

WORKING DRAFT

SENATE FILE NO. _____

Uniform Child Custody Jurisdiction and Enforcement Act-05.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to child custody; enacting the Uniform
2 Child Custody Jurisdiction and Enforcement Act as
3 specified; repealing the Uniform Child Custody Jurisdiction
4 Act; making conforming amendments; and providing for an
5 effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 20-5-201 through 20-5-212, 20-5-301
10 through 20-5-310, 20-5-401 through 20-5-417 and 20-5-501
11 and 20-5-502 are created to read:

12

13

ARTICLE 2

14

GENERAL PROVISIONS

15

1 **20-5-201. Short title.**

2 This act may be cited as the "Uniform Child Custody
3 Jurisdiction and Enforcement Act."

4

5 **20-5-202. Definitions.**

6

7 (a) As used in this act:

8

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

11

12 (ii) "Child" means an individual who has not
13 attained eighteen (18) years of age;

14

15 (iii) "Child custody determination" means a
16 judgment, decree or other order of a court providing for
17 the legal custody, physical custody or visitation with
18 respect to a child, including a permanent, temporary,
19 initial or modification order. "Child custody
20 determination" shall not include an order relating to child
21 support or other monetary obligation of an individual;

22

23 (iv) "Child custody proceeding" means a
24 proceeding in which legal custody, physical custody or

1 visitation with respect to a child is an issue, including a
2 proceeding for divorce, separation, neglect, abuse,
3 dependency, guardianship, paternity, termination of
4 parental rights or protection from domestic violence in
5 which the issue may appear. "Child custody proceeding"
6 shall not include a proceeding involving juvenile
7 delinquency, contractual emancipation or enforcement under
8 article 4 of this act;

9

10 (v) "Commencement" means the filing of the first
11 pleading in a proceeding;

12

13 (vi) "Court" means an entity authorized under
14 the law of a state to establish, enforce or modify a child
15 custody determination;

16

17 (vii) "Home state" means the state in which a
18 child lived with a parent or a person acting as a parent
19 for at least six (6) consecutive months immediately before
20 the commencement of a child custody proceeding or, in the
21 case of a child less than six (6) months of age, the state
22 in which the child lived from birth with a parent or a
23 person acting as a parent. A period of temporary absence
24 of any of the persons mentioned is part of the period;

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2

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

4

5

(ix) "Issuing court" means the court that makes a child custody determination for which enforcement is sought under this act;

8

9

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

11

12

(xi) "Modification" means a child custody determination that changes, replaces, supersedes or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination;

17

18

(xii) "Person" means as defined by W.S. 8-1-102(a)(vi);

20

21

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

23

1 (A) Has physical custody of the child or
2 has had physical custody for a period of six (6)
3 consecutive months, including any temporary absence, within
4 one (1) year immediately before the commencement of a child
5 custody proceeding; and

6

7 (B) Has been awarded legal custody by a
8 court or claims a right to legal custody under the law of
9 this state.

10

11 (xiv) "Physical custody" means the physical care
12 and supervision of a child;

13

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

18

19 (xvi) "Tribe" means an Indian tribe or band, or
20 Alaskan native village, which is recognized by federal law
21 or formally acknowledged by a state;

22

1 (xvii) "Warrant" means an order issued by a
2 court authorizing law enforcement officers to take physical
3 custody of a child;

4
5 (xviii) "This act" means W.S. 20-5-201 through
6 20-5-502.

7

8 **20-5-203. Proceedings governed by other law.**

9

10 This act shall not govern an adoption proceeding or a
11 proceeding pertaining to the authorization of emergency
12 medical care for a child.

13

14 **20-5-204. Application to tribes.**

15

16 (a) A child custody proceeding that pertains to an
17 Indian child as defined in the Indian Child Welfare Act, 25
18 U.S.C. 1901 et seq., shall not be subject to this act to
19 the extent that it is governed by the Indian Child Welfare
20 Act.

21

22 (b) A court of this state shall treat a tribe as if
23 the tribe were a state of the United States for the purpose
24 of applying articles 2 and 3 of this act.

1

2 (c) A child custody determination made by a tribe
3 under factual circumstances in substantial conformity with
4 the jurisdictional standards of this act shall be
5 recognized and enforced under article 4 of this act.

6

7 **20-5-205. International application.**

8

9 (a) A court of this state shall treat a foreign
10 country as if it were a state of the United States for the
11 purpose of applying articles 2 and 3 of this act.

12

13 (b) Except as otherwise provided in subsection (c) of
14 this section, a child custody determination made in a
15 foreign country under factual circumstances in substantial
16 conformity with the jurisdictional standards of this act
17 shall be recognized and enforced under article 4 of this
18 act.

19

20 (c) A court of this state may not apply this act if
21 the child custody law of a foreign country violates
22 fundamental principles of human rights.

23

24 **20-5-206. Effect of child custody determination.**

1

2 A child custody determination made by a court of this state
3 that had jurisdiction under this act shall bind all persons
4 who have been served in accordance with the laws of this
5 state or notified in accordance with W.S. 20-5-208 or who
6 have submitted to the jurisdiction of the court and who
7 have been given an opportunity to be heard. As to those
8 persons, the determination shall be conclusive as to all
9 decided issues of law and fact except to the extent the
10 determination is modified.

