

1 Article 1.
2 Uniform Child Custody Jurisdiction Act.
3 §§ 50A-1 through 50A-25: Repealed by Session Laws 1999-223, s. 1(b), effective October 1,
4 1999, and applicable to causes of action arising on or after that date.
5

6 Article 2.
7 Uniform Child-Custody Jurisdiction and Enforcement Act.
8 Part 1. General Provisions.

9 § 50A-101. Short title.

10 This Article may be cited as the Uniform Child-Custody Jurisdiction and Enforcement Act.
11 (1979, c. 110, s. 1; 1999-223, s. 3.)
12

13 § 50A-102. Definitions.

14 In this Article:

- 15 (1) "Abandoned" means left without provision for reasonable and necessary care
16 or supervision.
17 (2) "Child" means an individual who has not attained 18 years of age.
18 (3) "Child-custody determination" means a judgment, decree, or other order of a
19 court providing for the legal custody, physical custody, or visitation with
20 respect to a child. The term includes a permanent, temporary, initial, and
21 modification order. The term does not include an order relating to child
22 support or other monetary obligation of an individual.
23 (4) "Child-custody proceeding" means a proceeding in which legal custody,
24 physical custody, or visitation with respect to a child is an issue. The term
25 includes a proceeding for divorce, separation, neglect, abuse, dependency,
26 guardianship, paternity, termination of parental rights, and protection from
27 domestic violence in which the issue may appear. The term does not include
28 a proceeding involving juvenile delinquency, contractual emancipation, or
29 enforcement under Part 3 of this Article.
30 (5) "Commencement" means the filing of the first pleading in a proceeding.
31 (6) "Court" means an entity authorized under the law of a state to establish,
32 enforce, or modify a child-custody determination.
33 (7) "Home state" means the state in which a child lived with a parent or a person
34 acting as a parent for at least six consecutive months immediately before the
35 commencement of a child-custody proceeding. In the case of a child less
36 than six months of age, the term means the state in which the child lived
37 from birth with any of the persons mentioned. A period of temporary
38 absence of any of the mentioned persons is part of the period.
39 (8) "Initial determination" means the first child-custody determination
40 concerning a particular child.
41 (9) "Issuing court" means the court that makes a child-custody determination for
42 which enforcement is sought under this Article.
43 (10) "Issuing state" means the state in which a child-custody determination is
44 made.
45 (11) "Modification" means a child-custody determination that changes, replaces,
46 supersedes, or is otherwise made after a previous determination concerning
47 the same child, whether or not it is made by the court that made the previous
48 determination.
49 (12) "Person" means an individual, corporation, business trust, estate, trust,
50 partnership, limited liability company, association, joint venture,

1 government; governmental subdivision, agency, or instrumentality; public
2 corporation; or any other legal or commercial entity.

- 3 (13) "Person acting as a parent" means a person, other than a parent, who:
4 a. Has physical custody of the child or has had physical custody for a
5 period of six consecutive months, including any temporary absence,
6 within one year immediately before the commencement of a
7 child-custody proceeding; and
8 b. Has been awarded legal custody by a court or claims a right to legal
9 custody under the law of this State.
10 (14) "Physical custody" means the physical care and supervision of a child.
11 (15) "State" means a state of the United States, the District of Columbia, Puerto
12 Rico, the United States Virgin Islands, or any territory or insular possession
13 subject to the jurisdiction of the United States.
14 (16) "Tribe" means an Indian tribe or band, or Alaskan Native village, which is
15 recognized by federal law or formally acknowledged by a state.
16 (17) "Warrant" means an order issued by a court authorizing law enforcement
17 officers to take physical custody of a child. (1979, c. 110, s. 1; 1999-223, s.
18 3.)
19

20 **§ 50A-103. Proceedings governed by other law.**

21 This Article does not govern an adoption proceeding or a proceeding pertaining to the
22 authorization of emergency medical care for a child. (1999-223, s. 3.)
23

24 **§ 50A-104. Application to Indian tribes.**

25 (a) A child-custody proceeding that pertains to an Indian child, as defined in the Indian
26 Child Welfare Act, 25 U.S.C. § 1901 et seq., is not subject to this Article to the extent that it is
27 governed by the Indian Child Welfare Act.

