

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 16.
PARTICULAR ACTIONS, PROCEEDINGS
AND MATTERS.

CHAPTER 46.
UNIFORM CHILD-CUSTODY JURISDICTION AND
ENFORCEMENT.

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DISTRICT OF COLUMBIA OFFICIAL CODE
CHAPTER 46. UNIFORM CHILD-CUSTODY
JURISDICTION AND ENFORCEMENT.

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CHAPTER 46. UNIFORM CHILD-CUSTODY JURISDICTION AND ENFORCEMENT.

Refs & Annos

Jurisdiction	Laws	Effective Date	Statutory Citation
Alabama	1999, Act 99-438	1-1-2000	Code 1975, §§ 30-3B-101 to 30-3B-405.
Alaska	1998, c. 133	9-23-1998	AS 25.30.300 to 25.30.910.
Arizona	2000, c. 215	1-1-2001	A.R.S. §§ 25-1001 to 25-1067.
Arkansas	1999, Act 668	3-17-1999[FN*]	A.C.A. §§ 9-19-101 to 9-19-401.
California	1999, c. 867	1-1-2000	West's Ann.Cal. Family Code §§ 3400 to 3465.
Colorado	2000, c. 320	7-1-2000	West's C.R.S.A. §§ 14-13-101 to 14-13-403.
Connecticut	1999, P.A. 99-185	7-1-2000	C.G.S.A. §§ 46b-115 to 46b-115jj.
Delaware	2002, c. 426	9-1-2002	13 Del.C. §§ 1901 to 1943.
District of Columbia	2001, D.C. Law 13-293	4-27-2001	D.C. Official Code, 2001 Ed. §§ 16-4601.01 to 16-4605.03.
Florida	2002, c. 65	10-1-2002	West's F.S.A. §§ 61.501 to 61.542.
Georgia	2001, p. 129	7-1-2001	O.C.G.A. §§ 19-9-40 to 19-9-104.
Hawaii	2002, c. 124	1-1-2003	HRS §§ 583A-101 to 583A-317.
Idaho	2000, c. 227	7-1-2000	I.C. §§ 32-11-101 to 32-11-405.
Illinois	2003, P.A. 93-108	1-1-2004	S.H.A. 750 ILCS 36/101 to 36/403.
Indiana	2007, P.L. 138-2007	7-1-2007	West's A.I.C. 31-21-1-1 to 31-21-7-3.
Iowa	1999, S.F. 367	5-10-1999[FN*]	I.C.A. §§ 598B.101 to 598B.402.
Kansas	2000, c. 171	7-1-2000	K.S.A. §§ 38-1336 to 38-1377.
Kentucky	2004, c. 133	7-13-2004	KRS 403.800 to 403.880.
Louisiana	2006, No. 822	8-15-2007	LSA-R.S. 13:1801 to 13:1842.
Maine	1999, c. 486	1-1-2000	19-A M.R.S.A. §§ 1731 to 1783.
Maryland	2004, c. 502	10-1-2004	Code, Family Law, §§ 9.5-101 to 9.5-318.
Michigan	2001, No. 195	4-1-2002	M.C.L.A. §§ 722.1101 to 722.1406.
Minnesota	1999, c. 74	1-1-2000	M.S.A. §§ 518D.101 to 518D.317.
Mississippi	2004, c. 519	7-1-2004	Code 1972, §§ 93-27-101 to 93-27-402.
Missouri	2009, H.B. No. 481	7-10-2009 [FN*]	V.A.M.S. §§ 452.700 to 452.930.
Montana	1999, c. 91	3-17-1999[FN*]	MCA §§ 40-7-101 to 40-7-317.
Nebraska	2003, LB 148	1-1-2004	R.R.S. 1943, §§ 43-1226 to 43-1266.
Nevada	2003, c. 199	10-1-2003	N.R.S. 125A.005 to 125A.605.
New Hampshire	2009, 191:1	12-1-2010	RSA 458-A:1 to 458-A:40.
New Jersey	2004, c. 147	9-14-2004 [FN*]	N.J.S.A. 2A:34-53 to 2A:34-95.
New Mexico	2001, c. 114	7-1-2001	NMSA 1978, §§ 40-10A-101 to 40-10A-403.
New York	2001, c. 386	4-28-2002	McKinney's Domestic Relations Law, §§ 75 to 78-a.
North Carolina	1999, S.L. 1999-223	10-1-1999	G.S. §§ 50A-101 to 50A-317.
North Dakota	1999, c. 147	3-30-1999[FN*]	NDCC §§ 14-14.1-01 to 14-14.1-37.
Ohio	2004, SB 185	4-11-2005	R.C. §§ 3127.01 to 3127.53.
Oklahoma	1998, c. 407	11-1-1998	43 Okl.St.Ann. §§ 551-101 to 551-402.
Oregon	1999, c. 649	7-13-1999[FN*]	ORS 109.701 to 109.834.
Pennsylvania	2004, c. 39	8-16-2004	23 Pa.C.S.A. §§ 5401 to 5482.

Rhode Island	2003, chs. 307 and 322	7-17-2003	Gen.Laws 1956, §§ 15-14.1-1 to 15-14.1-42.
South Carolina	2008, c. 361	6-16-2008	Code 1976, §§ 63-15-300 to 63-15-394.
South Dakota	2005, c. 137	7-1-2005	SDCL 26-5B-101 to 26-5B-405.
Tennessee	1999, c. 389	6-14-1999	T.C.A. §§ 36-6-201 to 36-6-243.
Texas	1999, c. 34	9-1-1999	V.T.C.A. Family Code §§ 152.001 to 152.317.
Utah	2000, c. 247	7-1-2000	U.C.A.1953, §§ 78B-13-101 to 78B-13-318.
Vermont	2011, No. 29	7-1-2011	15 V.S.A. §§ 1061 to 1096.
Virgin Islands	2005, No. 6730	3-5-2005[FN*]	16 V.I.C. §§ 115 to 140n.
Virginia	2001, c. 305	7-1-2001	Code 1950, §§ 20-146.1 to 20-146.38.
Washington	2001, c. 65	7-22-2001	West's RCWA 26.27.011 to 26.27.941.
West Virginia	2001, c. 91	9-1-2001	Code, 48-20-101 to 48-20-404.
Wisconsin	2005, c. 130	3-25-2006	W.S.A. 822.01 to 822.47.
Wyoming	2005, c. 11	7-1-2005	Wyo.Stat.Ann. §§ 20-5-201 to 20-5-502.

