraph (b) of subsection 2 must
21 state that:

22 (a) A registered determination is enforceable as of the date of
23 the registration in the same manner as a determination issued by a
24 court of this state;

25 (b) A hearing to contest the validity of the registered
26 determination must be requested within 20 days after service of
27 notice; and

28 (c) Failure to contest the registration will result in
29 confirmation of the child custody determination and preclude
30 further contest of that determination with respect to any matter
31 that could have been asserted.

32 4. A person seeking to contest the validity of a registered
33 order must request a hearing within 20 days after service of the
34 notice. At that hearing, the court shall confirm the registered
35 order unless the person contesting registration establishes that:

36 (a) The issuing court did not have jurisdiction pursuant to
37 sections 30 to 39, inclusive, of this act;

38 (b) The child custody determination sought to be registered
39 has been vacated, stayed or modified by a court having jurisdiction
40 to do so pursuant to sections 30 to 39, inclusive, of this act; or

41 (c) The person contesting registration was entitled to notice,
42 but notice was not given in accordance with the standards of
43 section 25 of this act, in the proceedings before the court that
44 issued the order for which registration is sought.



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

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

9 **Sec. 47.** 1. *A court of this state may grant any relief*
10 *normally available pursuant to the law of this state to enforce a*
11 *registered child custody determination made by a court of another*
12 *state.*

13 2. *A court of this state shall recognize and enforce, but may*
14 *not modify, except in accordance with sections 30 to 39, inclusive,*
15 *of this act, a registered child custody determination of a court of*
16 *another state.*

17 **Sec. 48.** 1. *If a proceeding for enforcement pursuant to the*
18 *provisions of sections 40 to 58, inclusive, of this act is commenced*
19 *in a court of this state and the court determines that a proceeding*
20 *to modify the determination is pending in a court of another state*
21 *having jurisdiction to modify the determination pursuant to*
22 *sections 30 to 39, inclusive, of this act, the enforcing court shall*
23 *immediately communicate with the modifying court.*

24 2. *The proceeding for enforcement continues unless the*
25 *enforcing court, after consultation with the modifying court, stays*
26 *or dismisses the proceeding.*

27 **Sec. 49.** 1. *A petition pursuant to sections 40 to 58,*
28 *inclusive, of this act must be verified. Certified copies of all orders*
29 *sought to be enforced and of any order confirming registration*
30 *must be attached to the petition. A copy of a certified copy of an*
31 *order may be attached instead of the original.*

32 2. *A petition for enforcement of a child custody determination*
33 *must state:*

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

37 (b) *Whether the determination for which enforcement is*
38 *sought has been vacated, stayed or modified by a court whose*
39 *decision must be enforced pursuant to the provisions of this*
40 *chapter and, if so, identify the court, the case number and the*
41 *nature of the proceeding;*

42 (c) *Whether any proceeding has been commenced that could*
43 *affect the current proceeding, including proceedings relating to*
44 *domestic violence, protective orders, termination of parental rights*



1 *and adoptions and, if so, identify the court, the case number and*
2 *the nature of the proceeding;*

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

5 *(e) Whether relief in addition to the immediate physical*
6 *custody of the child and attorney's fees is sought, including a*
7 *request for assistance from law enforcement officers and, if so, the*
8 *relief sought; and*

9 *(f) If the child custody determination has been registered and*
10 *confirmed pursuant to section 46 of this act, the date and place of*
11 *registration.*

12 *3. Upon the filing of a petition, the court shall issue an order*
13 *directing the respondent to appear in person with or without the*
14 *child at a hearing and may enter any order necessary to ensure the*
15 *safety of the parties and the child. The hearing must be held on*
16 *the next judicial day after service of the order unless that date is*
17 *impossible. If that date is impossible, the court shall hold the*
18 *hearing on the first judicial day possible. The court may extend*
19 *the date of the hearing at the request of the petitioner.*

20 *4. An order issued pursuant to subsection 3 must state the*
21 *time and place of the hearing and advise the respondent that at the*
22 *hearing the court will order that the petitioner may take immediate*
23 *physical custody of the child and the payment of fees, costs and*
24 *expenses pursuant to section 53 of this act, and may schedule a*
25 *hearing to determine whether further relief is appropriate, unless*
26 *the respondent appears and establishes that:*

27 *(a) The child custody determination has not been registered*
28 *and confirmed pursuant to section 46 of this act and that:*

29 *(1) The issuing court did not have jurisdiction pursuant to*
30 *sections 30 to 39, inclusive, of this act;*

31 *(2) The child custody determination for which enforcement*
32 *is sought has been vacated, stayed or modified by a court having*
33 *jurisdiction to do so pursuant to sections 30 to 39, inclusive, of this*
34 *act;*