28 (b) A court of this State shall treat a tribe as if it were a state of the United States for the
29 purpose of applying Parts 1 and 2.

30 (c) A child-custody determination made by a tribe under factual circumstances in
31 substantial conformity with the jurisdictional standards of this Article must be recognized and
32 enforced under Part 3. (1999-223, s. 3.)
33

34 **§ 50A-105. International application of Article.**

35 (a) A court of this State shall treat a foreign country as if it were a state of the United
36 States for the purpose of applying Parts 1 and 2.

37 (b) Except as otherwise provided in subsection (c), a child-custody determination made
38 in a foreign country under factual circumstances in substantial conformity with the
39 jurisdictional standards of this Article must be recognized and enforced under Part 3.

40 (c) A court of this State need not apply this Article if the child-custody law of a foreign
41 country violates fundamental principles of human rights. (1979, c. 110, s. 1; 1999-223, s. 3.)
42

43 **§ 50A-106. Effect of child-custody determination.**

44 A child-custody determination made by a court of this State that had jurisdiction under this
45 Article binds all persons who have been served in accordance with the laws of this State or
46 notified in accordance with G.S. 50A-108 or who have submitted to the jurisdiction of the court
47 and who have been given an opportunity to be heard. As to those persons, the determination is
48 conclusive as to all decided issues of law and fact except to the extent the determination is
49 modified. (1979, c. 110, s.1; 1999-223, s. 3.)
50

51 **§ 50A-107. Priority.**

1 If a question of existence or exercise of jurisdiction under this Article is raised in a
2 child-custody proceeding, the question, upon request of a party, must be given priority on the
3 calendar and handled expeditiously. (1999-223, s. 3.)
4

5 **§ 50A-108. Notice to persons outside State.**

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

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

12 (c) Notice is not required for the exercise of jurisdiction with respect to a person who
13 submits to the jurisdiction of the court. (1999-223, s. 3.)
14

15 **§ 50A-109. Appearance and limited immunity.**

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

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

25 (c) The immunity granted by subsection (a) does not extend to civil litigation based on
26 acts unrelated to the participation in a proceeding under this Article committed by an individual
27 while present in this State. (1999-223, s. 3.)
28

29 **§ 50A-110. Communication between courts.**

30 (a) A court of this State may communicate with a court in another state concerning a
31 proceeding arising under this Article.

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

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

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

41 (e) For the purposes of this section, "record" means information that is inscribed on a
42 tangible medium or that is stored in an electronic or other medium and is retrievable in
43 perceivable form. (1999-223, s. 3.)
44

45 **§ 50A-111. Taking testimony in another state.**

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

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

5 (c) Documentary evidence transmitted from another state to a court of this State by
6 technological means that do not produce an original writing may not be excluded from
7 evidence on an objection based on the means of transmission. (1979, c. 110, s. 1; 1999-223, s.
8 3.)
9

10 **§ 50A-112. Cooperation between courts; preservation of records.**

11 (a) A court of this State may request the appropriate court of another state to:

- 12 (1) Hold an evidentiary hearing;
- 13 (2) Order a person to produce or give evidence pursuant to procedures of that
14 state;
- 15 (3) Order that an evaluation be made with respect to the custody of a child
16 involved in a pending proceeding;
- 17 (4) Forward to the court of this State a certified copy of the transcript of the
18 record of the hearing, the evidence otherwise presented, and any evaluation
19 prepared in compliance with the request; and
- 20 (5) Order a party to a child-custody proceeding or any person having physical
21 custody of the child to appear in the proceeding with or without the child.

22 (b) Upon request of a court of another state, a court of this State may hold a hearing or
23 enter an order described in subsection (a).

