

CHAPTER 125A - UNIFORM CHILD CUSTODY JURISDICTION AND
ENFORCEMENT ACT

ARTICLE 1—GENERAL PROVISIONS

SHORT TITLE

[SECTION 125A.005](#) Short title.

DEFINITIONS

[SECTION 125A.015](#) Definitions.
[SECTION 125A.025](#) “Abandoned” defined.
[SECTION 125A.035](#) “Child” defined.
[SECTION 125A.045](#) “Child custody determination” defined.
[SECTION 125A.055](#) “Child custody proceeding” defined.
[SECTION 125A.065](#) “Commencement” defined.
[SECTION 125A.075](#) “Court” defined.
[SECTION 125A.085](#) “Home state” defined.
[SECTION 125A.095](#) “Initial determination” defined.
[SECTION 125A.105](#) “Issuing court” defined.
[SECTION 125A.115](#) “Modification” defined.
[SECTION 125A.125](#) “Person” defined.
[SECTION 125A.135](#) “Person acting as a parent” defined.
[SECTION 125A.145](#) “Physical custody” defined.
[SECTION 125A.155](#) “State” defined.
[SECTION 125A.165](#) “Tribe” defined.
[SECTION 125A.175](#) “Warrant” defined.

APPLICABILITY AND PROCEDURE

[SECTION 125A.205](#) Proceedings governed by other law.
[SECTION 125A.225](#) International application.
[SECTION 125A.235](#) Effect of child custody determination.
[SECTION 125A.245](#) Priority.
[SECTION 125A.255](#) Notice to persons outside Reservation.
[SECTION 125A.265](#) Appearance and limited immunity.
[SECTION 125A.275](#) Communication between courts.
[SECTION 125A.285](#) Taking testimony in another state.
[SECTION 125A.295](#) Cooperation between courts; preservation of records.

ARTICLE 2—JURISDICTION

[SECTION 125A.305](#) Initial child custody jurisdiction.
[SECTION 125A.315](#) Exclusive, continuing jurisdiction.
[SECTION 125A.325](#) Jurisdiction to modify determination.
[SECTION 125A.335](#) Temporary emergency jurisdiction.
[SECTION 125A.345](#) Notice; opportunity to be heard; joinder.
[SECTION 125A.355](#) Simultaneous proceedings.
[SECTION 125A.365](#) Inconvenient forum.
[SECTION 125A.375](#) Jurisdiction declined by reason of conduct.
[SECTION 125A.385](#) Information to be submitted to court.
[SECTION 125A.395](#) Appearance of parties and child.

ARTICLE 3—ENFORCEMENT

SECTION 125A.405	Definitions.
SECTION 125A.415	“Petitioner” defined.
SECTION 125A.425	“Respondent” defined.
SECTION 125A.435	Enforcement under Hague Convention.
SECTION 125A.445	Duty to enforce.
SECTION 125A.455	Temporary visitation.
SECTION 125A.465	Registration of child custody determination.
SECTION 125A.475	Enforcement of registered determination.
SECTION 125A.485	Simultaneous proceedings.
SECTION 125A.495	Expedited enforcement of child custody determination.
SECTION 125A.505	Service of petition and order.
SECTION 125A.515	Hearing and order.
SECTION 125A.525	Warrant to take physical custody of child.
SECTION 125A.535	Costs, fees and expenses.
SECTION 125A.545	Recognition and enforcement.
SECTION 125A.555	Appeals.
SECTION 125A.565	Role of tribal attorney.
SECTION 125A.575	Role of law enforcement officers.
SECTION 125A.585	Costs and expenses.

ARTICLE 4—MISCELLANEOUS PROVISIONS

SECTION 125A.605	Application and construction.
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ARTICLE 1—GENERAL PROVISIONS

Short Title

SECTION 125A.005 Short title. This chapter may be cited as the Uniform Child Custody Jurisdiction and Enforcement Act.

Definitions

SECTION 125A.015 Definitions. As used in this chapter, unless the context otherwise requires, the words and terms defined in [SECTION 125A.025](#) to [125A.175](#), inclusive, have the meanings ascribed to them in those sections.

SECTION 125A.025 “Abandoned” defined. “Abandoned” means left without provision for reasonable and necessary care or supervision.

SECTION 125A.035 “Child” defined. “Child” means a person who has not attained 18 years of age.

SECTION 125A.045 “Child custody determination” defined.