11

12 **20-5-207. Priority.**

13

14 If a question of existence or exercise of jurisdiction
15 under this act is raised in a child custody proceeding, the
16 question, upon request of a party, shall be given priority
17 on the calendar and handled expeditiously.

18

19 **20-5-208. Notice to persons outside of state.**

20

21 (a) Notice required for the exercise of jurisdiction
22 when a person is outside this state may be given in a
23 manner prescribed by the law of this state for service of
24 process or by the law of the state in which the service is

1 made. Notice shall be given in a manner reasonably
2 calculated to give actual notice but may be by publication
3 if other means are not effective.

4

5 (b) Proof of service may be made in the manner
6 prescribed by the law of this state or by the law of the
7 state in which the service is made.

8

9 (c) Notice shall not be required for the exercise of
10 jurisdiction with respect to a person who submits to the
11 jurisdiction of the court.

12

13 **20-5-209. Appearance and limited immunity.**

14

15 (a) A party to a child custody proceeding, including
16 a modification proceeding, or a petitioner or respondent in
17 a proceeding to enforce or register a child custody
18 determination, shall not be subject to personal
19 jurisdiction in this state for another proceeding or
20 purpose solely by reason of having participated, or of
21 having been physically present for the purpose of
22 participating, in the proceeding.

23

1 (b) A person who is subject to personal jurisdiction
2 in this state on a basis other than physical presence shall
3 not be immune from service of process in this state. A
4 party present in this state who is subject to the
5 jurisdiction of another state shall not be immune from
6 service of process allowable under the laws of that state.

7

8 (c) The immunity granted by subsection (a) of this
9 section shall not extend to civil litigation based on acts
10 unrelated to the participation in a proceeding under this
11 act committed by an individual while present in this state.

12

13 **20-5-210. Communication between courts.**

14

15 (a) A court of this state may communicate with a
16 court in another state concerning a proceeding arising
17 under this act.

18

19 (b) The court may allow the parties to participate in
20 the communication. If the parties are not able to
21 participate in the communication, the parties shall be
22 given the opportunity to present facts and legal arguments
23 before a decision on jurisdiction may be made.

24

1 (c) Communication between courts on schedules,
2 calendars, court records and similar matters may occur
3 without informing the parties. A record need not be made
4 of the communication made pursuant to this subsection.

5
6 (d) Except as provided in subsection (c) of this
7 section, a record shall be made of a communication under
8 this section. The parties shall be informed promptly of
9 the communication and granted access to the record.

10
11 (e) For the purposes of this section, "record" means
12 information that is inscribed on a tangible medium or that
13 is stored in an electronic or other medium and is
14 retrievable in perceivable form.

15
16 **20-5-211. Taking testimony in another state.**

17
18 (a) In addition to other procedures available to a
19 party, a party to a child custody proceeding may offer
20 testimony of witnesses who are located in another state,
21 including testimony of the parties and the child, by
22 deposition or other means allowable in this state for
23 testimony taken in the other state. The court on its own
24 motion may order that the testimony of a person be taken in

1 another state and may prescribe the manner in which and the
2 terms upon which the testimony shall be taken.

3

4 (b) A court of this state may permit an individual
5 residing in another state to be deposed or to testify by
6 telephone, audiovisual means or other electronic means
7 before a designated court or at another location in that
8 state. A court of this state shall cooperate with courts
9 of other states in designating an appropriate location for
10 the deposition or testimony.

11

12 (c) Documentary evidence transmitted from another
13 state to a court of this state by technological means that
14 do not produce an original writing may not be excluded from
15 evidence on an objection based on the means of
16 transmission.

17

18 **20-5-212. Cooperation between courts; preservation of**
19 **record.**

20

21 (a) A court of this state may request the appropriate
22 court of another state to:

23

24 (i) Hold an evidentiary hearing;

1

2 (ii) Order a person to produce or give evidence
3 pursuant to procedures of that state;

4

5 (iii) Order that an evaluation be made with
6 respect to the custody of a child involved in a pending
7 proceeding;

8

9 (iv) Forward to the court of this state a
10 certified copy of the transcript of the record of the
11 hearing, the evidence otherwise presented and any
12 evaluation prepared in compliance with the request; and

13

14 (v) Order a party to a child custody proceeding
15 or any person having physical custody of the child to
16 appear in the proceeding with or without the child.

17

18 (b) Upon request of a court of another state, a court
19 of this state may hold a hearing or enter an order
20 described in subsection (a) of this section.

21

22 (c) Travel and other necessary and reasonable
23 expenses incurred under subsections (a) and (b) of this

1 section may be assessed against the parties according to
2 the law of this state.

3

4 (d) A court of this state shall preserve the
5 pleadings, orders, decrees, records of hearings,
6 evaluations and other pertinent records with respect to a
7 child custody proceeding until the child attains eighteen
8 (18) years of age. Upon appropriate request by a court or
9 law enforcement official of another state, the court shall
10 forward a certified copy of those records.