24 (c) Travel and other necessary and reasonable expenses incurred under subsections (a)
25 and (b) may be assessed against the parties according to the law of this State.

26 (d) A court of this State shall preserve the pleadings, orders, decrees, records of
27 hearings, evaluations, and other pertinent records with respect to a child-custody proceeding
28 until the child attains 18 years of age. Upon appropriate request by a court or law enforcement
29 official of another state, the court shall forward a certified copy of those records. (1979, c. 110,
30 s. 1; 1999-223, s. 3.)
31

32 Part 2. Jurisdiction.

33 **§ 50A-201. Initial child-custody jurisdiction.**

34 (a) Except as otherwise provided in G.S. 50A-204, a court of this State has jurisdiction
35 to make an initial child-custody determination only if:

- 36 (1) This State is the home state of the child on the date of the commencement of
37 the proceeding, or was the home state of the child within six months before
38 the commencement of the proceeding, and the child is absent from this State
39 but a parent or person acting as a parent continues to live in this State;
- 40 (2) A court of another state does not have jurisdiction under subdivision (1), or a
41 court of the home state of the child has declined to exercise jurisdiction on
42 the ground that this State is the more appropriate forum under G.S. 50A-207
43 or G.S. 50A-208, and:
 - 44 a. The child and the child's parents, or the child and at least one parent
45 or a person acting as a parent, have a significant connection with this
46 State other than mere physical presence; and
 - 47 b. Substantial evidence is available in this State concerning the child's
48 care, protection, training, and personal relationships;
- 49 (3) All courts having jurisdiction under subdivision (1) or (2) have declined to
50 exercise jurisdiction on the ground that a court of this State is the more

1 appropriate forum to determine the custody of the child under G.S. 50A-207
2 or G.S. 50A-208; or

3 (4) No court of any other state would have jurisdiction under the criteria
4 specified in subdivision (1), (2), or (3).

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

7 (c) Physical presence of, or personal jurisdiction over, a party or a child is not necessary
8 or sufficient to make a child-custody determination. (1979, c. 110, s. 1; 1999-223, s. 3.)
9

10 **§ 50A-202. Exclusive, continuing jurisdiction.**

11 (a) Except as otherwise provided in G.S. 50A-204, a court of this State which has made
12 a child-custody determination consistent with G.S. 50A-201 or G.S. 50A-203 has exclusive,
13 continuing jurisdiction over the determination until:

14 (1) A court of this State determines that neither the child, the child's parents, and
15 any person acting as a parent do not have a significant connection with this
16 State and that substantial evidence is no longer available in this State
17 concerning the child's care, protection, training, and personal relationships;
18 or

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

22 (b) A court of this State which has made a child-custody determination and does not
23 have exclusive, continuing jurisdiction under this section may modify that determination only if
24 it has jurisdiction to make an initial determination under G.S. 50A-201. (1999-223, s. 3.)
25

26 **§ 50A-203. Jurisdiction to modify determination.**

27 Except as otherwise provided in G.S. 50A-204, a court of this State may not modify a
28 child-custody determination made by a court of another state unless a court of this State has
29 jurisdiction to make an initial determination under G.S. 50A-201(a)(1) or G.S. 50A-201(a)(2)
30 and:

31 (1) The court of the other state determines it no longer has exclusive, continuing
32 jurisdiction under G.S. 50A-202 or that a court of this State would be a more
33 convenient forum under G.S. 50A-207; or

34 (2) A court of this State or a court of the other state determines that the child,
35 the child's parents, and any person acting as a parent do not presently reside
36 in the other state. (1979, c. 110, s. 1; 1999-223, s. 3.)
37

38 **§ 50A-204. Temporary emergency jurisdiction.**

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

43 (b) If there is no previous child-custody determination that is entitled to be enforced
44 under this Article and a child-custody proceeding has not been commenced in a court of a state
45 having jurisdiction under G.S. 50A-201 through G.S. 50A-203, a child-custody determination
46 made under this section remains in effect until an order is obtained from a court of a state
47 having jurisdiction under G.S. 50A-201 through G.S. 50A-203. If a child-custody proceeding
48 has not been or is not commenced in a court of a state having jurisdiction under G.S. 50A-201
49 through G.S. 50A-203, a child-custody determination made under this section becomes a final
50 determination if it so provides, and this State becomes the home state of the child.