1. “Child custody determination” means a judgment, decree or other order of a court which provides for the legal custody, physical custody or visitation with respect to a child.
2. The term includes a permanent, temporary, initial and modification order.
3. The term does not include an order relating to child support or other monetary obligation of a natural person.

SECTION 125A.055 “Child custody proceeding” defined.

1. “Child custody proceeding” means a proceeding in which legal custody, physical custody or visitation with respect to a child is an issue.

2. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights and protection from domestic violence, in which the issue may appear.

3. The term does not include a proceeding involving juvenile delinquency, contractual emancipation or enforcement pursuant to [SECTION 125A.405](#) to [125A.585](#), inclusive.

SECTION 125A.065 “Commencement” defined. “Commencement” means the filing of the first pleading in a proceeding.

SECTION 125A.075 “Court” defined. “Court” means an entity authorized pursuant to the law of a state or Reservation to establish, enforce or modify a child custody determination.

SECTION 125A.085 “Home state” defined. “Home state” means:

1. The state in which a child lived with a parent or a person acting as a parent for at least 6 consecutive months, including any temporary absence from the state, immediately before the commencement of a child custody proceeding.

2. In the case of a child less than 6 months of age, the state in which the child lived from birth, including any temporary absence from the state, with a parent or a person acting as a parent.

SECTION 125A.095 “Initial determination” defined. “Initial determination” means the first child custody determination concerning a particular child.

SECTION 125A.105 “Issuing court” defined. “Issuing court” means the court that makes a child custody determination for which enforcement is sought pursuant to the provisions of this chapter.

SECTION 125A.115 “Modification” defined. “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.

SECTION 125A.125 “Person” defined. “Person” means any of the following:

1. A natural person.
2. Any form of business or commercial entity and any other nongovernmental legal entity, including, without limitation, a corporation, partnership, limited-liability company, association, joint venture, business trust, estate, trust or unincorporated organization.
3. A government, a political subdivision of a government, or an agency or instrumentality of a government or a political subdivision of a government.

SECTION 125A.135 “Person acting as a parent” defined. “Person acting as a parent” means a person, other than a parent, who:

1. Has physical custody of the child or has had physical custody of the child for a period of 6 consecutive months, including any temporary absence, within 1 year immediately before the commencement of a child custody proceeding; and
2. Has been awarded legal custody by a court or claims a right to legal custody pursuant to the law of this state.

SECTION 125A.145 “Physical custody” defined. “Physical custody” means the physical care and supervision of a child.

SECTION 125A.155 “State” defined. “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.

SECTION 125A.165 “Tribe” defined. “Tribe” means an Indian tribe or band or Alaskan native village which is recognized by federal law or formally acknowledged by a state.

SECTION 125A.175 “Warrant” defined. “Warrant” means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

Applicability and Procedure

SECTION 125A.205 Proceedings governed by other law. The provisions of this chapter do not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

SECTION 125A.225 International application.

1. The Tribal Court shall treat a foreign country as if it were a state of the United States for the purpose of applying [SECTION 125A.005](#) to [125A.395](#), inclusive.

2. Except as otherwise provided in subsection 3, a child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of the provisions of this chapter must be recognized and enforced pursuant to [SECTION 125A.405](#) to [125A.585](#), inclusive.

3. The provisions of this section do not apply if the child custody laws of the foreign country where the child custody determination was made violate fundamental principles of human rights.

SECTION 125A.235 Effect of child custody determination. A child custody determination made by the Tribal Court pursuant to the provisions of this chapter binds all persons who have been served in accordance with the laws of this tribe or notified in accordance with [SECTION 125A.255](#) 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.

SECTION 125A.245 Priority. If a question of existence or exercise of jurisdiction pursuant to the provisions of this chapter is raised in a child custody proceeding, the question, upon request of a party, must be given priority on the calendar and handled expeditiously.

SECTION 125A.255 Notice to persons outside Reservation.

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

2. Proof of service may be made in the manner prescribed by the law of this tribe or by the law of the state in which the service is made.

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

SECTION 125A.265 Appearance and limited immunity.

1. 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 on this reservation 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 on this reservation on a basis other than physical presence is not immune from service of process on this reservation. A party present on this reservation who is subject to the jurisdiction of a state is not immune from service of process allowable pursuant to the laws of that state.

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

SECTION 125A.275 Communication between courts.

1. The Tribal Court may communicate with a State Court in another state concerning a proceeding arising pursuant to the provisions of 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, the parties must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

3. Communication between courts concerning 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, a record must be made of a communication pursuant to 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.

