

**DIVISION III COURT OF APPEALS FOR THE STATE OF  
WASHINGTON**

**Case # 29174-0-III**

(Trial Court No.: 09-3-02310-5)

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**Snodgrass, Allan H/W Snodgrass,  
Hillary W/H,**

**Plaintiff-Respondent**

**v.**

**Jolicoeur, Roger Wiley, Judy,**

**Defendant - Appellant.**

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**Opening Brief of Appellants**

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Craig Mason, WSBA#32962  
Connie Powell and Associates  
W. 1316 Dean  
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The Respondents refused to obey this unappealed order.

Instead, the Respondents filed for a declaratory judgment in Washington that was a collateral attack on the valid California order, and this relief was granted by the Washington Court without any of the procedures of the UCCJEA (RCW 26.27) being followed.

This failure to give full faith and credit to the California order, and this failure to follow the procedures of RCW 26.27, are being appealed herein.

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## **I. INTRODUCTION**

Appellants, Roger Jolicoeur, and Judy Riley, maternal biological grandparents of Megan and Matthew Snodgrass, were statutory intervenors in the California dissolution of their deceased daughter, under California Family Code Section 3102, and Appellants were granted visitation under an order that was not appealed in California.

The Respondents refused to obey this unappealed order.

Instead, the Respondents filed for a declaratory judgment in Washington that was a collateral attack on the valid California order, and this relief was granted by the Washington Court without any of the procedures of the UCCJEA (RCW 26.27) being followed.

This failure to give full faith and credit to the California order, and this failure to follow the procedures of RCW 26.27, are being appealed herein.

## **II. ASSIGNMENTS OF ERROR**

### **A. Assignments of Error**

Assignments of Error No. 1: It was error of the Washington trial court to fail to refuse to recognize the jurisdiction of the California court and to refuse to give full faith and credit to a valid, unappealed, procedurally final, California order granting the maternal grandparents visitation.

Assignment of Error No. 2: It was error of the Washington trial court to simply ignore the California court order, and to fail to hold a

conference under RCW 26.27 with the California court, and to otherwise fail to follow the procedures of the UCCJEA.

### **B. Issues Pertaining to Assignments of Error**

Issue No.1 (Assignment of Error #1): Should the Washington court refuse to give full faith and credit to a valid, final, and unappealed California order granting intervening parents of a deceased mother visitation? (Answer: No, the California order merited full faith and credit.)

Issue No. 2 (Assignment of Error #2): Should the Washington court, if seeking jurisdiction in this matter, follow the UCCJEA (RCW 26.27) procedures for assuming jurisdiction? (Answer: Yes, the case should be dismissed, or remanded for proper UCCJEA proceedings, as Washington does not yet have proper jurisdiction.)

Issue No. 3 (Assignments of Error #1 and #2): Can the Washington trial court operate as a court of review over another state's trial court orders? (Answer: No, the Washington court committed clear error of law to simply declare the California court "misguided" and then ignore the California order.)

### **III. STATEMENT OF THE CASE**

On February 26, 2010, the California court ordered that Roger Jolicoeur, and Judy Riley (hereinafter "Jolicoeurs") should have visitation with the children. *Clerk's Papers: pp. 225-249, Declaration of [CA Attorney] Robert A. McCarty, Jr. [and exhibits] esp. at p. 238 (trial minutes ordering visitation) and pp. 230-232 (written decision of the*

*court, ordering visitation at p. 231, and specifically finding that Mr. Snodgrass was “frustrating visitation” at p. 232).*

The mother of the children (Megan and Matthew Snodgrass) had died in an automobile wreck, and the Jolicoeurs filed a motion to join the dissolution proceeding, on January 24, 2008, to seek visitation under California Family Code Section 3102 which allows for “reasonable visitation” of grandparents if the parent is deceased. *Clerk’s Papers [hereinafter CP]: 226.* The California court allowed the joinder of the Jolicoeurs, while denying the petition of the sister of the deceased (Nicole Miller) to also join the action. *CP: 226, 240-41.*

The California trial court then continued the matter on 3/19/09 so that Mr. Snodgrass could provide his own statement of voluntary visitation. *CP: 243.* On 5/26/09, the court again continued the proceeding, and again asked Mr. Snodgrass to provide a proposed voluntary visitation schedule. *CP: 227.* The court minutes specifically stated “counsel to work out visitation schedule to allow grandparent visitation.” *CP: 245.*