1 (c) If there is a previous child-custody determination that is entitled to be enforced
2 under this Article, or a child-custody proceeding has been commenced in a court of a state
3 having jurisdiction under G.S. 50A-201 through G.S. 50A-203, any order issued by a court of
4 this State under this section must specify in the order a period that the court considers adequate
5 to allow the person seeking an order to obtain an order from the state having jurisdiction under
6 G.S. 50A-201 through G.S. 50A-203. The order issued in this State remains in effect until an
7 order is obtained from the other state within the period specified or the period expires.

8 (d) A court of this State which has been asked to make a child-custody determination
9 under this section, upon being informed that a child-custody proceeding has been commenced
10 in, or a child-custody determination has been made by, a court of a state having jurisdiction
11 under G.S. 50A-201 through G.S. 50A-203 shall immediately communicate with the other
12 court. A court of this State which is exercising jurisdiction pursuant to G.S. 50A-201 through
13 G.S. 50A-203, upon being informed that a child-custody proceeding has been commenced in,
14 or a child-custody determination has been made by, a court of another state under a statute
15 similar to this section shall immediately communicate with the court of that state to resolve the
16 emergency, protect the safety of the parties and the child, and determine a period for the
17 duration of the temporary order. (1979, c. 110, s. 1; 1999-223, s. 3.)
18

19 **§ 50A-205. Notice; opportunity to be heard; joinder.**

20 (a) Before a child-custody determination is made under this Article, notice and an
21 opportunity to be heard in accordance with the standards of G.S. 50A-108 must be given to all
22 persons entitled to notice under the law of this State as in child-custody proceedings between
23 residents of this State, any parent whose parental rights have not been previously terminated,
24 and any person having physical custody of the child.

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

27 (c) The obligation to join a party and the right to intervene as a party in a child-custody
28 proceeding under this Article are governed by the law of this State as in child-custody
29 proceedings between residents of this State. (1979, c. 110, s. 1; 1999-223, s. 3.)
30

31 **§ 50A-206. Simultaneous proceedings.**

32 (a) Except as otherwise provided in G.S. 50A-204, a court of this State may not
33 exercise its jurisdiction under this Part if, at the time of the commencement of the proceeding, a
34 proceeding concerning the custody of the child has been commenced in a court of another state
35 having jurisdiction substantially in conformity with this Article, unless the proceeding has been
36 terminated or is stayed by the court of the other state because a court of this State is a more
37 convenient forum under G.S. 50A-207.

38 (b) Except as otherwise provided in G.S. 50A-204, a court of this State, before hearing
39 a child-custody proceeding, shall examine the court documents and other information supplied
40 by the parties pursuant to G.S. 50A-209. If the court determines that a child-custody proceeding
41 has been commenced in a court in another state having jurisdiction substantially in accordance
42 with this Article, the court of this State shall stay its proceeding and communicate with the
43 court of the other state. If the court of the state having jurisdiction substantially in accordance
44 with this Article does not determine that the court of this State is a more appropriate forum, the
45 court of this State shall dismiss the proceeding.