35 *(3) The respondent was entitled to notice, but notice was*
36 *not given in accordance with the standards of section 25 of this*
37 *act, in the proceedings before the court that issued the order for*
38 *which enforcement is sought; or*

39 *(b) The child custody determination for which enforcement is*
40 *sought was registered and confirmed pursuant to section 45 of this*
41 *act, but has been vacated, stayed or modified by a court of a state*
42 *having jurisdiction to do so pursuant to sections 30 to 39,*
43 *inclusive, of this act.*

44 **Sec. 50.** *Except as otherwise provided in section 52 of this*
45 *act, the petition and order must be served, by any method*



1 *authorized by state law, upon respondent and any person who has*
2 *physical custody of the child.*

3 **Sec. 51.** 1. *Unless the court issues a temporary emergency*
4 *order pursuant to section 33 of this act, upon a finding that a*
5 *petitioner is entitled to immediate physical custody of the child, the*
6 *court shall order that the petitioner may take immediate physical*
7 *custody of the child unless the respondent establishes that:*

8 (a) *The child custody determination has not been registered*
9 *and confirmed pursuant to section 46 of this act and that:*

10 (1) *the issuing court did not have jurisdiction pursuant to*
11 *sections 30 to 39, inclusive, of this act;*

12 (2) *The child custody determination for which enforcement*
13 *is sought has been vacated, stayed or modified by a court of a state*
14 *having jurisdiction to do so pursuant to sections 30 to 39,*
15 *inclusive, of this act; or*

16 (3) *The respondent was entitled to notice, but notice was*
17 *not given in accordance with the standards of section 25 of this*
18 *act, in the proceedings before the court that issued the order for*
19 *which enforcement is sought; or*

20 (b) *The child custody determination for which enforcement is*
21 *sought was registered and confirmed pursuant to section 46 of this*
22 *act but has been vacated, stayed or modified by a court of a state*
23 *having jurisdiction to do so pursuant to sections 30 to 39,*
24 *inclusive, of this act.*

25 2. *The court shall award the fees, costs and expenses*
26 *authorized pursuant to section 53 of this act and may grant*
27 *additional relief, including a request for the assistance of law*
28 *enforcement officers, and set a further hearing to determine*
29 *whether additional relief is appropriate.*

30 3. *If a party called to testify refuses to answer on the ground*
31 *that the testimony may be self-incriminating, the court may draw*
32 *an adverse inference from the refusal.*

33 4. *A privilege against disclosure of communications between*
34 *spouses and a defense of immunity based on the relationship of*
35 *husband and wife or parent and child may not be invoked in a*
36 *proceeding conducted pursuant to sections 40 to 58, inclusive, of*
37 *this act.*

38 **Sec. 52.** 1. *Upon the filing of a petition seeking*
39 *enforcement of a child custody determination, the petitioner may*
40 *file a verified application for the issuance of a warrant to take*
41 *physical custody of the child if the child is immediately likely to*
42 *suffer serious physical harm or to be removed from this state.*

43 2. *If the court, upon the testimony of the petitioner or other*
44 *witness, finds that the child is immediately likely to suffer serious*
45 *physical harm or to be removed from this state, it may issue a*



1 *warrant to take physical custody of the child. The petition must be*
2 *heard on the next judicial day after the warrant is executed unless*
3 *that date is impossible. If that date is impossible, the court shall*
4 *hold the hearing on the first judicial day possible. The application*
5 *for the warrant must include the statements required by subsection*
6 *2 of section 49 of this act.*

7 **3.** *A warrant to take physical custody of a child must:*
8 *(a) Recite the facts upon which the conclusion that the child is*
9 *immediately likely to suffer serious physical harm or to be*
10 *removed from this state is based;*

11 *(b) Direct law enforcement officers to take physical custody of*
12 *the child immediately; and*

13 *(c) Provide for the placement of the child pending final relief.*

14 **4.** *The respondent must be served with the petition, warrant*
15 *and order immediately after the child is taken into physical*
16 *custody.*

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

25 **6.** *The court may impose conditions upon placement of a*
26 *child to ensure the appearance of the child and the child's*
27 *custodian.*

28 **Sec. 53.** **1.** *The court shall award the prevailing party,*
29 *including a state, necessary and reasonable expenses incurred by*
30 *or on behalf of the party, including costs, communication*
31 *expenses, attorney's fees, investigative fees, expenses for*
32 *witnesses, travel expenses and child care during the course of the*
33 *proceedings, unless the party from whom fees or expenses are*
34 *sought establishes that the award would be clearly inappropriate.*

35 **2.** *The court may not assess fees, costs or expenses against a*
36 *state unless authorized by law other than the provisions of this*
37 *chapter.*

38 **Sec. 54.** *A court of this state shall accord full faith and credit*
39 *to an order issued by another state and consistent with the*
40 *provisions of this chapter which enforces a child custody*
41 *determination by a court of another state unless the order has*
42 *been vacated, stayed or modified by a court having jurisdiction to*
43 *do so pursuant to sections 30 to 39, inclusive, of this act.*

44 **Sec. 55.** **1.** *An appeal may be taken from a final order in a*
45 *proceeding conducted pursuant to the provisions of sections 40 to*



1 58, inclusive, of this act in the same manner as appeals in other
2 civil cases are taken.