[FN*] Date of approval.

SUBCHAPTER I. GENERAL PROVISIONS.

§ 16-4601.01. DEFINITIONS.

For the purposes of this chapter, the term:

- (1) "Abandoned" means left without provision for reasonable and necessary care or supervision.
- (2) "Child" means an individual who has not attained 18 years of age.
- (3) "Child-custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, initial, and modification order. The term does not include an order relating to child support or other monetary obligation of an individual.
- (4) "Child-custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, adoption, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under subchapter III of this chapter.
- (5) "Commencement" means the filing of the first pleading in a proceeding.
- (6) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child-custody determination.
- (7) "District" means the District of Columbia.
- (8) "Home state" means the state in which a child lived with a parent or a person acting as a parent for at least 6 consecutive months immediately before the commencement of a child-custody proceeding. In the case of a child less than 6 months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.
- (9) "Initial determination" means the first child-custody determination concerning a particular child.
- (10) "Issuing court" means the court that makes a child-custody determination for which enforcement is sought under this chapter.
- (11) "Issuing state" means the state in which a child-custody determination is made.
- (12) "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.
- (13) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.
- (14) "Person acting as a parent" means a person, other than a parent, who:
 - (A) Has physical custody of the child or has had physical custody for a period of 6 consecutive months, including any temporary absence, within one year immediately before the commencement of a child-custody proceeding; and

(B) Has been awarded legal custody by a court or claims a right to legal custody under the law of the District.

(15) "Physical custody" means the physical care and supervision of a child.

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

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

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 165-4501.

Uniform Law

This section is based upon § 102 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4601.02. PROCEEDINGS GOVERNED BY OTHER LAW.

This chapter does not govern a proceeding pertaining to the authorization of emergency medical care for a child.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 103 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4601.03. APPLICATION TO INDIAN TRIBES.

A child-custody proceeding that pertains to an Indian child as defined in the Indian Child Welfare Act of 1978, approved November 8, 1978 (92 Stat. 3069; 25 U.S.C. § 1901 *et seq.*), is not subject to this chapter to the extent that it is governed by the Indian Child Welfare Act of 1978.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 104 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4601.04. INTERNATIONAL APPLICATION OF CHAPTER.

(a) A court of the District shall treat a foreign country as if it were a state of the United States for the purpose of applying subchapters I and II of this chapter.

(b) Except as otherwise provided in subsection (c) of this section, a child-custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this chapter must be recognized and enforced under subchapter III of this chapter.

(c) A court of the District need not apply this chapter if the child custody law of a foreign country violates fundamental principles of human rights.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

For D.C. Law 13-293, see notes following § 16-4601.01.

This section is based upon § 105 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4601.05. EFFECT OF CHILD-CUSTODY DETERMINATION.

A child-custody determination made by a court of the District that had jurisdiction under this chapter binds all persons who have been served in accordance with the laws of the District or notified in accordance with section 16-4601.07 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to those persons, the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

For D.C. Law 13-293, see notes following § 16-4601.01.

This section is based upon § 106 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4601.06. PRIORITY.

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

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

For D.C. Law 13-293, see notes following § 16-4601.01.

This section is based upon § 107 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4601.07. NOTICE TO PERSONS OUTSIDE THE DISTRICT.

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

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

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

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

§ 16-4601.08. APPEARANCE AND LIMITED IMMUNITY.

(a) A party to a child-custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child-custody determination, is not subject to personal jurisdiction in the District for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding.

(b) A person who is subject to personal jurisdiction in the District on a basis other than physical presence is not immune from service of process in the District. A party present in the District who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

(c) The immunity granted by subsection (a) of this section does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this chapter committed by an individual while present in the District.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 109 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4601.09. COMMUNICATION BETWEEN COURTS.

(a) A court of the District may communicate with a court in another state concerning a proceeding arising under this chapter.

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

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

(d) Except as otherwise provided in subsection (c) of this section, a record must be made of a communication under this section. The parties must be informed promptly of the communication and granted access to the record.

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

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 110 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4601.10. TAKING TESTIMONY IN ANOTHER STATE.

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

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

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

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

This section is based upon § 111 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4601.11. COOPERATION BETWEEN COURTS; PRESERVATION OF RECORDS.

- (a) A court of the District may request the appropriate court of another state to:
- (1) Hold an evidentiary hearing;
 - (2) Order a person to produce or give evidence pursuant to procedures of that state;
 - (3) Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;
 - (4) Forward to the court of the District a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; and
 - (5) Order a party to a child-custody proceeding or any person having physical custody of the child to appear in the proceeding, with or without the child.
- (b) Upon request of a court of another state, a court of the District may hold a hearing or enter an order described in subsection (a) of this section.
- (c) Travel and other necessary and reasonable expenses incurred under subsections (a) and (b) of this section may be assessed against the parties according to the law of the District.
- (d) A court of the District shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child-custody proceeding until the child attains 18 years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of those records.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 112 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

SUBCHAPTER II. JURISDICTION.

§ 16-4602.01. INITIAL CHILD-CUSTODY JURISDICTION.

- (a) Except as otherwise provided in section 16-4602.04, a court of the District has jurisdiction to make an initial child-custody determination only if:
- (1) The District is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within 6 months before the commencement of the proceeding and the child is absent from the District, but a parent or person acting as a parent continues to live in the District;
 - (2) A court of another state does not have jurisdiction under paragraph (1) of this subsection, or a court of the home state of the child has declined to exercise jurisdiction on the ground that the District is the more appropriate forum under sections 16-4602.07 or 16-4602.08, and:
 - (A) The child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with the District other than mere physical presence; and
 - (B) Substantial evidence is available in the District concerning the child's care, protection, training, and personal relationships;
 - (3) All courts having jurisdiction under paragraph (1) or (2) of this subsection have declined to exercise jurisdiction on the ground that a court of the District is the more appropriate forum to determine the custody of the child under sections 16-4602.07 or 16-4602.08; or
 - (4) No court of any other state would have jurisdiction under the criteria specified in paragraph (1), (2), or (3) of this subsection.