On 8/29/09, after trial, the California court specifically found that Mr. Snodgrass had offered no visitation, and the trial court ordered visitation for the Jolicoeurs with their grandchildren. *CP: 227, 230-32 (Statement of Decision), and 247.* (Transcript of oral argument of 8/21/10, that preceded the *Statement of Decision of 8/29/10*, can be found at *CP: 290-310.*)

The California trial court specifically found: (a) "...it is in the best interests of the children to have a relationship with grandparents." *CP: 231, Finding #7.* (b) "The best interests of the children is so served by an understanding of the child's other side of the family. Father has no intention for that sense of identity by the children and is indeed frustrating the children from having any relationship with the grandparents." *CP: 231, Finding #8.*

The court then distinguished *Troxel v. Granville*, 530 U.S. 57, 120 S.Ct. 2054 (2000), by stating: "This case is distinguishable from Troxel because there is no effort by the parent to provide for visitation to the grandparents." *CP: 231, Finding #10.*

Under California law, *Troxel* limits California Family Code Section 3102 from time to time "as applied," which is why the California trial court specifically distinguished the major case using *Troxel* to limit Section 3102 by stating: "Unlike the facts in Punsly v. Ho (2001) 87 Cal.App.4<sup>th</sup> 1099 this father has not extended any visitation to the grandparents." *CP: 231, Finding #3.*

On 2/24/10, the California court ordered visitation for the Jolicoeurs, and then continued the matter to 6/25/10, to review the situation after visitation. *CP: 227 and 249.* The court minutes, which are understood to have the force of orders in California, stated:

Visitation awarded to Judy Wiley and Roger Jolicoeur as follows: Roger to have visitation on the weekend of 5/29/10 for (2) 4 hour blocks, Times to be arranged through Allan Snodgrass. The 4 hour blocks of visitation shall either be on 5-29-10 or 5-30-

10 or 5-31-10. Visitation for Judy Wiley shall be 2 weeks later or on the weekend of 6-12-10 and 6-13-10. She will also have (2) 4 hour blocks of time. Visitation to occur by 6-12-10 no later than 2:00pm. Grandparents shall have reasonable telephone contact. Minimum of 1 time per week not to exceed 30 minutes and unlimited access by email.

*CP: 249 (Minute Orders of 2/24/10), and 265-67.*

It was after the California *Statement of Decision of 8/29/10* was handed down that Allan Snodgrass chose not to appeal the California order, but instead, Allan and Hilary Snodgrass (hereinafter the Snodgrasses) defied the California court's order on visitation, to instead file a collateral attack on the California order in Washington State, filing their Washington action on 9/9/09. *CP: 105-110.*

The Snodgrasses requested declaratory relief, arguing that California did not have jurisdiction to enter the order that became final, and which was not appealed, requiring grandparent visitation. *CP: 108, point 23.* However, the California court had already determined that it did have jurisdiction, and had proceeded with the Snodgrasses represented by counsel in the California court. *CP: 226, and decisions of the court at pp.230-249.*

In the Washington proceeding, now on appeal, the Washington trial court granted summary judgment on the Snodgrasses' request for declaratory relief. *CP: 96-102.*

The Washington court then acted apparently as if it were a court of review of the California trial court and ruled, without following UCCJEA procedures:

This court thus has jurisdiction to determine this matter and/or modify the California order. Respectfully, California is not the “home state,” RCW 26.27.021(7). Further, the available evidence demonstrates that plaintiffs did challenge jurisdiction of the California superior court in May 2008, (see declaration of J. Curtis Cox). California does not have exclusive continuing jurisdiction. Although the argument is made by the defendants that the order of the California judge is one to which this court must give full faith and credit, this argument is misguided. It appears that the California court recognized and found that the children had been residing in Washington for four years, yet inexplicably also found that California is the “home state.” These conflicting findings demonstrate that the exercise of jurisdiction by the California court is not in substantial conformity with the UCCJEA, Article 3.

*CP: 97, Letter Decision of Judge Sypolt (96-98).*

Reconsideration was denied. *CP: 102.* This appeal timely ensued.

*CP: 95 (and 95-104).*

#### **IV. ARGUMENT**

##### **A. The Law: If Any Party Still Resides in California, the UCCJEA Applies**

The Uniform Child Custody Jurisdiction and Enforcement Act has been adopted by California and by Washington, and should govern this case. Recently, the Washington State Supreme Court had occasion to summarize the relevant UCCJEA (RCW 26.27) in *In re Custody of A.C.* 165 Wash.2d 568, 200 P.3d 689 (2009), where a Montana court had dismissed a dependency action against the mother, who then moved to Washington with the child, and the foster parents then sought to begin a third-party custody action in Washington State.

