

HB 1358 -- UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT
ACT (Flook)

COMMITTEE OF ORIGIN: Committee on Judiciary

This bill establishes the Uniform Child Custody Jurisdiction and Enforcement Act.

INITIAL CUSTODY DETERMINATION

To determine which state has proper jurisdiction to make an initial determination of child custody, the bill establishes the following order of priority:

- (1) The state which is currently the home state of the child or was the child's home state within six months immediately before the commencement of a child custody proceeding if the child is absent from the state but a parent or person acting as a parent continues to live in the state; or
- (2) The state in which the child and at least one parent have a significant connection and substantial evidence concerning the custody determination is available in the state; or
- (3) The state having an appropriate connection with the child.

A state having jurisdiction under the first two priorities may decline to exercise its jurisdiction and transfer it to another state if it is more convenient for the parties or if one of the parties has engaged in misconduct necessitating a change.

"Home state" is defined as the state in which a child lived with a parent or 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 younger 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 any of these persons is considered as part of the period.

CONTINUING JURISDICTION

Once a state court has made a custody determination, that state keeps jurisdiction over all matters concerning the child unless:

- (1) A court of the state with jurisdiction determines that the child or the child and a parent do not have a significant connection with the state and evidence concerning the child's custody determination is not available in the state; or

(2) A court of the state with jurisdiction, or any other state, determines that the child and both parents or acting parents do not reside in the state any longer.

MODIFICATION OF CUSTODY DETERMINATION

Once a custody determination has been made, a court of another state does not have authority to modify the determination unless the state with jurisdiction determines that it does not have jurisdiction or any state court determines that the child, parents, or any acting parents do not reside in the state which currently has jurisdiction.

EMERGENCY ORDERS

A state which does not otherwise have jurisdiction may enter a temporary emergency order if the child is in danger and needs immediate protection. After issuing the order, the state court should determine if there is an existing custody order from another state in effect. If there is an existing order, the emergency court must allow a reasonable time period for the parties to return to the state having jurisdiction and argue the issues to the court with jurisdiction.

If there is no previous child custody order in existence, the emergency court's order will remain in effect until a determination is made in a court having home state jurisdiction over the child. If no determination is made and the emergency court's state becomes the home state of the child, the emergency order becomes a final determination of custody.

FISCAL NOTE: No impact on state funds in FY 2009, FY 2010, and FY 2011.