(b) Subsection (a) of this section is the exclusive jurisdictional basis for making a child-custody determination by a court of the District.

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

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 201 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4602.02. EXCLUSIVE, CONTINUING JURISDICTION.

(a) Except as otherwise provided in section 16-4602.04, a court of the District which has made a child-custody determination consistent with sections 16-4602.01 or 16-4602.03 has exclusive, continuing jurisdiction over the determination until:

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

(2) A court of the District 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 the District.

(b) A court of the District 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 section 16-4602.01.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 202 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4602.03. JURISDICTION TO MODIFY DETERMINATION.

Except as otherwise provided in section 16-4602.04, a court of the District may not modify a child-custody determination made by a court of another state unless a court of the District has jurisdiction to make an initial determination under section 16-4602.01(a)(1) or (2) and:

(1) The court of the other state determines it no longer has exclusive, continuing jurisdiction under section 16-4602.02 or that a court of the District would be a more convenient forum under section 16-4602.07; or

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

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 203 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4602.04. TEMPORARY EMERGENCY JURISDICTION.

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

(b) If there is no previous child-custody determination that is entitled to be enforced under this chapter and a child-custody proceeding has not been commenced in a court of a state having jurisdiction under sections 16-4602.01 through 16-4602.03, a child-custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under sections 16-4602.01 through 16-4602.03. If a child-custody proceeding has not been or is not commenced in a court of a state having jurisdiction under sections 16-4602.01 through 16-4602.03, a child-custody determination made under this section becomes a final determination, if it so provides, and the District becomes the home state of the child.

(c) If there is a previous child-custody determination that is entitled to be enforced under this chapter, or a child-custody proceeding has been commenced in a court of a state having jurisdiction under sections 16-4602.01 through 16-4602.03, any order issued by a court of the District under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under sections 16-4602.01 through 16-4602.03. The order issued in the District remains in effect until an order is obtained from the other state within the period specified or the period expires.

(d) A court of the District which has been asked to make a child-custody determination under this section, upon being informed that a child-custody proceeding has been commenced in, or a child-custody determination has been made by, a court of a state having jurisdiction under sections 16-4602.01 through 16-4602.03, shall immediately communicate with the other court. A court of the District which is exercising jurisdiction pursuant to sections 16-4602.01 through 16-4602.03, upon being informed that a child-custody proceeding has been commenced in, or a child-custody determination has been made by, a court of another state under a statute similar to this section shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 204 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4602.05. NOTICE; OPPORTUNITY TO BE HEARD; JOINDER.

(a) Before a child-custody determination is made under this chapter, notice and an opportunity to be heard in accordance with the standards of section 16-4601.07 must be given to all persons entitled to notice under the law of the District as in child-custody proceedings between residents of the District, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

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

(c) The obligation to join a party and the right to intervene as a party in a child-custody proceeding under this chapter are governed by the law of the District as in child-custody proceedings between residents of the District.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 205 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4602.06. SIMULTANEOUS PROCEEDINGS.

(a) Except as otherwise provided in section 16-4602.04, a court of the District may not exercise its jurisdiction under this subchapter if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with this chapter, unless the proceeding has been terminated or is stayed by the court of the other state because a court of the District is a more convenient forum under section 16-4602.07.

(b) Except as otherwise provided in section 16-4602.04, a court of the District, before hearing a child-custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to section 16-4602.09. If the court determines that a child-custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with this chapter, the court of the District shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with this chapter does not determine that the court of the District is a more appropriate forum, the court of the District shall dismiss the proceeding.

(c) In a proceeding to modify a child-custody determination, a court of the District shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child-custody determination has been commenced in another state, the court may:

- (1) Stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement;
- (2) Enjoin the parties from continuing with the proceeding for enforcement; or
- (3) Proceed with the modification under conditions it considers appropriate.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 206 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4602.07. INCONVENIENT FORUM.

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

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

- (1) Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child;
- (2) The length of time the child has resided outside the District;
- (3) The distance between the court in the District and the court in the state that would assume jurisdiction;
- (4) The relative financial circumstances of the parties;
- (5) Any agreement of the parties as to which state should assume jurisdiction;
- (6) The nature and location of the evidence required to resolve the pending litigation, including testimony of the child;
- (7) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and
- (8) The familiarity of the court of each state with the facts and issues in the pending litigation.

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

(d) A court of the District may decline to exercise its jurisdiction under this chapter if a child-custody

determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 207 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4602.08. JURISDICTION DECLINED BY REASON OF CONDUCT.

(a) Except as otherwise provided in section 16-4602.04, if a court of the District has jurisdiction under this chapter because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

- (1) The parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;
- (2) A court of the state otherwise having jurisdiction under sections 16- 4602.01 through 16-4602.03 determines that the District is a more appropriate forum under section 16-4602.07; or
- (3) No court of any other state would have jurisdiction under the criteria specified in sections 16-4602.01 through 16-4602.03.

(b) If a court of the District declines to exercise its jurisdiction pursuant to subsection (a) of this section, it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child-custody proceeding is commenced in a court having jurisdiction under sections 16-4602.01 through 16-4602.03.

(c) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection (a) of this section, it shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses, including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs, or expenses against the District unless authorized by law other than this chapter.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 208 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4602.09. INFORMATION TO BE SUBMITTED TO COURT.

(a) In a child-custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the last 5 years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit must state whether the party:

- (1) Has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, identify the court, the case number, and the date of the child-custody determination, if any;
- (2) Knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding; and
- (3) Knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or visitation with, the child

and, if so, the names and addresses of those persons.