The Washington trial court and court of appeals had allowed the matter to proceed, but the Washington State Supreme Court dismissed the Washington case, stating Washington did not have jurisdiction. The court in *In re Custody of A.C.* summarized the law as follows (emphasis added):

Under the UCCJEA, a Washington court may modify Montana's initial child custody determination ***only if*** either Montana declines jurisdiction or all parties have left that state. RCW 26.27.221.

The UCCJEA provides, in pertinent part:

Except as otherwise provided in RCW 26.27.231, a court of this state ***may not modify*** a child custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under RCW 26.27.201(1)(a) or (b) and:

(1) The court of the other state determines it no longer has exclusive, continuing jurisdiction under RCW 26.27.211 or that **\*575** a court of this state would be a more convenient forum under RCW 26.27.261; or

(2) A court of this state 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.

RCW 26.27.221

In essence, the UCCJEA provides that **unless all of the parties and the child no longer live in the state that made the initial determination** sought to be modified, **that state must first decide it does not have jurisdiction or decline jurisdiction.** *See id.*

Montana has jurisdiction over this dispute because Montana made the initial child custody determination regarding A.C.; the Nagels are persons acting as parents under the act who still reside in Montana; and Montana **\*\*692** has not declined jurisdiction. RCW 26.27.221..

The Nagels argue that there is no current Montana custody decree in effect so there is no initial determination to be modified. But the definitions of the UCCJEA are quite broad. The definition of “child custody determination” includes “a judgment, decree, parenting plan, or other order of the court providing for the legal

custody, physical custody, or visitation with respect to a child,”  
and includes even temporary orders. RCW 26.27.021(3).

*In re Custody of A.C.*, 165 Wash.2d at 574-75.

**B. The Jolicoeurs Are a Party Under the UCCJEA and Under  
*In re Custody of A.C.***

The Jolicoeurs are a party under *In re Custody of A.C.* The California trial court made an order regarding visitation, after giving the Snodgrasses many opportunities to provide some visits between the maternal grandparents and the Jolicoeurs. This order on visitation was an “other order of the court providing... visitation with respect to a child.” *In re Custody of A.C.*, 165 Wash.2d at 75.

The Washington trial court had no jurisdiction and had no legal authority to simply ignore the order of the California court.

RCW 26.27.201 (3) reads:

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

The Washington trial court committed clear error of law to simply declare the California court “misguided” and then to ignore the California court order, which ordered visitations under the California statute allowing the grandparents of deceased parents the right to intervene under the dissolution; and the California court specifically ordered some visitation as in the best interests of the children to maintain the children’s knowledge of the maternal half of their heritage.

**C. The Washington Trial Court Cannot Operate as a Court of Appeal for the California Trial Court**

Not only can a Washington trial court not operate as a court of appeal for the California trial court, but, under *In re Custody of A.C.*, not even our court of appeals is a proper court of review for the California order. In reversing the Washington court of appeals, the Washington State Supreme Court was clear that the decision belonged to Montana, not to the Washington Courts (emphasis added):

The Court of Appeals concluded that Montana did not have continuing jurisdiction, but it is Montana's courts which must make this determination.

*In re Custody of A.C.*, 165 Wash.2d at 575.

When the Washington trial court simply declared California to be “misguided” and ignored the California order, it committed precisely the same error that the State Supreme Court sought to prevent *In re Custody of A.C.*

**D. *In re Custody of A.C.* Fact Pattern Analogies**

The Jolicoeurs believe that the statement of law in *In re Custody of A.C.* is clear, and clearly requires that the UCCJEA be followed. However, lest the Snodgrasses seek to confine *In re Custody of A.C.* to its facts, the factual analogies between that case and the present case are explored in this section.

The following case heading summary is not cited as authority, but is quoted from *In re Custody of A.C.* simply as a concise summation of a portion of the facts (emphasis added):

After Montana Supreme Court reversed Montana trial court's termination of mother's parental rights and after mother moved to Washington State with child, Washington State courts lacked subject matter jurisdiction, under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), with respect to petition by former foster parents for nonparental custody of child; after Montana Supreme Court's decision, Montana trial court's dismissal of the termination case returned custody to mother and, therefore, met definition of an initial child custody determination, former foster parents, who for purposes of UCCJEA were persons acting as parents, still lived in Montana, and Montana had never declined jurisdiction.