11

12

ARTICLE 3

13

JURISDICTION

14

15 **20-5-301. Initial child custody jurisdiction.**

16

17 (a) Except as otherwise provided in W.S. 20-5-304, a
18 court of this state has jurisdiction to make an initial
19 child custody determination only if:

20

21 (i) This state is the home state of the child on
22 the date of the commencement of the proceeding, or was the
23 home state of the child within six (6) months before the
24 commencement of the proceeding and the child is absent from

1 this state but a parent or person acting as a parent
2 continues to live in this state;

3

4 (ii) A court of another state does not have
5 jurisdiction under a provision of law from that state that
6 is in substantial conformity with paragraph (i) of this
7 subsection, or a court of the home state of the child has
8 declined to exercise jurisdiction on the ground that this
9 state is the more appropriate forum under a provision of
10 law from that state that is in substantial conformity with
11 W.S. 20-5-307 or 20-5-308, and:

12

13 (A) The child and the child's parents, or
14 the child and at least one (1) parent or a person acting as
15 a parent, have a significant connection with this state
16 other than mere physical presence; and

17

18 (B) Substantial evidence is available in
19 this state concerning the child's care, protection,
20 training and personal relationships.

21

22 (iii) All courts of another state having
23 jurisdiction under provisions of law from that state in
24 substantial conformity with paragraph (i) or (ii) of this

1 subsection have declined to exercise jurisdiction on the
2 ground that a court of this state is the more appropriate
3 forum to determine the custody of the child under a
4 provision of law from that state that is in substantial
5 conformity with W.S. 20-5-307 or 20-5-308; or

6

7 (iv) No court of any other state would have
8 jurisdiction under the criteria specified in paragraph (i),
9 (ii) or (iii) of this subsection.

10

11 (b) Subsection (a) of this section shall be the
12 exclusive jurisdictional basis for making a child custody
13 determination by a court of this state.

14

15 (c) Physical presence of, or personal jurisdiction
16 over, a party or a child shall not be necessary or
17 sufficient to make a child custody determination.

18

19 **20-5-302. Exclusive, continuing jurisdiction.**

20

21 (a) Except as provided in W.S. 20-5-304, a court of
22 this state which has made a child custody determination
23 consistent with W.S. 20-5-301 or 20-5-303 has exclusive,
24 continuing jurisdiction over the determination until:

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(i) A court of this state determines that the child, the child's parents and any person acting as a parent do not 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

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

(b) A court of this state which has made a child custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under W.S. 20-5-301.

20-5-303. Jurisdiction to modify determination.

(a) Except as provided in W.S. 20-5-304, a court of this state may not modify a child custody determination made by a court of another state unless the court of this

1 state has jurisdiction to make an initial determination
2 under W.S. 20-5-301(a)(i) or (ii) and:

3

4 (i) The court of the other state determines it
5 no longer has exclusive, continuing jurisdiction under a
6 provision of law from that state that is in substantial
7 conformity with W.S. 20-5-302 or that a court of this state
8 would be a more convenient forum under a provision of law
9 from that state that is in substantial conformity with W.S.
10 20-5-307; or

11

12 (ii) A court of this state or a court of the
13 other state determines that the child, the child's parents
14 and any person acting as a parent do not presently reside
15 in the other state.

16

17 **20-5-304. Temporary emergency jurisdiction.**

18

19 (a) A court of this state has temporary emergency
20 jurisdiction if the child is present in this state and the
21 child has been abandoned or it is necessary in an emergency
22 to protect the child because the child, the child's sibling
23 or a parent of the child is subjected to or threatened with
24 mistreatment or abuse.

1

2 (b) If there is no previous child custody
3 determination that is entitled to be enforced under this
4 act and a child custody proceeding has not been commenced
5 in a court of a state having jurisdiction under a provision
6 of law from that state that is in substantial conformity
7 with W.S. 20-5-301 through 20-5-303, a child custody
8 determination made under this section remains in effect
9 until an order is obtained from a court of a state having
10 jurisdiction under a provision of law in substantial
11 conformity with W.S. 20-5-301 through 20-5-303. If a child
12 custody proceeding has not been or is not commenced in a
13 court of a state having jurisdiction under a provision of
14 law from that state that is in substantial conformity with
15 W.S. 20-5-301 through 20-5-303, a child custody
16 determination made under this section becomes a final
17 determination, if it so provides and this state becomes the
18 home state of the child.

19

20 (c) If there is a previous child custody
21 determination that is entitled to be enforced under this
22 act, or a child custody proceeding has been commenced in a
23 court of a state having jurisdiction under a provision of
24 law from that state that is in substantial conformity with

1 W.S. 20-5-301 through 20-5-303, any order issued by a court
2 of this state under this section shall specify in the order
3 a period that the court considers adequate to allow the
4 person seeking an order to obtain an order from the state
5 having jurisdiction under a provision of law from that
6 state that is in substantial conformity with W.S. 20-5-301
7 through 20-5-303. The order issued in this state remains
8 in effect until an order is obtained from the other state
9 within the period specified or the period expires.