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

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

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

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

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 209 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4602.10. APPEARANCE OF PARTIES AND CHILD.

(a) In a child-custody proceeding in the District, the court may order a party to the proceeding who is in the District to appear before the court in person, with or without the child. The court may order any person who is in the District and who has physical custody or control of the child to appear in person with the child.

(b) If a party to a child-custody proceeding whose presence is desired by the court is outside the District, the court may order that a notice given pursuant to section 16-4601.07 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.

(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.

(d) If a party to a child-custody proceeding who is outside the District is directed to appear under subsection (b) of this section or desires to appear personally before the court, with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 210 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

SUBCHAPTER III. ENFORCEMENT.

§ 16-4603.01. DEFINITIONS.

For the purposes of this subchapter, the term:

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

(2) "Respondent" means a person against whom a proceeding has been commenced for enforcement

of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child-custody determination.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 301 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4603.02. ENFORCEMENT UNDER HAGUE CONVENTION.

Under this subchapter, a court of the District may enforce an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child-custody determination.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 302 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4603.03. DUTY TO ENFORCE.

(a) A court of the District shall recognize and enforce a child-custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with this chapter or the determination was made under factual circumstances meeting the jurisdictional standards of this chapter and the determination has not been modified in accordance with this chapter.

(b) A court of the District may utilize any remedy available under other law of the District to enforce a child-custody determination made by a court of another state. The remedies provided in this subchapter are cumulative and do not affect the availability of other remedies to enforce a child-custody determination.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 303 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4603.04. TEMPORARY VISITATION.

(a) A court of the District which does not have jurisdiction to modify a child-custody determination may issue a temporary order enforcing:

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

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

(b) If a court of the District makes an order under subsection (a)(2) of this section, it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in subchapter II of this chapter. The order remains in effect until an order is obtained from the other court or the period expires.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 304 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4603.05. REGISTRATION OF CHILD-CUSTODY DETERMINATION.

(a) A child-custody determination issued by a court of another state may be registered in the District, with or without a simultaneous request for enforcement, by sending to the Superior Court of the District of Columbia:

- (1) A letter or other document requesting registration;
- (2) Two copies, including one certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and
- (3) Except as otherwise provided in section 16-4602.9, the name and address of the person seeking registration and of any parent or person acting as a parent who has been awarded custody or visitation in the child-custody determination sought to be registered.

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

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

(c) The notice required by subsection (b)(2) of this section must state that:

- (1) A registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of the District;
- (2) A hearing to contest the validity of the registered determination must be requested within 20 days after service of the notice; and
- (3) Failure to contest the registration will result in confirmation of the child-custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

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

- (1) The issuing court did not have jurisdiction under subchapter II of this chapter;
- (2) The child-custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under subchapter II of this chapter; or
- (3) The person contesting registration was entitled to notice, but notice was not given in accordance with the standards of section 16-4601.07, in the proceedings before the court that issued the order for which registration is sought.

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

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

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 305 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4603.06. ENFORCEMENT OF REGISTERED DETERMINATION.

- (a) A court of the District may grant any relief normally available under the law of the District to enforce a registered child-custody determination made by a court of another state.
- (b) A court of the District shall recognize and enforce, but may not modify, except in accordance with subchapter II of this chapter, a registered child-custody determination of a court of another state.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 306 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4603.07. SIMULTANEOUS PROCEEDINGS.

If a proceeding for enforcement under this subchapter is commenced in a court of the District and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under subchapter II of this chapter, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 307 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4603.08. EXPEDITED ENFORCEMENT OF CHILD-CUSTODY DETERMINATION.

(a) A petition under this subchapter must be verified. Certified copies of all orders sought to be enforced and of any order confirming registration must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(b) A petition for enforcement of a child-custody determination must state:

- (1) Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was;
- (2) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this chapter and, if so, identify the court, the case number, and the nature of the proceeding;
- (3) Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding;
- (4) The present physical address of the child and the respondent, if known;
- (5) Whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from the Metropolitan Police Department or other law enforcement officials and, if so, the relief sought; and
- (6) If the child-custody determination has been registered and confirmed under section 16-4603.05, the date and place of registration.

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

extend the date of hearing at the request of the petitioner.

(d) An order issued under subsection (c) of this section must state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under section 16-4603.12, and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

(1) The child-custody determination has not been registered and confirmed under section 16-4603.05 and that:

(A) The issuing court did not have jurisdiction under subchapter II of this chapter;

(B) The child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under subchapter II of this chapter;

(C) The respondent was entitled to notice, but notice was not given in accordance with the standards of section 16-4601.07, in the proceedings before the court that issued the order for which enforcement is sought; or

(2) The child-custody determination for which enforcement is sought was registered and confirmed under section 16-4603.04, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under subchapter II of this chapter.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 308 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4603.09. SERVICE OF PETITION AND ORDER.

Except as otherwise provided in sections 16-306 (adoptions), 16-2306 (neglect proceedings), 16-2357 (termination of parental rights), and 16-4603.11 (custody under emergency circumstances), the petition and order must be served upon respondent and any person who has physical custody of the child by any method authorized for the service of complaints under the rules for domestic relations proceedings adopted by the Board of Judges of the Superior Court of the District of Columbia.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 309 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4603.10. HEARING AND ORDER.

(a) Unless the court issues a temporary emergency order pursuant to section 16-4602.04, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

(1) The child-custody determination has not been registered and confirmed under section 16-4603.05 and that:

(A) The issuing court did not have jurisdiction under subchapter II of this chapter;

(B) The child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under subchapter II of this chapter; or

(C) The respondent was entitled to notice, but notice was not given in accordance with the standards of section 16-4601.07, in the proceedings before the court that issued the order for which enforcement is sought; or

(2) The child-custody determination for which enforcement is sought was registered and confirmed

under section 16-4603.05 but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under subchapter II of this chapter.

(b) The court shall award the fees, costs, and expenses authorized under section 16-4603.12 and may grant additional relief, including a request for the assistance of the Metropolitan Police Department or other law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

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

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

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 310 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4603.11. WARRANT TO TAKE PHYSICAL CUSTODY OF CHILD.