SECTION 125A.285 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 a state, including testimony of the parties and the child, by deposition or other means allowable on this reservation for testimony taken in a state. The court on its own motion may order that the testimony of a person be taken in a state and may prescribe the manner in which and the terms upon which the testimony is taken.

2. A court on this reservation:

(a) May permit a natural person residing in a 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; and

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

3. Documentary evidence transmitted from a state to the Tribal Court 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.

SECTION 125A.295 Cooperation between courts; preservation of records.

1. The Tribal Court may request the appropriate state court 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 Tribal Court 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 a state, the Tribal Court may hold a hearing or enter an order described in subsection 1.

3. Travel and other necessary and reasonable expenses incurred pursuant to subsections 1 and 2 may be assessed against the parties according to the law of this Reservation.

4. The Tribal Court shall preserve the pleadings, orders, decrees, records of hearings, evaluations and other pertinent records with respect to a child custody proceeding until the child attains 18 years of age. Upon appropriate request by a court or law enforcement officer of a state, the court shall forward a certified copy of those records.

ARTICLE 2—JURISDICTION

SECTION 125A.305 Initial child custody jurisdiction.

Except as otherwise provided in the Indian Child Welfare Act, the Tribal Court has jurisdiction to make an initial child custody determination only if the child is eligible for membership in the tribe.

SECTION 125A.315 Exclusive, continuing jurisdiction.

Except as otherwise provided in the Indian Child Welfare Act, the Tribal Court which has made a child custody determination consistent with the Indian Child Welfare Act has exclusive, continuing jurisdiction over the determination.

SECTION 125A.325 Jurisdiction to modify determination. Except as otherwise provided in the Indian Child Welfare Act, the Tribal Court may not modify a child custody determination made by a court of a state or other tribe unless the Tribal Court has jurisdiction to make an initial determination pursuant to [SECTION 125A.305](#) and:

1. The court of the state or other tribe determines it no longer has exclusive, continuing jurisdiction pursuant to [SECTION 125A.315](#) or that the Tribal Court would be a more convenient forum pursuant to [SECTION 125A.365](#); or

2. The Tribal Court or a court of the state or other tribe determines that the child, the child's parents and any person acting as a parent do not presently reside in the other state.

SECTION 125A.335 Temporary emergency jurisdiction.

1. The Tribal Court has temporary emergency jurisdiction if the child is present on this reservation and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

2. If there is no previous child custody determination that is entitled to be enforced pursuant to the provisions of this chapter and a child custody proceeding has not been commenced in a court of the state or other tribe having jurisdiction pursuant to [SECTION 125A.305](#), [125A.315](#) and [125A.325](#), a child custody determination made pursuant to this section remains in effect until an order is obtained from a court of a state having jurisdiction pursuant to [SECTION 125A.305](#), [125A.315](#) and [125A.325](#). If a child custody proceeding has not been or is not commenced in a court of the state or other tribe having jurisdiction pursuant to [SECTION 125A.305](#), [125A.315](#) and [125A.325](#), a child custody determination made pursuant to this section becomes a final determination, if it so provides, and this reservation becomes the home state of the child.

3. If there is a previous child custody determination that is entitled to be enforced pursuant to the provisions of this chapter, or a child custody proceeding has been commenced in a court of a state or other tribe having jurisdiction pursuant to [SECTION 125A.305](#), [125A.315](#) and [125A.325](#), any order issued by a court of this tribe pursuant to 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 pursuant to [SECTION 125A.305](#), [125A.315](#) and [125A.325](#). The order issued by this tribe remains in effect until an order is obtained from the state or other tribe within the period specified or the period expires.

4. The tribal court which has been asked to make a child custody determination pursuant to 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 the state or other tribe having jurisdiction pursuant to [SECTION 125A.305](#), [125A.315](#) and [125A.325](#), shall immediately communicate with the other court. A court of this tribe which is exercising jurisdiction pursuant to [SECTION 125A.305](#), [125A.315](#) and [125A.325](#), 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 or other tribe pursuant to 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.

SECTION 125A.345 Notice; opportunity to be heard; joinder.

1. Before a child custody determination is made pursuant to the provisions of this chapter, notice and an opportunity to be heard in accordance with the standards of [SECTION 125A.255](#) must be given to all persons

entitled to notice pursuant to the law of this tribe as in child custody proceedings between residents of this reservation, any parent whose parental rights have not been previously terminated and any person having physical custody of the child.