3 2. To the extent consistent with the Nevada Rules of
4 Appellate Procedure, the Supreme Court shall expedite an appeal
5 brought pursuant to this section.

6 3. Unless the court enters a temporary emergency order
7 pursuant to section 34 of this act, the enforcing court may not stay
8 an order enforcing a child custody determination pending appeal.

9 **Sec. 56. 1.** In a case arising pursuant to the provisions of
10 this chapter or involving the Hague Convention on the Civil
11 Aspects of International Child Abduction, a district attorney or the
12 Attorney General may take any lawful action, including resort to a
13 proceeding brought pursuant to sections 40 to 58, inclusive, of this
14 act or any other available civil proceeding to locate a child, obtain
15 the return of a child or enforce a child custody determination if
16 there is:

17 (a) An existing child custody determination;

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

20 (c) A reasonable belief that a criminal statute has been
21 violated; or

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

25 2. A district attorney or the Attorney General acting pursuant
26 to this section acts on behalf of the court and may not represent
27 any party.

28 **Sec. 57.** At the request of a district attorney or the Attorney
29 General acting pursuant to section 56 of this act, a law
30 enforcement officer may take any lawful action reasonably
31 necessary to locate a child or a party and assist the district
32 attorney or the Attorney General with responsibilities pursuant to
33 section 56 of this act.

34 **Sec. 58.** If the respondent is not the prevailing party, the
35 court may assess against the respondent all direct expenses and
36 costs incurred by a district attorney or the Attorney General and
37 law enforcement officers pursuant to section 56 or 57 of this act.

38 **Sec. 59.** In applying and construing the Uniform Child
39 Custody Jurisdiction and Enforcement Act, consideration must be
40 given to the need to promote uniformity of the law with respect to
41 its subject matter among states that enact it.

42 **Sec. 60.** NRS 125.470 is hereby amended to read as follows:

43 125.470 1. If, during any proceeding brought under this
44 chapter, either before or after the entry of a final order concerning
45 the custody of a minor child, it appears to the court that any minor



1 child of either party has been, or is likely to be, taken or removed
2 out of this state or concealed within this state, the court shall
3 forthwith order such child to be produced before it and make such
4 disposition of the child's custody as appears most advantageous to
5 and in the best interest of the child and most likely to secure to him
6 the benefit of the final order or the modification or termination of
7 the final order to be made in his behalf.

8 2. If, during any proceeding brought under this chapter, either
9 before or after the entry of a final order concerning the custody of a
10 minor child, the court finds that it would be in the best interest of the
11 minor child, the court may enter an order providing that a party
12 may, with the assistance of the appropriate law enforcement agency,
13 obtain physical custody of the child from the party having physical
14 custody of the child. The order must provide that if the party obtains
15 physical custody of the child, the child must be produced before the
16 court as soon as practicable to allow the court to make such
17 disposition of the child's custody as appears most advantageous to
18 and in the best interest of the child and most likely to secure to him
19 the benefit of the final order or the modification or termination of
20 the final order to be made in his behalf.

21 3. If the court enters an order pursuant to subsection 2
22 providing that a party may obtain physical custody of a child, the
23 court shall order that party to give the party having physical custody
24 of the child notice at least 24 hours before the time at which he
25 intends to obtain physical custody of the child, unless the court
26 deems that requiring the notice would likely defeat the purpose of
27 the order.

28 4. All orders for a party to appear with a child issued pursuant
29 to this section may be enforced ~~as provided by subsection 2 of NRS~~
30 ~~125A.140.]~~ *by issuing a warrant of arrest against that party to*
31 *secure his appearance with the child.*

32 5. A proceeding under this section must be given priority on
33 the court calendar.

34 **Sec. 61.** NRS 200.359 is hereby amended to read as follows:

35 200.359 1. A person having a limited right of custody to a
36 child by operation of law or pursuant to an order, judgment or
37 decree of any court, including a judgment or decree which grants
38 another person rights to custody or visitation of the child, or any
39 parent having no right of custody to the child, who:

40 (a) In violation of an order, judgment or decree of any court
41 willfully detains, conceals or removes the child from a parent,
42 guardian or other person having lawful custody or a right of
43 visitation of the child; or

44 (b) In the case of an order, judgment or decree of any court that
45 does not specify when the right to physical custody or visitation is to



1 be exercised, removes the child from the jurisdiction of the court
2 without the consent of either the court or all persons who have the
3 right to custody or visitation,
4 is guilty of a category D felony and shall be punished as provided in
5 NRS 193.130.