(a) Upon the filing of a petition seeking enforcement of a child-custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is imminently likely to suffer serious physical harm or be removed from the District.

(b) If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from the District, it may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by section 16-4603.08(b).

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

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

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

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

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

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

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

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 311 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4603.12. COSTS, FEES, AND EXPENSES.

(a) The court shall award the prevailing party, including a state, necessary and reasonable expenses

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

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

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 312 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4603.13. RECOGNITION AND ENFORCEMENT.

A court of the District shall accord full faith and credit to an order issued by a court of another state and consistent with this chapter which enforces a child-custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under subchapter II of this chapter.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 313 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4603.14. APPEALS.

An appeal may be taken from a final order in a proceeding under this subchapter. The appeal shall be considered on an expedited basis. Unless the court enters a temporary emergency order under section 16-4602.04, the enforcing court may not stay an order enforcing a child-custody determination pending appeal.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Uniform Law

This section is based upon § 314 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4603.15. ROLE OF ATTORNEY GENERAL FOR THE DISTRICT OF COLUMBIA.

(a) In a case arising under this chapter or involving the Hague Convention on the Civil Aspects of International Child Abduction, the Attorney General for the District of Columbia may take any lawful action, including resort to a proceeding under this subchapter or any other available civil proceeding, to locate a child, obtain the return of a child, or enforce a child-custody determination if there is:

- (1) An existing child-custody determination;
- (2) A request to do so from a court in a pending child-custody proceeding;
- (3) A reasonable belief that a criminal statute has been violated; or

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

(b) A member of the Office of the Attorney General for the District of Columbia acting under this section acts on behalf of the court and may not represent any party.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214; Mar. 31, 2009, D.C. Law 17-378, § 2(b)(1), 56 DCR 1572.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 17-378, in the section heading and subsecs. (a) and (b), substituted "Attorney General for the District of Columbia" for "Corporation Counsel".

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Law 17-378, the "Uniform Child Abduction Act of 2008", was introduced in Council and assigned Bill No. 17-626 which was referred to the Committee on Public Safety and the Judiciary. The Bill was adopted on first and second readings on November 18, 2008, and December 2, 2008, respectively. Signed by the Mayor on January 29, 2009, it was assigned Act No. 17-716 and transmitted to both Houses of Congress for its review. D.C. Law 17-378 became effective on March 25, 2009.

Uniform Law

This section is based upon § 315 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4603.16. ROLE OF LAW ENFORCEMENT.

At the request of a member of the Office of the Attorney General for the District of Columbia acting under section 16-4603.15, a member of the Metropolitan Police Department or other law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and assist the Office of the Attorney General for the District of Columbia with responsibilities under section 16-4603.15.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214; Mar. 31, 2009, D.C. Law 17-378, § 2(b)(2), 56 DCR 1572.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 17-378 substituted "Attorney General for the District of Columbia" for "Corporation Counsel".

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

For Law 17-378, see notes following § 16-4603.15.

Uniform Law

This section is based upon § 316 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4603.17. COSTS AND EXPENSES.

If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the Office of the Attorney General for the District of Columbia and Metropolitan Police Department or other law enforcement officers under section 16-4603.15 or section 16-4603.16.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214; Mar. 31, 2009, D.C. Law 17-378, § 2(b)(3), 56 DCR 1572.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 17-378 substituted "Attorney General for the District of Columbia" for "Corporation Counsel".

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

For Law 17-378, see notes following § 16-4603.15.

Uniform Law

This section is based upon § 317 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part 1A, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

SUBCHAPTER IV. CHILD ABDUCTION PREVENTION.

Refs & Annos

Jurisdiction	Laws	Effective Date	Statutory Citation
Alabama	2010, Act 212	1-1-2011	Code 1975, §§ 30-3C-1 to 30-3C-12.
Colorado	2007, c. 205	5-14-2007	West's C.R.S.A. §§ 14-13.5-101 to 14-13.5-112.
District of Columbia	2009, D.C. Law 17-378	3-31-2009	D.C. Official Code, 2001 Ed. §§ 16-4604.01 to 16-4604.10.
Florida	2010, c. 59	1-1-2011	West's F.S.A. § 61.45.
Kansas	2007, c. 75	7-1-2007	K.S.A. 38-13a01 to 38-13a12.
Louisiana	2007, c. 369	8-15-2007	LSA-RS 13:1851 to 13:1862.
Mississippi	2009, c. 450	7-1-2009	Code 1972, §§ 93-29-1 to 93-29-23.
Nebraska	2007, LB 341	2-2-2007	R.R.S.1943, §§ 43-3901 to 43-3912.
Nevada	2007, c. 81	5-21-2007	N.R.S. 125D.010 to 125D.230.
		[FN*]	
South Dakota	2007, c. 169	7-1-2007	SDCL 26-18-1 to 26-18-12.
Tennessee	2010, c. 832	7-1-2010	T.C.A. §§ 36-6-601 to 36-6-612.
Utah	2007, c. 265	1-1-2008	U.C.A.1953, §§ 78B-16-101 to 78B-16-112.

[FN*] Date of approval.

§ 16-4604.01. SHORT TITLE.

This subchapter may be cited as the "Uniform Child Abduction Prevention Act".

(Mar. 31, 2009, D.C. Law 17-378, § 2(d), 56 DCR 1572.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

Law 17-378, the "Uniform Child Abduction Act of 2008", was introduced in Council and assigned Bill No. 17-626 which was referred to the Committee on Public Safety and the Judiciary. The Bill was adopted on first and second readings on November 18, 2008, and December 2, 2008, respectively. Signed by the Mayor on January 29, 2009, it was assigned Act No. 17-716 and transmitted to both Houses of Congress for its review. D.C. Law 17-378 became effective on March 25, 2009.

Editor's Notes

Former § 16-4604.01 has been recodified as § 16-4605.01 by D.C. Law 17-378, § 2(e).