10

11 (d) A court of this state which has been asked to
12 make a child custody determination under this section, upon
13 being informed that a child custody proceeding has been
14 commenced in, or a child custody determination has been
15 made by, a court of another state having jurisdiction under
16 a provision of law from that state that is in substantial
17 conformity with W.S. 20-5-301 through 20-5-303, shall
18 immediately communicate with the other court. A court of
19 this state which is exercising jurisdiction pursuant to
20 W.S. 20-5-301 through 20-5-303, upon being informed that a
21 child custody proceeding has been commenced in, or a child
22 custody determination has been made by, a court of another
23 state under a statute similar to this section shall
24 immediately communicate with the court of that state to

1 resolve the emergency, protect the safety of the parties
2 and the child and determine a period for the duration of
3 the temporary order.

4

5 **20-5-305. Notice; opportunity to be heard; joinder.**

6

7 (a) Before a child custody determination is made
8 under this act, notice and an opportunity to be heard in
9 accordance with the standards of W.S. 20-5-208 shall be
10 given to all persons entitled to notice under the law of
11 this state as in child custody proceedings between
12 residents of this state, any parent whose parental rights
13 have not been previously terminated and any person having
14 physical custody of the child.

15

16 (b) This act shall not govern the enforceability of a
17 child custody determination made without notice or an
18 opportunity to be heard.

19

20 (c) The obligation to join a party and the right to
21 intervene as a party in a child custody proceeding under
22 this act are governed by the law of this state as in child
23 custody proceedings between residents of this state.

24

1 **20-5-306. Simultaneous proceedings.**

2

3 (a) Except as otherwise provided in W.S. 20-5-304, a
4 court of this state may not exercise its jurisdiction under
5 this article if, at the time of the commencement of the
6 proceeding, a proceeding concerning the custody of the
7 child has been commenced in a court of another state having
8 jurisdiction substantially in conformity with this act,
9 unless the proceeding has been terminated or is stayed by
10 the court of the other state because a court of this state
11 is a more convenient forum under a provision of law from
12 that state that is in substantial conformity with W.S.
13 20-5-307.

14

15 (b) Except as otherwise provided in W.S. 20-5-304, a
16 court of this state, before hearing a child custody
17 proceeding, shall examine the court documents and other
18 information supplied by the parties pursuant to W.S.
19 20-5-309. If the court determines that a child custody
20 proceeding has been commenced in a court in another state
21 having jurisdiction substantially in accordance with this
22 act, the court of this state shall stay its proceeding and
23 communicate with the court of the other state. If the
24 court of the state having jurisdiction under the laws of

1 that state in substantial conformity with this act does not
2 determine that the court of this state is a more
3 appropriate forum, the court of this state shall dismiss
4 the proceeding.

5
6 (c) In a proceeding to modify a child custody
7 determination, a court of this state shall determine
8 whether a proceeding to enforce the determination has been
9 commenced in another state. If a proceeding to enforce a
10 child custody determination has been commenced in another
11 state, the court may:

12
13 (i) Stay the proceeding for modification pending
14 the entry of an order of a court of the other state
15 enforcing, staying, denying or dismissing the proceeding
16 for enforcement;

17
18 (ii) Enjoin the parties from continuing with the
19 proceeding for enforcement; or

20
21 (iii) Proceed with the modification under
22 conditions it considers appropriate.

23

24 **20-5-307. Inconvenient forum.**

1

2 (a) A court of this state which has jurisdiction
3 under this act to make a child custody determination may
4 decline to exercise its jurisdiction at any time if it
5 determines that it is an inconvenient forum under the
6 circumstances and that a court of another state is a more
7 appropriate forum. The issue of inconvenient forum may be
8 raised upon motion of a party, the court's own motion, or
9 request of another court.

10

11 (b) Before determining whether it is an inconvenient
12 forum, a court of this state shall consider whether it is
13 appropriate for a court of another state to exercise
14 jurisdiction. For this purpose, the court shall allow the
15 parties to submit information and shall consider all
16 relevant factors, including:

17

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

21

22 (ii) The length of time the child has resided
23 outside this state;

24

1 (iii) The distance between the court in this
2 state and the court in the state that would assume
3 jurisdiction;

4
5 (iv) The relative financial circumstances of the
6 parties;

7
8 (v) Any agreement of the parties as to which
9 state should assume jurisdiction;

10

11 (vi) The nature and location of the evidence
12 required to resolve the pending litigation, including
13 testimony of the child;

14

15 (vii) The ability of the court of each state to
16 decide the issue expeditiously and the procedures necessary
17 to present the evidence; and

18

19 (viii) The familiarity of the court of each
20 state with the facts and issues in the pending litigation.

21

22 (c) If a court of this state determines that it is an
23 inconvenient forum and that a court of another state is a
24 more appropriate forum, it shall stay the proceedings upon

1 condition that a child custody proceeding be promptly
2 commenced in another designated state and may impose any
3 other condition the court considers just and proper.

4

5 (d) A court of this state may decline to exercise its
6 jurisdiction under this act if a child custody
7 determination is incidental to an action for divorce or
8 another proceeding while still retaining jurisdiction over
9 the divorce or other proceeding.