The Jolicoeurs are parties who still live in the state, California, which made the original order, just as the Nagels (foster parents) *In re Custody of A.C.* still lived in Montana.

The Montana trial court made an initial determination by dismissing the dependency against the mother, just as the California trial court made an initial determination for the Jolicoeurs that *Troxel* was distinguished, that it was in the best interests of the children to know their maternal heritage, that the Snodgrasses were not offering any visits at all to the maternal grandparents, and that the Snodgrasses had been “disingenuous” in impeding visitation, and so visits were ordered.

It is clear that under the UCCJEA, as interpreted by the State Supreme Court, UCCJEA procedures should have been followed by the trial court in Washington.

### **E. Law and Policy *In re Custody of A.C.***

The case law requiring Washington Courts to obey UCCJEA procedures also serves vital policy goals. In rejecting arguments made by the foster parents that the Federal Parental Kidnapping Prevention Act of 1980 (PKPA) applied, the Washington State Supreme Court was very clear about the supremacy of the UCCJEA:

...the UCCJEA, which Washington adopted in 2001, was partially designed to end the confusion created by the interplay of the PKPA and the former uniform statute, the Uniform Child Custody Jurisdiction Act. UCCJEA prefatory note 9 pt. 1A U.L.A. at 650-51. Our conclusion rests not on the PKPA but on current controlling Washington law, which states that “a court of this state *may not* modify a child custody determination\*577 made by a court of another state *unless ... (1) [t]he court of the other state* determines it no longer has exclusive, continuing jurisdiction ... or that a court of this state would be a more convenient forum.” RCW 26.27.221 (emphasis added). As Montana has also adopted this provision of the UCCJEA, under both Washington and Montana law, the Nagels must petition Montana and obtain an order that Montana has declined jurisdiction before Washington courts have jurisdiction to modify Montana's custody order.<sup>FN7</sup>

*In re Custody of A.C.*, 165 Wash.2d at 576-77.

Washington's trial court did not have, at the time of its decision, jurisdiction to make the decision on appeal.

Certainly, the Washington trial court had no authority to operate as a court of appeal to dismissively call the California trial court “misguided” and to then ignore California's original jurisdiction and order.

In *In re Custody of A.C.*, Washington Supreme Court rejected the idea that the mother (Corks) had submitted to Washington jurisdiction simply by appearing. During the course of explaining its holding, the

court also re-emphasized the vital policy of avoiding conflicting proceedings (*italics in original, underlining added*):

Finally, the Nagels contend that Cork waived any jurisdictional arguments. The Nagels cite RCW 26.27.061, which states, “A child custody determination made by a court of this state *that had jurisdiction under this chapter* binds all persons ... who have submitted to the jurisdiction of the court.” (Emphasis added.) Because the superior court did not have jurisdiction to modify Montana's custody determination under chapter 26.27 RCW, this provision does not apply.<sup>FN8</sup>

FN8. We also note that to permit waiver of the jurisdictional provisions of the UCCJEA would undermine the goals of avoiding conflicting proceedings. Cf. UCCJEA § 201 cmt., 9 pt. 1A U.L.A. at 673 (an agreement to confer jurisdiction under the UCCJEA statute is not effective).

*In re Custody of A.C.*, 165 Wash.2d at 576-77.

The Washington trial court decision at issue on this appeal would invite a future filled with UCCJEA conflicts between states, as each and every jurisdiction would suddenly feel free to declare other states' orders to be “misguided,” and then each state's trial courts would ignore the orders of other states, without conferring, and without otherwise following the UCCJEA.

The trial court decision at issue in this appeal effectively repealed RCW 26.27.

The court in *In re Custody of A.C.* found the proper remedy to be dismissal:

...until Montana\*578 has divested itself of jurisdiction over A.C., issues concerning A.C.'s custody are properly for Montana, not Washington, to decide. We reverse and remand to the superior court with instructions to dismiss for want of subject matter jurisdiction consistent with this opinion.

*In re Custody of A.C.*, 165 Wash.2d at 577-78.

The Washington court does not have proper subject matter jurisdiction at this point, and dismissal is a proper remedy under the settled law of *In re Custody of A.C.*

## V. CONCLUSION

The Respondent Snodgrasses argue that "...California never had jurisdiction." CP: 148, Snodgrass "Memorandum in Support of Plaintiffs' Summary Judgment Motion". However, the California trial court determined that it had jurisdiction on 5/16/2008. CP:240, "Minute Orders" of the California court, & CP: 226 & CP: 225-229, *en passim*.