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

- 1 (1) Stay the proceeding for modification pending the entry of an order of a court
2 of the other state enforcing, staying, denying, or dismissing the proceeding
3 for enforcement;
- 4 (2) Enjoin the parties from continuing with the proceeding for enforcement; or
- 5 (3) Proceed with the modification under conditions it considers appropriate.
6 (1979, c. 110, s. 1; 1999-223, s. 3.)
7

8 **§ 50A-207. Inconvenient forum.**

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

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

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

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

35 (d) A court of this State may decline to exercise its jurisdiction under this Article if a
36 child-custody determination is incidental to an action for divorce or another proceeding while
37 still retaining jurisdiction over the divorce or other proceeding. (1979, c. 110, s. 1; 1999-223, s.
38 3.)
39

40 **§ 50A-208. Jurisdiction declined by reason of conduct.**

41 (a) Except as otherwise provided in G.S. 50A-204 or by other law of this State, if a
42 court of this State has jurisdiction under this Article because a person seeking to invoke its
43 jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its
44 jurisdiction unless:

- 45 (1) The parents and all persons acting as parents have acquiesced in the exercise
46 of jurisdiction;
- 47 (2) A court of the state otherwise having jurisdiction under G.S. 50A-201
48 through G.S. 50A-203 determines that this State is a more appropriate forum
49 under G.S. 50A-207; or
- 50 (3) No court of any other state would have jurisdiction under the criteria
51 specified in G.S. 50A-201 through G.S. 50A-203.

1 (b) If a court of this State declines to exercise its jurisdiction pursuant to subsection (a),
2 it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition
3 of the unjustifiable conduct, including staying the proceeding until a child-custody proceeding
4 is commenced in a court having jurisdiction under G.S. 50A-201 through G.S. 50A-203.

5 (c) If a court dismisses a petition or stays a proceeding because it declines to exercise
6 its jurisdiction pursuant to subsection (a), it shall assess against the party seeking to invoke its
7 jurisdiction necessary and reasonable expenses including costs, communication expenses,
8 attorneys' fees, investigative fees, expenses for witnesses, travel expenses, and child care during
9 the course of the proceedings, unless the party from whom fees are sought establishes that the
10 assessment would be clearly inappropriate. The court may not assess fees, costs, or expenses
11 against this State unless authorized by law other than this Article. (1979, c. 110, s. 1; 1999-223,
12 s. 3.)
13

14 **§ 50A-209. Information to be submitted to court.**

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

- 20 (1) Has participated, as a party or witness or in any other capacity, in any other
21 proceeding concerning the custody of or visitation with the child and, if so,
22 the pleading or affidavit shall identify the court, the case number, and the
23 date of the child-custody determination, if any;
- 24 (2) Knows of any proceeding that could affect the current proceeding, including
25 proceedings for enforcement and proceedings relating to domestic violence,
26 protective orders, termination of parental rights, and adoptions and, if so, the
27 pleading or affidavit shall identify the court, the case number, and the nature
28 of the proceeding; and
- 29 (3) Knows the names and addresses of any person not a party to the proceeding
30 who has physical custody of the child or claims rights of legal custody or
31 physical custody of, or visitation with, the child and, if so, the names and
32 addresses of those persons.

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

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

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

41 (e) If a party alleges in an affidavit or a pleading under oath that the health, safety, or
42 liberty of a party or child would be jeopardized by disclosure of identifying information, the
43 information must be sealed and may not be disclosed to the other party or the public unless the
44 court orders the disclosure to be made after a hearing in which the court takes into
45 consideration the health, safety, or liberty of the party or child and determines that the
46 disclosure is in the interest of justice. (1979, c. 110, s. 1; 1999-223, s. 3.)
47

48 **§ 50A-210. Appearance of parties and child.**

49 (a) In a child-custody proceeding in this State, the court may order a party to the
50 proceeding who is in this State to appear before the court in person with or without the child.

1 The court may order any person who is in this State and who has physical custody or control of
2 the child to appear in person with the child.

3 (b) If a party to a child-custody proceeding whose presence is desired by the court is
4 outside this State, the court may order that a notice given pursuant to G.S. 50A-108 include a
5 statement directing the party to appear in person with or without the child and informing the
6 party that failure to appear may result in a decision adverse to the party.