10

11 **20-5-308. Jurisdiction declined by reason of conduct.**

12

13 (a) Except as otherwise provided in W.S. 20-5-304 or
14 by other law of this state, if a court of this state has
15 jurisdiction under this act because a person seeking to
16 invoke its jurisdiction has engaged in unjustifiable
17 conduct, the court shall decline to exercise its
18 jurisdiction unless:

19

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

22

23 (ii) A court of the state otherwise having
24 jurisdiction under a provision of law from that state that

1 is in substantial conformity with W.S. 20-5-301 through
2 20-5-303 determines that this state is a more appropriate
3 forum under a provision of law from that state that is in
4 substantial conformity with W.S. 20-5-307; or

5

6 (iii) No court of any other state would have
7 jurisdiction under the criteria specified in a provision of
8 law from that state that is in substantial conformity with
9 W.S. 20-5-301 through 20-5-303.

10

11 (b) If a court of this state declines to exercise its
12 jurisdiction pursuant to subsection (a) of this section, it
13 may provide an appropriate remedy to ensure the safety of
14 the child and prevent a repetition of the unjustifiable
15 conduct, including staying the proceeding until a child
16 custody proceeding is commenced in a court having
17 jurisdiction under a provision of law from that state that
18 is in substantial conformity with W.S. 20-5-301 through
19 20-5-303.

20

21 (c) If a court dismisses a petition or stays a
22 proceeding because it declines to exercise its jurisdiction
23 pursuant to subsection (a) of this section, it shall assess
24 against the party seeking to invoke its jurisdiction

1 necessary and reasonable expenses including costs,
2 communication expenses, attorney fees, investigative fees,
3 expenses for witnesses, travel expenses and child care
4 during the course of the proceedings, unless the party from
5 whom fees are sought establishes that the assessment would
6 be clearly inappropriate. The court may not assess fees,
7 costs or expenses against this state unless authorized by
8 law other than this act.

9

10 **20-5-309. Information to be submitted to the court.**

11

12 (a) Subject to a court order allowing a party to
13 maintain confidentiality of addresses or other identifying
14 information or other law providing for the confidentiality
15 of procedures, addresses and other identifying information,
16 in a child custody proceeding each party in its first
17 pleading or in an attached affidavit shall give
18 information, if reasonably ascertainable, under oath as to
19 the child's present address or whereabouts, the places
20 where the child has lived during the last five (5) years
21 and the names and present addresses of the persons with
22 whom the child has lived during that period. The pleading
23 or affidavit shall state whether the party:

24

1 (i) Has participated, as a party or witness or
2 in any other capacity, in any other proceeding concerning
3 the custody of or visitation with the child, and if so, the
4 pleading or affidavit shall identify the court, the case
5 number and the date of the child custody determination, if
6 any;

7

8 (ii) Knows of any proceeding that could affect
9 the current proceeding, including proceedings for
10 enforcement and proceedings relating to domestic violence,
11 protective orders, termination of parental rights and
12 adoptions, and if so, the pleading or affidavit shall
13 identify the court, the case number and the nature of the
14 proceeding; and

15

16 (iii) Knows the names and addresses of any
17 person not a party to the proceeding who has physical
18 custody of the child or claims rights of legal custody or
19 physical custody of, or visitation with, the child, and if
20 so, the pleading or affidavit shall list the names and
21 addresses of those persons.

22

23 (b) If the information required by subsection (a) of
24 this section is not furnished, the court, upon motion of a

1 party or its own motion, may stay the proceeding until the
2 information is furnished.

3

4 (c) If the declaration as to any of the items
5 described in paragraphs (a)(i) through (iii) of this
6 section is in the affirmative, the declarant shall give
7 additional information under oath as required by the court.
8 The court may examine the parties under oath as to details
9 of the information furnished and other matters pertinent to
10 the court's jurisdiction and the disposition of the case.

11

12 (d) Each party has a continuing duty to inform the
13 court of any proceeding in this or any other state that
14 could affect the current proceeding.

15

16 (e) If a party alleges in an affidavit or a pleading
17 under oath that the health, safety, or liberty of a party
18 or child would be jeopardized by disclosure of identifying
19 information, the information shall be sealed and may not be
20 disclosed to the other party or the public unless the court
21 orders the disclosure to be made after a hearing in which
22 the court takes into consideration the health, safety or
23 liberty of the party or child and determines that the
24 disclosure is in the interest of justice.

1

2

20-5-310. Appearance of parties and child.

3

4

(a) In a child custody proceeding in this state, the court may order a party to the proceeding who is in this state to appear before the court in person 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 in person with the child.

10

11

(b) 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 W.S. 20-5-208 include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party.

18

19

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

22

23

(d) If a party to a child custody proceeding who is outside this state is directed to appear under subsection

24

1 (b) of this section or desires to appear personally before
2 the court with or without the child, the court may require
3 another party to pay reasonable and necessary travel and
4 other expenses of the party so appearing and of the child.

5

6

ARTICLE 4

7

ENFORCEMENT

8

9

20-5-401. Definitions.

10

11 (a) As used in this article:

12

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

18

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

24

1 **20-5-402. Enforcement under the Hague Convention.**

2

3 Under this article, a court of this state may enforce an
4 order for the return of the child made under the Hague
5 Convention on the Civil Aspects of International Child
6 Abduction as if it were a child custody determination.