The ruling legal authority from the Washington State Supreme Court is *In re Custody of A.C.*, 165 Wash.2d 568, 200 P.3d 689 (2009), whose application was parsed, above.

Parties to the California order (the Jolicoeurs) continued to reside in California, and California retained jurisdiction.

The Washington trial court violated the UCCJEA (RCW 26.27) by refusing to follow its processes, and by refusing to recognize the California order, and by justifying this refusal by essentially acting as an appellate court to the California trial court in flatly denying California's assertion of jurisdiction as "misguided."

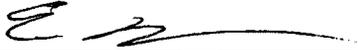
The decision herein appealed violates the governing law, and this decision disrupts all the policies which underlie the UCCJEA. *In re Custody of A.C.*, 165 Wash.2d at 576-77. The decision on appeal, if

undisturbed, would invite the very chaos the UCCJEA was developed to prevent.

The Appellant Jolicoeurs respectfully request that this court reverse the trial court, and command the trial court to respect California's jurisdiction in the matter, and require the trial court to proceed accordingly, by enforcing visitation, or to dismiss the declaratory action of the Snodgrasses.

Respectfully Submitted,

11/1/10

  
Craig Mason, WSBA#32962  
Attorney for Appellants

## APPENDIX: RCW 26.27 (UCCJEA)

### Chapter 26.27 RCW

### Uniform child custody jurisdiction and enforcement act

#### Chapter Listing | RCW Dispositions

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26.27.941-Construction -- Chapter applicable to state registered domestic partnerships -- 2009 c 521.

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26.27.011

Short title.

This chapter may be cited as the uniform child custody jurisdiction and enforcement act.

[2001 c 65 § 101.]

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26.27.021

Definitions.

The definitions in this section apply throughout this chapter, unless the context clearly requires otherwise.

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

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

(3) "Child custody determination" means a judgment, decree, parenting plan, 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, a parenting plan, or visitation with respect to a child is an issue. The term includes a proceeding for dissolution, divorce, separation, neglect, abuse, dependency, guardianship, 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, emancipation proceedings under chapter 13.64 RCW, proceedings under chapter 13.32A RCW, or enforcement under Article 3.

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

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

(9) "Issuing court" means the court that makes a child custody determination for which enforcement is sought under this chapter.

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

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

(12) "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.

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

(a) Has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately 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 this state.

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

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

(16) "Tribe" means an Indian tribe or band, or Alaskan Native village, that is recognized by federal law or formally acknowledged by a state.

(17) "Warrant" means an order issued by a court authorizing law enforcement officers to take physical custody of a child.  
[2001 c 65 § 102.]

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#### 26.27.031

Proceedings governed by other law.

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

[2001 c 65 § 103.]

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#### 26.27.041

Application to Indian tribes.

(1) A child custody proceeding that pertains to an Indian child as defined in the federal Indian child welfare act, 25 U.S.C. Sec. 1901 et seq., is not subject to this chapter to the extent that it is governed by the federal Indian child welfare act.

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

(3) A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this chapter must be recognized and enforced under Article 3.

[2001 c 65 § 104.]

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#### 26.27.051

International application of chapter.

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

(2) Except as otherwise provided in subsection (3) 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 Article 3.

(3) A court of this state need not apply this chapter if the child custody law of a foreign country violates fundamental principles of human rights.  
[2001 c 65 § 105.]

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26.27.061

Effect of child custody determination.

A child custody determination made by a court of this state that had jurisdiction under this chapter binds all persons who have been served in accordance with the laws of this state or notified in accordance with RCW 26.27.081 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.

[2001 c 65 § 106.]

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26.27.071

Priority.

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

[2001 c 65 § 107.]

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26.27.081

Notice to persons outside state.

(1) Notice required for the exercise of jurisdiction when a person is outside this state may be given in a manner prescribed for service of process by the law of the state in which the service is made or given in a manner reasonably calculated to give actual notice, and may be made in any of the following ways:

(a) Personal delivery outside this state in the manner prescribed for service of process within this state;

(b) By any form of mail addressed to the person to be served and requesting a receipt; or

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

(2) Proof of service outside this state may be made:

(a) By affidavit of the individual who made the service;

(b) In the manner prescribed by the law of this state or the law of the state in which the service is made; or

(c) As directed by the order under which the service is made.

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

(3) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.  
[2001 c 65 § 108.]

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#### 26.27.091

Appearance and limited immunity.

(1) Except as provided in subsection (2) of this section, 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 this state 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.