Uniform Law

This section is based upon § 1 of the Uniform Child Abduction Prevention Act. See Vol. 9, Pt. 1A, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4604.02. DEFINITIONS.

For the purposes of this subchapter, the term:

- (1) "Abduction" means the wrongful removal or wrongful retention of a child.
- (2) "Child" means an unemancipated individual who is less than 18 years of age.
- (3) "Child-custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is at issue. The term includes a proceeding for divorce, dissolution of marriage, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, or protection from domestic violence.

(4) "Petition" includes a motion or its equivalent.

(5) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(6) "Travel document" means records relating to a travel itinerary, including travel tickets, passes, reservations for transportation, or accommodations. The term "travel document" does not include a passport or visa.

(7) "Wrongful removal" means the taking of a child that breaches rights of custody or visitation given or recognized under the law of this state.

(8) "Wrongful retention" means the keeping or concealing of a child that breaches rights of custody or visitation given or recognized under the law of this state.

(Mar. 31, 2009, D.C. Law 17-378, § 2(d), 56 DCR 1572.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4601.01.

For Law 17-378, see notes following § 16-4604.01.

Editor's Notes

Former § 16-4604.02 has been recodified as § 16-4605.03 by D.C. Law 17-378, § 2(e).

Uniform Law

This section is based upon § 2 of the Uniform Child Abduction Prevention Act. See Vol. 9, Pt. 1A, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4604.03. COOPERATION AND COMMUNICATION AMONG COURTS.

Sections 16-4601.10, 16-4601.11, and 16-4601.12 apply to cooperation and communications among courts in proceedings under this subchapter.

(Mar. 31, 2009, D.C. Law 17-378, § 2(d), 56 DCR 1572.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-378, see notes following § 16-4604.01.

Uniform Law

This section is based upon § 3 of the Uniform Child Abduction Prevention Act. See Vol. 9, Pt. 1A, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4604.04. ACTIONS FOR ABDUCTION PREVENTION MEASURES.

(a) A court on its own motion may order abduction prevention measures in a child-custody proceeding if the court finds that the evidence establishes a credible risk of abduction of the child.

(b) A party to a child-custody determination or another individual or entity having a right under the law of this state or any other state to seek a child-custody determination for the child may file a petition seeking abduction prevention measures to protect the child under this subchapter.

(c) The Attorney General for the District of Columbia may seek a warrant to take physical custody of a child under § 16-4604.09 or other appropriate prevention measures.

(Mar. 31, 2009, D.C. Law 17-378, § 2(d), 56 DCR 1572.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-378, see notes following § 16-4604.01.

Uniform Law

This section is based upon § 4 of the Uniform Child Abduction Prevention Act. See Vol. 9, Pt. 1A, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4604.05. JURISDICTION.

(a) A petition under this subchapter may be filed only in a court that has jurisdiction to make a child-custody determination with respect to the child at issue under §§ 16-4601.01 to 16-4604.02.

(b) A court of this state has temporary emergency jurisdiction under § 16-4602.04 if the court finds a credible risk of abduction.

(Mar. 31, 2009, D.C. Law 17-378, § 2(d), 56 DCR 1572.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-378, see notes following § 16-4604.01.

Uniform Law

This section is based upon § 5 of the Uniform Child Abduction Prevention Act. See Vol. 9, Pt. 1A, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4604.06. CONTENTS OF PETITION.

A petition under this subchapter shall be verified and include a copy of any existing child-custody determination, if available. The petition shall specify the risk factors for abduction, including the relevant factors described in § 16-4604.07. Subject to § 16-4602.09(e), if reasonably ascertainable, the petition shall contain:

- (1) The name, date of birth, and gender of the child;
- (2) The customary address and current physical location of the child;
- (3) The identity, customary address, and current physical location of the respondent;
- (4) A statement of whether a prior action to prevent abduction or domestic violence has been filed by a party or other individual or entity having custody of the child, and the date, location, and disposition of the action;
- (5) A statement of whether a party to the proceeding has been arrested for a crime related to domestic violence, stalking, or child abuse or neglect, and the date, location, and disposition of the case; and
- (6) Any other information required to be submitted to the court for a child-custody determination under § 16-4602.09.

(Mar. 31, 2009, D.C. Law 17-378, § 2(d), 56 DCR 1572.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-378, see notes following § 16-4604.01.

Uniform Law

This section is based upon § 6 of the Uniform Child Abduction Prevention Act. See Vol. 9, Pt. 1A, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4604.07. FACTORS TO DETERMINE RISK OF ABDUCTION.

(a) In determining whether there is a credible risk of abduction of a child, the court shall consider any evidence that the petitioner or respondent:

- (1) Has previously abducted or attempted to abduct the child;
- (2) Has threatened to abduct the child;
- (3) Has recently engaged in activities that may indicate a planned abduction, including:
 - (A) Abandoning employment;
 - (B) Selling a primary residence;
 - (C) Terminating a lease;
 - (D) Closing bank or other financial management accounts, liquidating assets, hiding or destroying financial documents, or conducting any unusual financial activities;
 - (E) Applying for a passport or visa or obtaining travel documents for the respondent, a family member, or the child; or