2. The provisions of this chapter do 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 conducted pursuant to the provisions of this chapter are governed by the law of this tribe as in child custody proceedings between residents of this tribe.

SECTION 125A.355 Simultaneous proceedings.

1. Except as otherwise provided in [SECTION 125A.335](#), the Tribal Court may not exercise its jurisdiction pursuant to [SECTION 125A.305](#) to [125A.395](#), inclusive, 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 a state or other tribe having jurisdiction substantially in conformity with the provisions of this chapter, unless the proceeding has been terminated or is stayed by the court of the state or other tribe because the Tribal Court is a more convenient forum pursuant to [SECTION 125A.364](#) and [SECTION 125A.365](#).

2. Except as otherwise provided in [SECTION 125A.335](#), the Tribal Court before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to [SECTION 125A.385](#). If the court determines that a child custody proceeding has been commenced in a court in a state or other tribe having jurisdiction substantially in accordance with the provisions of this chapter, the Tribal Court shall stay its proceeding and communicate with the court of the state or other tribe. If the court of the state or other tribe having jurisdiction substantially in accordance with the provisions of this chapter does not determine that the Tribal Court is a more appropriate forum, the Tribal Court shall dismiss the proceeding unless the Indian Child Welfare Act provides otherwise.

3. In a proceeding to modify a child custody determination, a court of the tribe shall determine whether a proceeding to enforce the determination has been commenced in a state or other tribe. If a proceeding to enforce a child custody determination has been commenced in a state or other tribe, the court may:

- (a) Stay the proceeding for modification pending the entry of an order of a court of the state or other tribe 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.

SECTION 125A.365 Inconvenient forum.

1. The Tribal Court which has jurisdiction pursuant to the provisions of 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 a state or other tribe 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, the Tribal Court shall consider whether it is appropriate for a court of a state or other tribe 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 off the reservation;
- (c) The distance between the court in this tribe and the court in the state or other tribe that would assume jurisdiction;
- (d) The relative financial circumstances of the parties;
- (e) Any agreement of the parties as to which state or other tribe 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 or other tribe to decide the issue expeditiously and the procedures necessary to present the evidence; and
- (h) The familiarity of the court of each state or other tribe with the facts and issues in the pending litigation.

3. The tribal court determines that it is an inconvenient forum and that a court of a state or other tribe 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. The tribal court may decline to exercise its jurisdiction pursuant to the provisions of this chapter if a child custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

SECTION 125A.375 Jurisdiction declined by reason of conduct.

1. Except as otherwise provided in [SECTION 125A.335](#) or by other tribal law, if the Tribal Court has jurisdiction pursuant to the provisions of 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 or of this tribe otherwise having jurisdiction pursuant to [SECTION 125A.305](#), [125A.315](#) and [125A.325](#) determines that this tribe is a more appropriate forum pursuant to [SECTION 125A.365](#); or

(c) No court of any other state or other tribe would have jurisdiction pursuant to the criteria specified in [SECTION 125A.305](#), [125A.315](#) and [125A.325](#).

2. If tribal court declines to exercise its jurisdiction pursuant to subsection 1, 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 pursuant to [SECTION 125A.305](#), [125A.315](#) and [125A.325](#).

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

SECTION 125A.385 Information to be submitted to court.

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

(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 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 paragraphs (a), (b) and (c) of subsection 1 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 tribal court or any other state or other tribe 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.

SECTION 125A.395 Appearance of parties and child.

1. In a child custody proceeding in this tribal court, the court may order a party to the proceeding who is on this reservation to appear before the court in person with or without the child. The court may order any person who is on this reservation 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 off this reservation, the court may order that a notice given pursuant to [SECTION 125A.255](#) 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 pursuant to this section.

4. If a party to a child custody proceeding who is outside this reservation is directed to appear pursuant to subsection 2 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.

ARTICLE 3—ENFORCEMENT

SECTION 125A.405 Definitions. As used in [SECTION 125A.405](#) to [125A.585](#), inclusive, unless the context otherwise requires, the words and terms defined in [SECTION 125A.415](#) and [125A.425](#) have the meanings ascribed to them in those sections.

SECTION 125A.415 “Petitioner” defined. “Petitioner” means a person who seeks enforcement of an order for return of a child pursuant to the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

SECTION 125A.425 “Respondent” defined. “Respondent” means a person against whom a proceeding has been commenced for enforcement of an order for return of a child pursuant to the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

SECTION 125A.435 Enforcement under Hague Convention. Pursuant to [SECTION 125A.405](#) to [125A.585](#), inclusive, tribal court may enforce an order for the return of a child made pursuant to the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child custody determination.