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

9 (d) If a party to a child-custody proceeding who is outside this State is directed to
10 appear under subsection (b) or desires to appear personally before the court with or without the
11 child, the court may require another party to pay reasonable and necessary travel and other
12 expenses of the party so appearing and of the child. (1979, c. 110, s. 1; 1999-223, s. 3.)
13

14 Part 3. Enforcement.

15 **§ 50A-301. Definitions.**

16 In this Part:

- 17 (1) "Petitioner" means a person who seeks enforcement of an order for return of
18 a child under the Hague Convention on the Civil Aspects of International
19 Child Abduction or enforcement of a child-custody determination.
20 (2) "Respondent" means a person against whom a proceeding has been
21 commenced for enforcement of an order for return of a child under the
22 Hague Convention on the Civil Aspects of International Child Abduction or
23 enforcement of a child-custody determination. (1999-223, s. 3.)
24

25 **§ 50A-302. Enforcement under Hague Convention.**

26 Under this Part, a court of this State may enforce an order for the return of the child made
27 under the Hague Convention on the Civil Aspects of International Child Abduction as if it were
28 a child-custody determination. (1999-223, s. 3.)
29

30 **§ 50A-303. Duty to enforce.**

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

36 (b) A court of this State may utilize any remedy available under other law of this State
37 to enforce a child-custody determination made by a court of another state. The remedies
38 provided in this Part are cumulative and do not affect the availability of other remedies to
39 enforce a child-custody determination. (1979, c. 110, s. 1; 1999-223, s. 3.)
40

41 **§ 50A-304. Temporary visitation.**

42 (a) A court of this State which does not have jurisdiction to modify a child-custody
43 determination may issue a temporary order enforcing:

- 44 (1) A visitation schedule made by a court of another state; or
45 (2) The visitation provisions of a child-custody determination of another state
46 that does not provide for a specific visitation schedule.

47 (b) If a court of this State makes an order under subdivisions (a)(2) of this section, it
48 shall specify in the order a period that it considers adequate to allow the petitioner to obtain an
49 order from a court having jurisdiction under the criteria specified in Part 2. The order remains
50 in effect until an order is obtained from the other court or the period expires. (1999-223, s. 3.)
51

1 **§ 50A-305. Registration of child-custody determination.**

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

- 5 (1) A letter or other document requesting registration;
6 (2) Two copies, including one certified copy, of the determination sought to be
7 registered, and a statement under penalty of perjury that to the best of the
8 knowledge and belief of the person seeking registration the order has not
9 been modified; and
10 (3) Except as otherwise provided in G.S. 50A-209, the name and address of the
11 person seeking registration and any parent or person acting as a parent who
12 has been awarded custody or visitation in the child-custody determination
13 sought to be registered.

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

- 15 (1) Cause the determination to be filed as a foreign judgment, together with one
16 copy of any accompanying documents and information, regardless of their
17 form; and
18 (2) Direct the petitioner to serve notice upon the persons named pursuant to
19 subdivision (a)(3) of this section, including notice of their opportunity to
20 contest the registration in accordance with this section.

21 (c) The notice required by subdivision (b)(2) must state that:

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

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

- 32 (1) The issuing court did not have jurisdiction under Part 2;
33 (2) The child-custody determination sought to be registered has been vacated,
34 stayed, or modified by a court having jurisdiction to do so under Part 2; or
35 (3) The person contesting registration was entitled to notice, but notice was not
36 given in accordance with the standards of G.S. 50A-108 in the proceedings
37 before the court that issued the order for which registration is sought.

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

41 (f) Confirmation of a registered order, whether by operation of law or after notice and
42 hearing, precludes further contest of the order with respect to any matter that could have been
43 asserted at the time of registration. (1979, c. 110, s. 1; 1997-81, s. 1; 1999-223, s. 3; 2007-484,
44 s. 8.)
45

46 **§ 50A-306. Enforcement of registered determination.**

47 (a) A court of this State may grant any relief normally available under the law of this
48 State to enforce a registered child-custody determination made by a court of another state.