7

8 **20-5-403. Duty to enforce.**

9

10 (a) A court of this state shall recognize and enforce
11 a child custody determination of a court of another state
12 if the latter court exercised jurisdiction in substantial
13 conformity with this act or the determination was made
14 under factual circumstances meeting the jurisdictional
15 standards of this act and the determination has not been
16 modified in accordance with this act.

17

18 (b) A court of this state may utilize any remedy
19 available under other law of this state to enforce a child
20 custody determination made by a court of another state.
21 The remedies provided in this article are cumulative and do
22 not affect the availability of other remedies to enforce a
23 child custody determination.

24

1 **20-5-404. Temporary visitation.**

2

3 (a) A court of this state which does not have
4 jurisdiction to modify a child custody determination may
5 issue a temporary order enforcing:

6

7 (i) A visitation schedule made by a court of
8 another state; or

9

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

13

14 (b) If a court of this state makes an order under
15 paragraph (a)(ii) of this section, it shall specify in the
16 order a period that it considers adequate to allow the
17 petitioner to obtain an order from a court having
18 jurisdiction under the criteria specified in article 3 of
19 this act. The order remains in effect until an order is
20 obtained from the other court or the period expires.

21

22 **20-5-405. Registration of child custody**
23 **determination.**

24

1 (a) A child custody determination issued by a court
2 of another state may be registered in this state, with or
3 without a simultaneous request for enforcement, by sending
4 to the appropriate court in this state:

5

6 (i) A letter or other document requesting
7 registration;

8

9 (ii) Two (2) copies, including one (1) certified
10 copy, of the determination sought to be registered, and a
11 statement under penalty of perjury that to the best of the
12 knowledge and belief of the person seeking registration the
13 order has not been modified; and

14

15 (iii) Except as otherwise provided in W.S.
16 20-5-309, the name and address of the person seeking
17 registration and any parent or person acting as a parent
18 who has been awarded custody or visitation in the child
19 custody determination sought to be registered.

20

21 (b) On receipt of the documents required by
22 subsection (a) of this section, the registering court
23 shall:

24

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

5

6 (ii) Serve notice upon the persons named
7 pursuant to paragraph (a)(iii) of this section and provide
8 them with an opportunity to contest the registration in
9 accordance with this section.

10

11 (c) The notice required by paragraph (b)(ii) of this
12 section shall state that:

13

14 (i) A registered determination is enforceable as
15 of the date of the registration in the same manner as a
16 determination issued by a court of this state;

17

18 (ii) A hearing to contest the validity of the
19 registered determination must be requested within twenty
20 (20) days after service of notice; and

21

22 (iii) Failure to contest the registration will
23 result in confirmation of the child custody determination

1 and preclude further contest of that determination with
2 respect to any matter that could have been asserted.

3

4 (d) A person seeking to contest the validity of a
5 registered order shall request a hearing within twenty (20)
6 days after service of the notice. At that hearing, the
7 court shall confirm the registered order unless the person
8 contesting registration establishes that:

9

10 (i) The issuing court did not have jurisdiction
11 under a provision of law from that state that is in
12 substantial conformity with article 3 of this act;

13

14 (ii) The child custody determination sought to
15 be registered has been vacated, stayed or modified by a
16 court having jurisdiction to do so under a provision of law
17 from that state that is in substantial conformity with
18 article 3 of this act; or

19

20 (iii) The person contesting registration was
21 entitled to notice, but notice was not given in accordance
22 with standards under a provision of law from that state in
23 substantial conformity with W.S. 20-5-208, in the

1 proceedings before the court that issued the order for
2 which registration is sought.

3

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

9

10 (f) Confirmation of a registered order, whether by
11 operation of law or after notice and hearing, precludes
12 further contest of the order with respect to any matter
13 that could have been asserted at the time of registration.

14

15 **20-5-406. Enforcement of registered determination.**

16

17 (a) A court of this state may grant any relief
18 normally available under the law of this state to enforce a
19 registered child custody determination made by a court of
20 another state.

21

22 (b) A court of this state shall recognize and
23 enforce, but shall not modify except in accordance with

1 article 3 of this act, a registered child custody
2 determination of a court of another state.

3

4 **20-5-407. Simultaneous proceedings.**

5

6 If a proceeding for enforcement under this article is
7 commenced in a court of this state and the court determines
8 that a proceeding to modify the determination is pending in
9 a court of another state having jurisdiction to modify the
10 determination under a provision of law from that state that
11 is in substantial conformity with article 3 of this act,
12 the enforcing court shall immediately communicate with the
13 modifying court. The proceeding for enforcement shall
14 continue unless the enforcing court, after consultation
15 with the modifying court, stays or dismisses the
16 proceeding.

17

18 **20-5-408. Expedited enforcement of child custody**
19 **determination.**

20

21 (a) A petition under this article in which the
22 petitioner is seeking expedited enforcement shall be
23 verified. Certified copies of all orders sought to be
24 enforced and of any order confirming registration shall be

1 attached to the petition. A copy of a certified copy of an
2 order may be attached instead of the original.