- (F) Seeking to obtain the child's birth certificate or school or medical records;
- (4) Has engaged in domestic violence, stalking, or child abuse or neglect;
- (5) Has refused to follow a child-custody determination;
- (6) Lacks strong familial, financial, emotional, or cultural ties to the state or the United States;
- (7) Has strong familial, financial, emotional, or cultural ties to another state or country;
- (8) Is likely to take the child to a country that:
 - (A) Is not a party to the Hague Convention on the Civil Aspects of International Child Abduction and does not provide for the extradition of an abducting parent or for the return of an abducted child;
 - (B) Is a party to the Hague Convention on the Civil Aspects of International Child Abduction but:
 - (i) The Hague Convention on the Civil Aspects of International Child Abduction is not in force between the United States and that country;
 - (ii) Is noncompliant according to the most recent compliance report issued by the United States Department of State; or
 - (iii) Lacks legal mechanisms for immediately and effectively enforcing a return order under the Hague Convention on the Civil Aspects of International Child Abduction;
 - (C) Poses a risk that the child's physical or emotional health or safety would be endangered in the country because of specific circumstances relating to the child or because of human rights violations committed against children;
 - (D) Has laws or practices that would:
 - (i) Enable the respondent, without due cause, to prevent the petitioner from contacting the child;
 - (ii) Restrict the petitioner from freely traveling to or exiting from the country because of the petitioner's gender, nationality, marital status, or religion; or
 - (iii) Restrict the child's ability legally to leave the country after the child reaches the age of majority because of a child's gender, nationality, or religion;
 - (E) Is included by the United States Department of State on a current list of state sponsors of terrorism;
 - (F) Does not have an official United States diplomatic presence in the country; or
 - (G) Is engaged in active military action or war, including a civil war, to which the child may be exposed;
- (9) Is undergoing a change in immigration or citizenship status that would adversely affect the respondent's ability to remain in the United States legally;
- (10) Has had an application for United States citizenship denied;
- (11) Has forged or presented misleading or false evidence on government forms or supporting documents to obtain or attempt to obtain a passport, a visa, travel documents, a Social Security card, a driver's license, or other government-issued identification card, or has made a misrepresentation to the United States government;
- (12) Has used multiple names to attempt to mislead or defraud; or
- (13) Has engaged in any other conduct the court considers relevant to the risk of abduction.

(b) In the hearing on a petition under this subchapter, the court shall consider any evidence that the respondent believed in good faith that the respondent's conduct was necessary to avoid imminent harm to the child or respondent and any other evidence that may be relevant to whether the respondent may be permitted to remove or retain the child.

(Mar. 31, 2009, D.C. Law 17-378, § 2(d), 56 DCR 1572.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-378, see notes following § 16-4604.01.

Uniform Law

This section is based upon § 7 of the Uniform Child Abduction Prevention Act. See Vol. 9, Pt. 1A, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4604.08. PROVISIONS AND MEASURES TO PREVENT ABDUCTION.

- (a) If a petition is filed under this subchapter, the court may enter an order that shall include:

- (1) The basis for the court's exercise of jurisdiction;
 - (2) The manner in which notice and opportunity to be heard were given to the persons entitled to notice of the proceeding;
 - (3) A detailed description of each party's custody and visitation rights and residential arrangements for the child;
 - (4) A provision stating that a violation of the order may subject the party in violation to civil and criminal penalties; and
 - (5) Identification of the child's country of habitual residence at the time of the issuance of the order.
- (b) If, at a hearing on a petition under this subchapter or on the court's own motion, the court after reviewing the evidence finds a credible risk of abduction of the child by a preponderance of the evidence, the court shall enter an abduction prevention order. The order shall include the provisions required by subsection (a) of this section and measures and conditions, including those in subsections (c), (d), and (e) of this section, that are reasonably calculated to prevent abduction of the child, giving due consideration to the custody and visitation rights of the parties. The court shall consider:
- (1) The age of the child;
 - (2) The potential harm to the child from an abduction;
 - (3) The legal and practical difficulties of returning the child to the jurisdiction if abducted; and
 - (4) The reasons for the potential abduction, including evidence of domestic violence, stalking, or child abuse or neglect.
- (c) An abduction prevention order may include one or more of the following:
- (1) An imposition of travel restrictions that require that a party traveling with the child outside a designated geographical area provide the other party with the following:
 - (A) The travel itinerary of the child;
 - (B) A list of physical addresses and telephone numbers at which the child can be reached at specified times; and
 - (C) Copies of all travel documents;
 - (2) A prohibition of the respondent directly or indirectly:
 - (A) Removing the child from this state, the United States, or another geographic area without permission of the court or the petitioner's written consent;
 - (B) Removing or retaining the child in violation of a child-custody determination;
 - (C) Removing the child from school or a child-care or similar facility; or
 - (D) Approaching the child at any location other than a site designated for supervised visitation;
 - (3) A requirement that a party register the order in another state as a prerequisite to allowing the child to travel to that state;
 - (4) With regard to the child's passport:
 - (A) A direction that the petitioner place the child's name in the United States Department of State's Child Passport Issuance Alert Program;
 - (B) A requirement that the respondent surrender to the court or the petitioner's attorney any United States or foreign passport issued in the child's name, including a passport issued in the name of both the parent and the child; and
 - (C) A prohibition upon the respondent from applying on behalf of the child for a new or replacement passport or visa;
 - (5) As a prerequisite to exercising custody or visitation, a requirement that the respondent provide:
 - (A) To the United States Department of State Office of Children's Issues and the relevant foreign consulate or embassy, an authenticated copy of the order detailing passport and travel restrictions for the child;
 - (B) To the court:
 - (i) Proof that the respondent has provided the information in subparagraph (A) of this paragraph; and
 - (ii) An acknowledgment in a record from the relevant foreign consulate or embassy that no passport application has been made, or passport issued, on behalf of the child;
 - (C) To the petitioner, proof of registration with the United States Embassy or other United States diplomatic presence in the destination country and with the Central Authority for the Hague Convention on the Civil Aspects of International Child Abduction, if that Convention is in effect

- between the United States and the destination country, unless one of the parties objects; and
- (D) A written waiver under 5 U.S.C. § 552a with respect to any document, application, or other information pertaining to the child authorizing its disclosure to the court and the petitioner; and
- (6) Upon the petitioner's request, a requirement that the respondent obtain an order from the relevant foreign country containing terms identical to the child-custody determination issued in the United States.
- (d) In an abduction prevention order, the court may impose conditions on the exercise of custody or visitation that:
- (1) Limit visitation or require that visitation with the child by the respondent be supervised until the court finds that supervision is no longer necessary and order the respondent to pay the costs of supervision;
 - (2) Require the respondent to post a bond or provide other security in an amount sufficient to serve as a financial deterrent to abduction, the proceeds of which may be used to pay for the reasonable expenses of recovery of the child, including reasonable attorneys fees and costs if there is an abduction; and
 - (3) Require the respondent to obtain education on the potentially harmful effects to the child from abduction.
- (e) To prevent imminent abduction of a child, a court may:
- (1) Issue a warrant to take physical custody of the child under § 16-4604.09 or the law of this state other than this subchapter;
 - (2) Direct the use of law enforcement to take any action reasonably necessary to locate the child, obtain return of the child, or enforce a custody determination under this subchapter or the law of this state other than this subchapter; or
 - (3) Grant any other relief allowed under the law of this state other than this subchapter.
- (f) The remedies provided in this subchapter are cumulative and do not affect the availability of other remedies to prevent abduction.