49 (b) A court of this State shall recognize and enforce, but may not modify, except in
50 accordance with Part 2, a registered child-custody determination of a court of another state.
51 (1999-223, s. 3.)

1
2 **§ 50A-307. Simultaneous proceedings.**

3 If a proceeding for enforcement under this Part is commenced in a court of this State and
4 the court determines that a proceeding to modify the determination is pending in a court of
5 another state having jurisdiction to modify the determination under Part 2, the enforcing court
6 shall immediately communicate with the modifying court. The proceeding for enforcement
7 continues unless the enforcing court, after consultation with the modifying court, stays or
8 dismisses the proceeding. (1999-223, s. 3.)
9

10 **§ 50A-308. Expedited enforcement of child-custody determination.**

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

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

- 15 (1) Whether the court that issued the determination identified the jurisdictional
16 basis it relied upon in exercising jurisdiction and, if so, what the basis was;
- 17 (2) Whether the determination for which enforcement is sought has been
18 vacated, stayed, or modified by a court whose decision must be enforced
19 under this Article and, if so, identify the court, the case number, and the
20 nature of the proceeding;
- 21 (3) Whether any proceeding has been commenced that could affect the current
22 proceeding, including proceedings relating to domestic violence, protective
23 orders, termination of parental rights, and adoptions and, if so, identify the
24 court, the case number, and the nature of the proceeding;
- 25 (4) The present physical address of a child and the respondent, if known;
- 26 (5) Whether relief in addition to the immediate physical custody of the child and
27 attorneys' fees is sought, including a request for assistance from law
28 enforcement officials and, if so, the relief sought; and
- 29 (6) If the child-custody determination has been registered and confirmed under
30 G.S. 50A-305, the date and place of registration.

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

37 (d) An order issued under subsection (c) must state the time and place of the hearing
38 and advise the respondent that at the hearing the court will order that the petitioner may take
39 immediate physical custody of the child and the payment of fees, costs, and expenses under
40 G.S. 50A-312, and may schedule a hearing to determine whether further relief is appropriate,
41 unless the respondent appears and establishes that:

- 42 (1) The child-custody determination has not been registered and confirmed
43 under G.S. 50A-305 and that:
 - 44 a. The issuing court did not have jurisdiction under Part 2;
 - 45 b. The child-custody determination for which enforcement is sought has
46 been vacated, stayed, or modified by a court having jurisdiction to do
47 so under Part 2;
 - 48 c. The respondent was entitled to notice, but notice was not given in
49 accordance with the standards of G.S. 50A-108 in the proceedings
50 before the court that issued the order for which enforcement is
51 sought; or

- 1 (2) The child-custody determination for which enforcement is sought was
2 registered and confirmed under G.S. 50A-304, but has been vacated, stayed,
3 or modified by a court of a state having jurisdiction to do so under Part 2.
4 (1999-223, s. 3.)
5

6 **§ 50A-309. Service of petition and order.**

7 Except as otherwise provided in G.S. 50A-311, the petition and order must be served, by
8 any method authorized by the law of this State, upon respondent and any person who has
9 physical custody of the child. (1999-223, s. 3.)
10

11 **§ 50A-310. Hearing and order.**

12 (a) Unless the court issues a temporary emergency order pursuant to G.S. 50A-204
13 upon a finding that a petitioner is entitled to immediate physical custody of the child, the court
14 shall order that the petitioner may take immediate physical custody of the child unless the
15 respondent establishes that:

- 16 (1) The child-custody determination has not been registered and confirmed
17 under G.S. 50A-305 and that:
18 a. The issuing court did not have jurisdiction under Part 2;
19 b. The child-custody determination for which enforcement is sought has
20 been vacated, stayed, or modified by a court of a state having
21 jurisdiction to do so under Part 2; or
22 c. The respondent was entitled to notice, but notice was not given in
23 accordance with the standards of G.S. 50A-108 in the proceedings
24 before the court that issued the order for which enforcement is
25 sought; or

- 26 (2) The child-custody determination for which enforcement is sought was
27 registered and confirmed under G.S. 50A-305 but has been vacated, stayed,
28 or modified by a court of a state having jurisdiction to do so under Part 2.