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

(3) The immunity granted by subsection (1) 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 this state.  
[2001 c 65 § 109.]

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#### 26.27.101

Communication between courts.

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

(2) 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.

(3) 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.

(4) Except as otherwise provided in subsection (3) 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.

(5) For the purposes of this section, "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.

[2001 c 65 § 110.]

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26.27.111

Taking testimony in another state.

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

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

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

[2001 c 65 § 111.]

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26.27.121

Cooperation between courts — Preservation of records.

(1) A court of this state may request the appropriate court of another state to:

- (a) Hold an evidentiary hearing;
- (b) Order a person to produce or give evidence pursuant to procedures of that state;
- (c) Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;
- (d) Forward to the court of this state a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; and
- (e) Order a party to a child custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

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

(3) Travel and other necessary and reasonable expenses incurred under subsections (1) and (2) of this section may be assessed against the parties according to the law of this state.

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

[2001 c 65 § 112.]

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#### 26.27.201

Initial child custody jurisdiction.

(1) Except as otherwise provided in RCW 26.27.231, a court of this state has jurisdiction to make an initial child custody determination only if:

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

(b) A court of another state does not have jurisdiction under (a) of this subsection, or a court of the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under RCW 26.27.261 or 26.27.271, and:

(i) 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 this state other than mere physical presence; and

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

(c) All courts having jurisdiction under (a) of this subsection have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the child under RCW 26.27.261 or 26.27.271; or

(d) No court of any other state would have jurisdiction under the criteria specified in (a), (b), or (c) of this subsection.

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

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

[2001 c 65 § 201.]

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26.27.211

Exclusive, continuing jurisdiction.

(1) Except as otherwise provided in RCW 26.27.231, a court of this state that has made a child custody determination consistent with RCW 26.27.201 or 26.27.221 has exclusive, continuing jurisdiction over the determination until:

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

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

(2) A court of this state that 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 RCW 26.27.201.

[2001 c 65 § 202.]

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26.27.221

Jurisdiction to modify determination.

Except as otherwise provided in RCW 26.27.231, a court of this state may not modify a child custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under RCW 26.27.201(1) (a) or (b) and:

(1) The court of the other state determines it no longer has exclusive, continuing jurisdiction under RCW 26.27.211 or that a court of this state would be a more convenient forum under RCW 26.27.261; or

(2) A court of this state 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.

[2001 c 65 § 203.]

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26.27.231

Temporary emergency jurisdiction.

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

(2) 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 RCW 26.27.201 through 26.27.221, 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 RCW 26.27.201 through 26.27.221. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under RCW 26.27.201 through 26.27.221, a child custody determination made under this section becomes a final determination, if it so provides and this state becomes the home state of the child.

(3) 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 RCW 26.27.201 through 26.27.221, any order issued by a court of this state 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 RCW 26.27.201 through 26.27.221. The order issued in this state remains in effect until an order is obtained from the other state within the period specified or the period expires.

(4) A court of this state that has been asked to make a child custody determination 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 RCW 26.27.201 through 26.27.221, shall immediately communicate with the other court. A court of this state that is exercising jurisdiction pursuant to RCW 26.27.201 through 26.27.221, 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.

[2001 c 65 § 204.]

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#### 26.27.241

Notice — Opportunity to be heard — Joinder.

(1) Before a child custody determination is made under this chapter, notice and an opportunity to be heard in accordance with the standards of RCW 26.27.081 must be given to: (a) All persons entitled to notice under the law of this state as in child custody proceedings between residents of this state; (b) any parent whose parental rights have not been previously terminated; and (c) any person having physical custody of the child.

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

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

[2001 c 65 § 205.]

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#### 26.27.251

##### Simultaneous proceedings.

(1) Except as otherwise provided in RCW 26.27.231, a court of this state may not exercise its jurisdiction under this article 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 this state is a more convenient forum under RCW 26.27.261.

(2) Except as otherwise provided in RCW 26.27.231, a court of this state, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to RCW 26.27.281. 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 this state shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with this chapter does not determine that the court of this state is a more appropriate forum, the court of this state shall dismiss the proceeding.

(3) In a proceeding to modify a child custody determination, a court of this state shall determine 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:

(a) 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;

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

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

[2001 c 65 § 206.]

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#### 26.27.261

##### Inconvenient forum.

(1) A court of this state 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.

(2) Before determining whether it is an inconvenient forum, a court of this state 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:

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

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

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

(d) The relative financial circumstances of the parties;

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

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

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

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

(3) If a court of this state determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, 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.