3

4 (b) A petition for enforcement of a child custody
5 determination shall state:

6

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

11

12 (ii) Whether the determination for which
13 enforcement is sought has been vacated, stayed or modified
14 by a court whose decision is enforceable under this act
15 and, if so, the identity of the court, the case number and
16 the nature of the proceeding;

17

18 (iii) Whether any proceeding has been commenced
19 that could affect the current proceeding, including
20 proceedings relating to domestic violence, protective
21 orders, termination of parental rights and adoptions and,
22 if so, the identity of the court, the case number and the
23 nature of the proceeding;

24

1 (iv) The present physical address of the child
2 and the respondent, if known;

3

4 (v) Whether relief in addition to the immediate
5 physical custody of the child and attorney fees is sought,
6 including a request for assistance from law enforcement
7 officials and, if so, the relief sought; and

8

9 (vi) If the child custody determination has been
10 registered and confirmed under W.S. 20-5-405, the date and
11 place of registration.

12

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

23

1 (d) An order issued under subsection (c) of this
2 section shall state the time and place of the hearing and
3 advise the respondent that at the hearing the court will
4 order that the petitioner may take immediate physical
5 custody of the child and the payment of fees, costs and
6 expenses under W.S. 20-5-412, and may schedule a hearing to
7 determine whether further relief is appropriate, unless the
8 respondent appears and establishes either that:

9
10 (i) The child custody determination has not been
11 registered and confirmed under W.S. 20-5-405 and that:

12
13 (A) The issuing court did not have
14 jurisdiction under a provision of law from that state that
15 is in substantial conformity with article 3 of this act;

16
17 (B) The child custody determination for
18 which enforcement is sought has been vacated, stayed or
19 modified by a court having jurisdiction to do so under a
20 provision of law from that state that is in substantial
21 conformity with article 3 of this act; or

22
23 (C) The respondent was entitled to notice,
24 but notice was not given in accordance with the standards

1 under a provision of law from that state that is in
2 substantial conformity with W.S. 20-5-208, in the
3 proceedings before the court that issued the order for
4 which enforcement is sought.

5
6 (ii) The child custody determination for which
7 enforcement is sought was registered and confirmed under a
8 provision of law from that state that is in substantial
9 conformity with W.S. 20-5-404, but has been vacated, stayed
10 or modified by a court of a state having jurisdiction to do
11 so under a provision of law from that state that is in
12 substantial conformity with article 3 of this act.

13

14 **20-5-409. Service of petition and order.**

15

16 Except as provided in W.S. 20-5-411, the petition and order
17 shall be served by any method authorized by the law of this
18 state upon the respondent and any person who has physical
19 custody of the child.

20

21 **20-5-410. Hearing and order.**

22

23 (a) Unless the court issues a temporary emergency
24 order pursuant to W.S. 20-5-304, upon a finding that a

1 petitioner is entitled to immediate physical custody of the
2 child, the court shall order that the petitioner may take
3 immediate physical custody of the child unless the
4 respondent establishes either that:

5

6 (i) The child custody determination for which
7 enforcement is sought was registered and confirmed under
8 W.S. 20-5-405 but has been vacated, stayed or modified by a
9 court of a state having jurisdiction to do so under article
10 3 of this act; or

11

12 (ii) The child custody determination has not
13 been registered and confirmed under W.S. 20-5-405 and that:

14

15 (A) The issuing court did not have
16 jurisdiction under a provision of law from that state that
17 is in substantial conformity with article 3 of this act;

18

19 (B) The child custody determination for
20 which enforcement is sought has been vacated, stayed or
21 modified by a court of a state having jurisdiction to do so
22 under a provision of law from that state that is in
23 substantial conformity with article 3 of this act; or

24

1 (C) The respondent was entitled to notice,
2 but notice was not given in accordance with the standards
3 under a provision of law from that state that is in
4 substantial conformity with W.S. 20-5-208, in the
5 proceedings before the court that issued the order for
6 which enforcement is sought.

7

8 (b) The court shall award the fees, costs and
9 expenses authorized under W.S. 20-5-412 and may grant
10 additional relief, including a request for the assistance
11 of law enforcement officials, and set a further hearing to
12 determine whether additional relief is appropriate.

13

14 (c) If a party called to testify refuses to answer on
15 the ground that the testimony may be self-incriminating,
16 the court may draw an adverse inference from the refusal.

17

18 (d) A privilege against disclosure of communications
19 between spouses and a defense of immunity based on the
20 relationship of husband and wife or parent and child may
21 not be invoked in a proceeding under this article.

22

23 **20-5-411. Warrant to take physical custody of a**
24 **child.**

1

2 (a) Upon the filing of a petition seeking enforcement
3 of a child custody determination, the petitioner may file a
4 verified application for the issuance of a warrant to take
5 physical custody of the child if the child is immediately
6 likely to suffer serious physical harm or be removed from
7 this state.

8

9 (b) If the court, upon the testimony of the
10 petitioner or other witness, finds that the child is
11 imminently likely to suffer serious physical harm or be
12 removed from this state, it may issue a warrant to take
13 physical custody of the child. The petition shall be heard
14 on the next judicial day after the warrant is executed
15 unless that date is impossible. In the event that the next
16 judicial day after service of the order is impossible, the
17 court shall hold the hearing on the first judicial day
18 possible. The application for the warrant shall include
19 the statements required by W.S. 20-5-408(b).