29 (b) The court shall award the fees, costs, and expenses authorized under G.S. 50A-312
30 and may grant additional relief, including a request for the assistance of law enforcement
31 officials, and set a further hearing to determine whether additional relief is appropriate.

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

34 (d) A privilege against disclosure of communications between spouses and a defense of
35 immunity based on the relationship of husband and wife or parent and child may not be
36 invoked in a proceeding under this Part. (1979, c. 110, s. 1; 1999-223, s. 3.)
37

38 **§ 50A-311. Warrant to take physical custody of child.**

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

43 (b) If the court, upon the testimony of the petitioner or other witness, finds that the child
44 is imminently likely to suffer serious physical harm or be removed from this State, it may issue
45 a warrant to take physical custody of the child. The petition must be heard on the next judicial
46 day after the warrant is executed unless that date is impossible. In that event, the court shall
47 hold the hearing on the first judicial day possible. The application for the warrant must include
48 the statements required by G.S. 50A-308(b).

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

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

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

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

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

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

11 (f) The court may impose conditions upon placement of a child to ensure the
12 appearance of the child and the child's custodian. (1999-223, s. 3.)
13

14 **§ 50A-312. Costs, fees, and expenses.**

15 (a) The court shall award the prevailing party, including a state, necessary and
16 reasonable expenses incurred by or on behalf of the party, including costs, communication
17 expenses, attorneys' fees, investigative fees, expenses for witnesses, travel expenses, and child
18 care during the course of the proceedings, unless the party from whom fees or expenses are
19 sought establishes that the award would be clearly inappropriate.

20 (b) The court may not assess fees, costs, or expenses against a state unless authorized
21 by law other than this Article. (1999-223, s. 3.)
22

23 **§ 50A-313. Recognition and enforcement.**

24 A court of this State shall accord full faith and credit to an order issued by another state and
25 consistent with this Article which enforces a child-custody determination by a court of another
26 state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do
27 so under Part 2. (1979, c.110, s.1; 1999-223, s. 3.)
28

29 **§ 50A-314. Appeals.**

30 An appeal may be taken from a final order in a proceeding under this Part in accordance
31 with expedited appellate procedures in other civil cases. Unless the court enters a temporary
32 emergency order under G.S. 50A-204, the enforcing court may not stay an order enforcing a
33 child-custody determination pending appeal. (1999-223, s. 3.)
34

35 **§ 50A-315. Role of prosecutor or public official.**

36 (a) In a case arising under this Article or involving the Hague Convention on the Civil
37 Aspects of International Child Abduction, the prosecutor or other appropriate public official
38 may take any lawful action, including resort to a proceeding under this Part or any other
39 available civil proceeding to locate a child, obtain the return of a child, or enforce a
40 child-custody determination if there is:

41 (1) An existing child-custody determination;

42 (2) A request to do so from a court in a pending child-custody proceeding;

43 (3) A reasonable belief that a criminal statute has been violated; or

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

47 (b) A prosecutor or appropriate public official acting under this section acts on behalf of
48 the court and may not represent any party. (1999-223, s. 3.)
49

50 **§ 50A-316. Role of law enforcement.**

1 At the request of a prosecutor or other appropriate public official acting under G.S.
2 50A-315, a law enforcement officer may take any lawful action reasonably necessary to locate
3 a child or a party and assist a prosecutor or appropriate public official with responsibilities
4 under G.S. 50A-315. (1979, c. 110, s. 1; 1999-223, s. 3.)

5
6 **§ 50A-317. Costs and expenses.**

7 If the respondent is not the prevailing party, the court may assess against the respondent all
8 direct expenses and costs incurred by the prosecutor or other appropriate public official and law
9 enforcement officers under G.S. 50A-315 or G.S. 50A-316. (1999-223, s. 3.)