(4) A court of this state may decline to exercise its jurisdiction under this chapter if a child custody determination is incidental to an action for dissolution or another proceeding while still retaining jurisdiction over the dissolution or other proceeding.

[2001 c 65 § 207.]

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#### 26.27.271

Jurisdiction declined by reason of conduct.

(1) Except as otherwise provided in RCW 26.27.231 or by other law of this state, if a court of this state 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:

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

(b) A court of the state otherwise having jurisdiction under RCW 26.27.201 through 26.27.221 determines that this state is a more appropriate forum under RCW 26.27.261; or

(c) No court of any other state would have jurisdiction under the criteria specified in RCW 26.27.201 through 26.27.221.

(2) If a court of this state declines to exercise its jurisdiction pursuant to subsection (1) 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 RCW 26.27.201 through 26.27.221.

(3) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection (1) of this section, it shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses including costs, communication expenses, attorneys' 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 this state unless authorized by law other than this chapter. [2001 c 65 § 208.]

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#### 26.27.281

Information to be submitted to court.

(1) Subject to laws providing for the confidentiality of procedures, addresses, and other identifying information, 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 five 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:

(a) 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;

(b) 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

(c) 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.

(2) If the information required by subsection (1) 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.

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

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

(5) 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.

[2001 c 65 § 209.]

#### 26.27.291

##### Appearance of parties and child.

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

(2) If a party to a child custody proceeding whose presence is desired by the court is outside this state, the court may order that a notice given pursuant to RCW 26.27.081 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.

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

(4) If a party to a child custody proceeding who is outside this state is directed to appear under subsection (2) of this section or desires to appear personally

before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child.

[2001 c 65 § 210.]

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#### 26.27.401

##### Definitions.

The definitions in this section apply throughout this article, unless the context clearly requires otherwise.

(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.

[2001 c 65 § 301.]

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#### 26.27.411

##### Enforcement under Hague Convention.

Under this article a court of this state 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.

[2001 c 65 § 302.]

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#### 26.27.421

##### Duty to enforce.

(1) A court of this state shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction 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.

(2) A court of this state may use any remedy available under other law of this state including writs of habeas corpus under chapter 7.36 RCW and enforcement proceedings under Title 26 RCW to enforce a child custody determination made by a court of another state. The remedies provided in this article are cumulative and do not affect the availability of other remedies to enforce a child custody determination.

[2001 c 65 § 303.]

26.27.431

Temporary visitation.

(1) A court of this state that does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:

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

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

(2) If a court of this state makes an order under subsection (1)(b) 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 Article 2. The order remains in effect until an order is obtained from the other court or the period expires.

[2001 c 65 § 304.]

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26.27.441

Registration of child custody determination.

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

(a) A letter or other document requesting registration;

(b) 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 determination has not been modified; and

(c) Except as otherwise provided in RCW 26.27.281, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

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

(a) 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

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

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

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

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

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

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

(a) The issuing court did not have jurisdiction under Article 2;

(b) The child custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under Article 2; or

(c) The person contesting registration was entitled to notice, but notice was not given in accordance with the standards of RCW 26.27.081, in the proceedings before the court that issued the determination for which registration is sought.

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

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

[2001 c 65 § 305.]

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#### 26.27.451

Enforcement of registered determination.

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

(2) A court of this state shall recognize and enforce, but may not modify, except in accordance with Article 2, a registered child custody determination of a court of another state.

[2001 c 65 § 306.]

26.27.461

Simultaneous proceedings.

If a proceeding for enforcement under this article is commenced in a court of this state 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 Article 2, 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.

[2001 c 65 § 307.]

26.27.471

Expedited enforcement of child custody determination.

(1) A petition under this article 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.

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

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

(b) 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;

(c) 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;

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

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

(f) If the child custody determination has been registered and confirmed under RCW 26.27.441, the date and place of registration.

(3) 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.

(4) An order issued under subsection (3) 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 RCW 26.27.511, and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

(a) The child custody determination has not been registered and confirmed under RCW 26.27.441 and that:

(i) The issuing court did not have jurisdiction under Article 2;

(ii) The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under Article 2;

(iii) The respondent was entitled to notice, but notice was not given in accordance with the standards of RCW 26.27.081, in the proceedings before the court that issued the order for which enforcement is sought; or

(b) The child custody determination for which enforcement is sought was registered and confirmed under RCW 26.27.431, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Article 2.  
[2001 c 65 § 308.]