(Mar. 31, 2009, D.C. Law 17-378, § 2(d), 56 DCR 1572.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-378, see notes following § 16-4604.01.

Uniform Law

This section is based upon § 8 of the Uniform Child Abduction Prevention Act. See Vol. 9, Pt. 1A, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4604.09. WARRANT TO TAKE PHYSICAL CUSTODY OF CHILD.

- (a) If a petition under this subchapter contains allegations, and the court finds that there is a credible risk that the child is imminently likely to be wrongfully removed, the court may issue an ex parte warrant to take physical custody of the child.
- (b) The respondent on a petition under subsection (a) of this section shall be afforded an opportunity to be heard at the earliest possible time after the ex parte warrant is executed, but not later than the next judicial day unless a hearing on that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible.
- (c) An ex parte warrant under subsection (a) of this section to take physical custody of a child shall:
- (1) Recite the facts upon which a determination of a credible risk of imminent wrongful removal of the child is based;
 - (2) Direct law enforcement officers to take physical custody of the child immediately;
 - (3) State the date and time for the hearing on the petition; and
 - (4) Provide for the safe interim placement of the child pending further order of the court.
- (d) If feasible, before issuing a warrant and before determining the placement of the child after the warrant is executed, the court may order a search of the relevant databases of the National Crime Information Center system and similar state databases to determine if either the petitioner or respondent has a history of domestic violence, stalking, or child abuse or neglect.
- (e) The petition and warrant shall be served on the respondent when or immediately after the child is taken into physical custody.

(f) A warrant to take physical custody of a child, issued by this state or another state, is enforceable throughout this state. If the court finds that a less intrusive remedy will not be effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances, the court may authorize law enforcement officers to make a forcible entry at any hour.

(g) If the court finds, after a hearing, that a petitioner sought an ex parte warrant under subsection (a) of this section for the purpose of harassment or in bad faith, the court may award the respondent reasonable attorney's fees, costs, and expenses.

(h) This subchapter does not affect the availability of relief allowed under the law of this state other than this subchapter.

(Mar. 31, 2009, D.C. Law 17-378, § 2(d), 56 DCR 1572.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-378, see notes following § 16-4604.01.

Uniform Law

This section is based upon § 9 of the Uniform Child Abduction Prevention Act. See Vol. 9, Pt. 1A, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4604.10. DURATION OF ABDUCTION PREVENTION ORDER.

An abduction prevention order remains in effect until the earliest of:

- (1) The time stated in the order;
- (2) The emancipation of the child;
- (3) The child's attaining 18 years of age; or
- (4) The time the order is modified, revoked, vacated, or superseded by a court with jurisdiction under §§ 16-4602.01 to 16-4602.03.

(Mar. 31, 2009, D.C. Law 17-378, § 2(d), 56 DCR 1572.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-378, see notes following § 16-4604.01.

Uniform Law

This section is based upon § 10 of the Uniform Child Abduction Prevention Act. See Vol. 9, Pt. 1A, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

SUBCHAPTER V. MISCELLANEOUS PROVISIONS.

§ 16-4605.01. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

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

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214; Mar. 31, 2009, D.C. Law 17-378, § 2(c), (e), 56 DCR 1572.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

2001 Ed., § 16-4604.01.

Effect of Amendments

D.C. Law 17-378 amended the section by redesignating this section.

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4501.

Law 17-378, the "Uniform Child Abduction Act of 2008", was introduced in Council and assigned Bill No. 17-626 which was referred to the Committee on Public Safety and the Judiciary. The Bill was adopted on first and

second readings on November 18, 2008, and December 2, 2008, respectively. Signed by the Mayor on January 29, 2009, it was assigned Act No. 17-716 and transmitted to both Houses of Congress for its review. D.C. Law 17-378 became effective on March 25, 2009.

Uniform Law

This section is based upon § 401 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 16-4605.02. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

This chapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, approved June 30, 2000 (114 Stat. 464; 15 U.S.C. § 7001 *et seq.*), but does not modify, limit, or supersede section 101(c) of that act (15 U.S.C. § 7001(c)), or authorize electronic delivery of any of the notices described in section 103(b) of that act (15 U.S.C. § 7003(b)).

(Mar. 31, 2009, D.C. Law 17-378, § 2(e), 56 DCR 1572.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 17-378 added this section.

Legislative History of Laws

For Law 17-378, see notes following § 16-4605.01.

§ 16-4605.03. TRANSITIONAL PROVISION.

A motion or other request for relief made in a child-custody proceeding or to enforce a child-custody determination which was commenced before April 27, 2001, is governed by the law in effect at the time the motion or other request was made.

(Apr. 27, 2001, D.C. Law 13-293, § 2(d), 48 DCR 2214; Mar. 31, 2009, D.C. Law 17-378, § 2(c), (e), 56 DCR 1572; Sept. 26, 2012, D.C. Law 19-171, § 75(c), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

2001 Ed., § 16-4604.02.

Effect of Amendments

D.C. Law 17-378 redesignated this section and substituted "April 27, 2001" for "the effective date of this chapter".

D.C. Law 19-171 inserted a comma following "2001".

Legislative History of Laws

For D.C. Law 13-293, see notes following § 16-4501.

For Law 17-378, see notes following § 16-4605.01.

For history of Law 19-171, see notes under § 16-2331.

Uniform Law

This section is based upon § 402 of the Uniform Child Custody Jurisdiction and Enforcement Act (1997 Act). See 9, Part IA, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.