SECTION 125A.445 Duty to enforce.

1. The tribal court shall recognize and enforce a child custody determination of a court of a state or other tribe if the latter court exercised jurisdiction in substantial conformity with the provisions of this chapter or the determination was made under factual circumstances meeting the jurisdictional standards of the provisions of this chapter and the determination has not been modified in accordance with the provisions of this chapter.

2. Tribal court may utilize any remedy available pursuant to other laws of this tribe to enforce a child custody determination made by a court of a state or other tribe. The remedies provided pursuant to [SECTION 125A.405](#) to [125A.585](#), inclusive, are cumulative and do not affect the availability of other remedies to enforce a child custody determination.

SECTION 125A.455 Temporary visitation.

1. If the tribal court does not have jurisdiction to modify a child custody determination it may issue a temporary order enforcing:

- (a) A visitation schedule made by a court of a state or other tribe; or

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

2. If the tribal court makes an order pursuant to paragraph (b) of subsection 1, 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 pursuant to the criteria specified in [SECTION 125A.305](#) to [125A.395](#), inclusive. The order remains in effect until an order is obtained from the other court or the period expires.

SECTION 125A.465 Registration of child custody determination.

1. A child custody determination issued by a court of a state or other tribe may be registered with this tribe, with or without a simultaneous request for enforcement, by sending to a court of the tribal court:

(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 order has not been modified; and

(c) Except as otherwise provided in [SECTION 125A.385](#), 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, 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 paragraph (c) of subsection 1 and provide them with an opportunity to contest the registration in accordance with this section.

3. The notice required by paragraph (b) of subsection 2 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 tribal court;;

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

(a) The issuing court did not have jurisdiction pursuant to [SECTION 125A.305](#) to [125A.395](#), inclusive;

(b) The child custody determination sought to be registered has been vacated, stayed or modified by a court having jurisdiction to do so pursuant to [SECTION 125A.305](#) to [125A.395](#), inclusive; or

(c) The person contesting registration was entitled to notice, but notice was not given in accordance with the standards of [SECTION 125A.255](#), in the proceedings before the court that issued the order 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 order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

7. The provisions of this section do not apply to an order for protection against domestic violence issued by the court of another state, territory or Indian tribe within the United States which is registered pursuant to [SECTION 33.090](#).

SECTION 125A.475 Enforcement of registered determination.

1. Tribal court may grant any relief normally available pursuant to the law of this tribe to enforce a registered child custody determination made by a court of a state or other tribe.

2. Tribal court shall recognize and enforce, but may not modify except in accordance with [SECTION 125A.305](#) to [125A.395](#), inclusive, a registered child custody determination of a court of a state or other tribe.

SECTION 125A.485 Simultaneous proceedings.

1. If a proceeding for enforcement pursuant to the provisions of [SECTION 125A.405](#) to [125A.585](#), inclusive, is commenced in tribal court and the court determines that a proceeding to modify the determination is pending in a court of a state or other tribe having jurisdiction to modify the determination pursuant to [SECTION 125A.305](#) to [125A.395](#), inclusive, the enforcing court shall immediately communicate with the modifying court.

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

SECTION 125A.495 Expedited enforcement of child custody determination.

1. A petition pursuant to [SECTION 125A.405](#) to [125A.585](#), inclusive, 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 pursuant to the provisions of 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 attorney's fees is sought, including a request for assistance from law enforcement officers and, if so, the relief sought; and

(f) If the child custody determination has been registered and confirmed pursuant to [SECTION 125A.465](#), the date and place of registration.

3. Upon the filing of a petition, tribal 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. If that date is impossible, tribal court shall hold the hearing on the first judicial day possible. Tribal court may extend the date of the hearing at the request of the petitioner.

4. An order issued pursuant to subsection 3 must state the time and place of the hearing and advise the respondent that at the hearing tribal court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs and expenses pursuant to [SECTION 125A.535](#), 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 pursuant to [SECTION 125A.465](#) and that:

(1) The issuing court did not have jurisdiction pursuant to [SECTION 125A.305](#) to [125A.395](#), inclusive;

(2) The child custody determination for which enforcement is sought has been vacated, stayed or modified by a court having jurisdiction to do so pursuant to [SECTION 125A.305](#) to [125A.395](#), inclusive; or

(3) The respondent was entitled to notice, but notice was not given in accordance with the standards of [SECTION 125A.255](#), 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 pursuant to [SECTION 125A.465](#), but has been vacated, stayed or modified by a court of a state or other tribe having jurisdiction to do so pursuant to [SECTION 125A.305](#) to [125A.395](#), inclusive.