20

21 (c) A warrant to take physical custody of a child
22 shall:

23

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

4

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

7

8 (iii) Provide for the placement of the child
9 pending final relief.

10

11 (d) The respondent shall be served with the petition,
12 warrant and order immediately after the child is taken into
13 physical custody.

14

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

24

1 (f) The court may impose conditions upon placement of
2 a child to ensure the appearance of the child and the
3 child's custodian.

4

5 **20-5-412. Costs, fees and expenses.**

6

7 (a) The court shall award the prevailing party,
8 including a state, necessary and reasonable expenses
9 incurred by or on behalf of the party, including costs,
10 communication expenses, attorney fees, investigative fees,
11 expenses for witnesses, travel expenses and child care
12 during the course of the proceedings, unless the party from
13 whom fees or expenses are sought establishes that the award
14 would be clearly inappropriate.

15

16 (b) The court may not assess fees, costs or expenses
17 against a state unless authorized by law other than this
18 act.

19

20 **20-5-413. Recognition and enforcement.**

21

22 A court of this state shall accord full faith and credit to
23 an order issued by another state and consistent with this
24 act which enforces a child custody determination by a court

1 of another state unless the order has been vacated, stayed
2 or modified by a court having jurisdiction to do so under a
3 provision of law from that state that is in substantial
4 conformity with article 3 of this act.

5

6 **20-5-414. Appeals.**

7

8 An appeal may be taken from a final order in a proceeding
9 under this article in accordance with expedited appellate
10 procedures in other civil cases. Unless the court enters a
11 temporary emergency order under W.S. 20-5-304, the
12 enforcing court may not stay an order enforcing a child
13 custody determination pending appeal.

14

15 **20-5-415. Role of prosecutor or other appropriate**
16 **public official.**

17

18 (a) In a case arising under this act or involving the
19 Hague Convention on the Civil Aspects of International
20 Child Abduction, the prosecutor or other appropriate public
21 official may take any lawful action, including resort to a
22 proceeding under this article or any other available civil
23 proceeding, to locate a child, obtain the return of a child
24 or enforce a child custody determination if there is:

1

2 (i) An existing child custody determination;

3

4 (ii) A request to do so from a court in a
5 pending child custody proceeding;

6

7 (iii) A reasonable belief that a criminal
8 statute has been violated; or

9

10 (iv) A reasonable belief that the child has been
11 wrongfully removed or retained in violation of the Hague
12 Convention on the Civil Aspects of International Child
13 Abduction.

14

15 (b) A prosecutor or other appropriate public official
16 acting under this section acts on behalf of the court and
17 may not represent any party.

18

19 **20-5-416. Role of law enforcement.**

20

21 At the request of a prosecutor or other appropriate public
22 official acting under W.S. 20-5-415, a law enforcement
23 officer may take any lawful action reasonably necessary to
24 locate a child or a party and assist a prosecutor or other

1 appropriate public official with responsibilities under
2 W.S. 20-5-415.

3

4 **20-5-417. Costs and expenses.**

5

6 If the respondent is not the prevailing party, the court
7 may assess against the respondent all direct expenses and
8 costs incurred by the prosecutor or other appropriate
9 public official and law enforcement officers under W.S.
10 20-5-415 or 20-5-416.

11

12

ARTICLE 5

13

MISCELLANEOUS PROVISIONS

14

15 **20-5-501. Application and construction.**

16

17 In applying and construing this act, consideration shall be
18 given to the need to promote uniformity of the law with
19 respect to its subject matter among states that enact it.

20

21 **20-5-502. Transitional provision.**

22

23 A motion or other request for relief made in a child
24 custody proceeding or to enforce a child custody

1 determination which was commenced before the effective date
2 of this act is governed by the law in effect at the time
3 the motion or other request was made.

4

5 **Section 2.** W.S. 20-2-203(a) and 20-6-108(a)(ii) are
6 amended to read:

7

8 **20-2-203. Jurisdiction for enforcement and**
9 **modification.**

10

11 (a) A court in this state which enters a custody
12 order under W.S. 20-2-201 has continuing subject matter
13 jurisdiction to enforce or modify the decree concerning the
14 care, custody and visitation of the children as the
15 circumstances of the parents and needs of the child
16 require, subject to the provisions of the Uniform Child
17 Custody Jurisdiction and Enforcement Act. A court which has
18 jurisdiction to enforce or modify an order under this
19 section may decline to exercise its jurisdiction if it
20 finds it is an inconvenient forum under the circumstances
21 of the case and that the court which entered the original
22 order is a more appropriate forum and has jurisdiction as
23 set forth in the Uniform Child Custody Jurisdiction and
24 Enforcement Act.

1

2

20-6-108. State parent locator service.

3

4

5

(a) The department shall act as a state parent locator service to assist in:

6

7

8

9

10

11

12

13

14

15

16

17

18

(ii) The location of persons, upon the request of law enforcement agencies, in cases of parental kidnapping or child custody violations under the Uniform Child Custody Jurisdiction and Enforcement Act [§§ 20-5-101 through 20-5-125]; and

Section 3. W.S. 20-5-101 through 20-5-125 are repealed.

Section 4. This act is effective July 1, 2005.

(END)