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#### 26.27.481

##### Service of petition and order.

Except as otherwise provided in RCW 26.27.501, the petition and order must be served, by any method authorized by the law of this state, upon the respondent and any person who has physical custody of the child.

[2001 c 65 § 309.]

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#### 26.27.491

##### Hearing and order.

(1) Unless the court issues a temporary emergency order pursuant to RCW 26.27.231, 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:

(a) The child custody determination has not been registered and confirmed under RCW 26.27.441 and that:

(i) The issuing court did not have jurisdiction under Article 2;

(ii) 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 Article 2; or

(iii) The respondent was entitled to notice, but notice was not given in accordance with the standards of RCW 26.27.081, in the proceedings before the court that issued the order for which enforcement is sought; or

(b) The child custody determination for which enforcement is sought was registered and confirmed under RCW 26.27.441 but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Article 2.

(2) The court shall award the fees, costs, and expenses authorized under RCW 26.27.511 and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

(3) 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.

(4) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under this article.  
[2001 c 65 § 310.]

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#### 26.27.501

Authorization to take physical custody of child.

An order under this chapter directing law enforcement to obtain physical custody of the child from the other parent or a third party holding the child may only be sought pursuant to a writ of habeas corpus under chapter 7.36 RCW.

[2001 c 65 § 311.]

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#### 26.27.511

Costs, fees, and expenses.

(1) The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorneys' fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings,

unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

(2) The court may not assess fees, costs, or expenses against a state unless authorized by law other than this chapter.  
[2001 c 65 § 312.]

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#### 26.27.521

##### Recognition and enforcement.

A court of this state shall accord full faith and credit to an order issued by another state and consistent with this chapter that 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 Article 2.

[2001 c 65 § 313.]

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#### 26.27.531

##### Appeals.

An appeal may be taken from a final order in a proceeding under this article in accordance with expedited appellate procedures in other civil cases relating to minor children. Unless the court enters a temporary emergency order under RCW 26.27.231, the enforcing court may not stay an order enforcing a child custody determination pending appeal.

[2001 c 65 § 314.]

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#### 26.27.541

##### Role of prosecutor or attorney general.

(1) In a case arising under this chapter or involving the Hague Convention on the Civil Aspects of International Child Abduction, the prosecutor or attorney general may take any lawful action, including resorting to a proceeding under this article 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:

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

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

(2) A prosecutor or attorney general acting under this section acts on behalf of the court and may not represent any party.

[2001 c 65 § 315.]

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26.27.551

Role of law enforcement.

At the request of a prosecutor or attorney general acting under RCW 26.27.541, a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and assist a prosecutor or attorney general with responsibilities under RCW 26.27.541.

[2001 c 65 § 316.]

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26.27.561

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 prosecutor or attorney general and law enforcement officers under RCW 26.27.541 or 26.27.551.

[2001 c 65 § 317.]

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26.27.901

Application — Construction.

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

[2001 c 65 § 401.]

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26.27.911

Severability — 2001 c 65.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[2001 c 65 § 402.]

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26.27.921

Transitional provision.

A motion or other request for relief made in a child custody proceeding or to enforce a child custody determination that was commenced before July 22, 2001, is governed by the law in effect at the time the motion or other request was made.

[2001 c 65 § 404.]

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26.27.931

Captions, article designations, and article headings not law.

Captions, article designations, and article headings used in this chapter are not any part of the law.

[2001 c 65 § 405.]

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26.27.941

Construction — Chapter applicable to state registered domestic partnerships — 2009 c 521.

For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 68.]



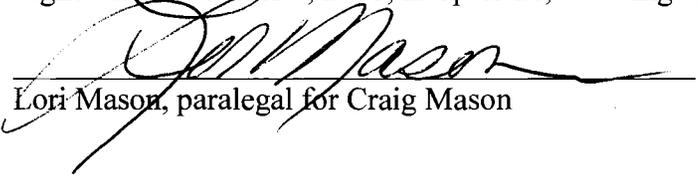
**CERTIFICATE OF SERVICE**

I declare, under penalty of perjury under the laws of the State of Washington, that on the 1st day of November 2010, I caused a true and correct copy of this Opening Brief of Appellants to be served on the following in the manner indicated below:

GEOFFREY D. SWINDLER  
ATTORNEY AT LAW  
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Via Eastern WA Attorney Services

Signed on November 1, 2010, in Spokane, Washington.

  
Lori Mason, paralegal for Craig Mason