SECTION 125A.505 Service of petition and order. Except as otherwise provided in [SECTION 125A.525](#), the petition and order must be served, by any method authorized by tribal law, upon respondent and any person who has physical custody of the child.

SECTION 125A.515 Hearing and order.

1. Unless tribal court issues a temporary emergency order pursuant to [SECTION 125A.335](#), upon a finding that a petitioner is entitled to immediate physical custody of the child, tribal 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 pursuant to [SECTION 125A.465](#) and that:

(1) The issuing court did not have jurisdiction pursuant to [SECTION 125A.305](#) to [125A.395](#), inclusive;

(2) The child custody determination for which enforcement is sought has been vacated, stayed or modified by a court of a state or other tribe having jurisdiction to do so pursuant to [SECTION 125A.305](#) to [125A.395](#), inclusive; or

(3) The respondent was entitled to notice, but notice was not given in accordance with the standards of [SECTION 125A.255](#), 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 pursuant to [SECTION 125A.465](#), but has been vacated, stayed or modified by a court of a state or other tribe having jurisdiction to do so pursuant to [SECTION 125A.305](#) to [125A.395](#), inclusive.

2. The tribal court shall award the fees, costs and expenses authorized pursuant to [SECTION 125A.535](#) and may grant additional relief, including a request for the assistance of law enforcement officers, 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 conducted pursuant to [SECTION 125A.405](#) to [125A.585](#), inclusive.

SECTION 125A.525 Warrant to take physical custody of child.

1. Upon the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is immediately likely to suffer serious physical harm or to be removed from this reservation.

2. If tribal court, upon the testimony of the petitioner or other witness, finds that the child is immediately likely to suffer serious physical harm or to be removed from this reservation, it may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed unless that date is impossible. If that date is impossible, tribal court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by subsection 2 of [SECTION 125A.495](#).

3. A warrant to take physical custody of a child must:

(a) Recite the facts upon which the conclusion that the child is immediately likely to suffer serious physical harm or to be removed from this reservation is based;

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

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

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

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

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

SECTION 125A.535 Costs, fees and expenses.

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

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

SECTION 125A.545 Recognition and enforcement. The tribal court shall accord full faith and credit to an order issued by a state or other tribe and consistent with the provisions of this chapter which enforces a child custody determination by a court of a state or other tribe unless the order has been vacated, stayed or modified by a court having jurisdiction to do so pursuant to [SECTION 125A.305](#) to [125A.395](#), inclusive.

SECTION 125A.555 Appeals.

1. An appeal may be taken from a final order in a proceeding conducted pursuant to the provisions of [SECTION 125A.405](#) to [125A.585](#), inclusive, in the same manner as appeals in other civil cases are taken.

2. To the extent consistent with Appellate Procedure, the Appellate Court shall expedite an appeal brought pursuant to this section.

3. Unless the court enters a temporary emergency order pursuant to [SECTION 125A.335](#), the enforcing court may not stay an order enforcing a child custody determination pending appeal.

SECTION 125A.565 Role of tribal attorney or tribal prosecutor.

1. In a case arising pursuant to the provisions of this chapter or involving the Hague Convention on the Civil Aspects of International Child Abduction, a tribal attorney or the tribal prosecutor may take any lawful action, including resort to a proceeding brought pursuant to [SECTION 125A.405](#) to [125A.585](#), inclusive, 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 tribal attorney or the tribal prosecutor acting pursuant to this section acts on behalf of the court and may not represent any party.

SECTION 125A.575 Role of law enforcement officers. At the request of a tribal attorney or the tribal prosecutor acting pursuant to [SECTION 125A.565](#), a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and assist the tribal attorney or the tribal prosecutor with responsibilities pursuant to [SECTION 125A.565](#).

SECTION 125A.585 Costs and expenses. If the respondent is not the prevailing party, tribal court may assess against the respondent all direct expenses and costs incurred by a tribal attorney or the tribal prosecutor and law enforcement officers pursuant to [SECTION 125A.565](#) or [125A.575](#).

ARTICLE 4—MISCELLANEOUS PROVISIONS

SECTION 125A.605 Application and construction. In applying and construing the Uniform Child Custody Jurisdiction and Enforcement Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states and tribes that enact it.