6 2. A parent who has joint legal custody of a child pursuant to
7 NRS 125.465 shall not willfully conceal or remove the child from
8 the custody of the other parent with the specific intent to deprive the
9 other parent of the parent and child relationship. A person
10 who violates this subsection shall be punished as provided in
11 subsection 1.

12 3. If the mother of a child has primary physical custody
13 pursuant to subsection 2 of NRS 126.031, the father of the child
14 shall not willfully conceal or remove the child from the physical
15 custody of the mother. If the father of a child has primary physical
16 custody pursuant to subsection 2 of NRS 126.031, the mother of the
17 child shall not willfully conceal or remove the child from the
18 physical custody of the father. A person who violates this subsection
19 shall be punished as provided in subsection 1.

20 4. Before an arrest warrant may be issued for a violation of this
21 section, the court must find that:

22 (a) This is the home state of the child, as defined in ~~subsection~~
23 ~~5 of NRS 125A.040;~~ *section 10 of this act*; and

24 (b) There is cause to believe that the entry of a court order in a
25 civil proceeding brought pursuant to chapter 125, 125A or 125C of
26 NRS will not be effective to enforce the rights of the parties and
27 would not be in the best interests of the child.

28 5. Upon conviction for a violation of this section, the court
29 shall order the defendant to pay restitution for any expenses incurred
30 in locating or recovering the child.

31 6. The prosecuting attorney may recommend to the judge that
32 the defendant be sentenced as for a misdemeanor and the judge may
33 impose such a sentence if he finds that:

34 (a) The defendant has no prior conviction for this offense and
35 the child has suffered no substantial harm as a result of the offense;
36 or

37 (b) The interests of justice require that the defendant be
38 punished as for a misdemeanor.

39 7. A person who aids or abets any other person to violate this
40 section shall be punished as provided in subsection 1.

41 8. This section does not apply to a person who detains,
42 conceals or removes a child to protect the child from the imminent
43 danger of abuse or neglect or to protect himself from imminent
44 physical harm, and reported the detention, concealment or removal
45 to a law enforcement agency or an agency which provides child



1 welfare services within 24 hours after detaining, concealing or
2 removing the child, or as soon as the circumstances allowed. As
3 used in this subsection:

4 (a) "Abuse or neglect" has the meaning ascribed to it in
5 paragraph (a) of subsection 4 of NRS 200.508.

6 (b) "Agency which provides child welfare services" has the
7 meaning ascribed to it in NRS 432B.030.

8 **Sec. 62.** A motion or other request for relief made in a child
9 custody proceeding or to enforce a child custody determination
10 which was commenced before October 1, 2003, is governed by the
11 law in effect at the time the motion or other request was made.

12 **Sec. 63.** NRS 125A.010, 125A.020, 125A.030, 125A.040,
13 125A.050, 125A.060, 125A.070, 125A.080, 125A.090, 125A.100,
14 125A.110, 125A.120, 125A.130, 125A.140, 125A.150, 125A.160,
15 125A.170, 125A.180, 125A.190, 125A.200, 125A.210, 125A.220,
16 125A.230, 125A.240 and 125A.250 are hereby repealed.

LEADLINES OF REPEALED SECTIONS

125A.010 Short title.

125A.020 Purposes of chapter.

125A.030 Application of chapter to decrees of other nations.

125A.040 Definitions.

125A.050 Jurisdiction.

125A.060 Exercise of jurisdiction: When custody proceedings pending in other states.

125A.070 Exercise of jurisdiction: When forum inappropriate.

125A.080 Exercise of jurisdiction: When petitioner acts wrongfully.

125A.090 Exercise of jurisdiction: Notice and opportunity to be heard.

125A.100 Notice to persons outside Nevada.

125A.110 Priority of issues concerning jurisdiction.

125A.120 Information required with initial pleading; exceptions.

125A.130 Joinder of additional parties.

125A.140 Appearance of parties.

125A.150 Effect of decree upon parties.

125A.160 Certification of copies of decree.

125A.170 Recognition of foreign decrees.



- 125A.180** Modification of foreign decrees.
- 125A.190** Filing and enforcement of foreign decrees.
- 125A.200** Registry of foreign decrees, communications and other documents; assignment of case number, docket and department to foreign decrees; proof of registration of foreign decree; fee for registration.
- 125A.210** Examination of witnesses outside Nevada.
- 125A.220** Assistance by courts of other states.
- 125A.230** Assistance to courts of other states.
- 125A.240** Preservation of documents for use in other states.
- 125A.250** Request for court records and documents of another state.

