

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 201

FINAL READING

Introduced by McGill, 26; Christensen, 44; Coash, 27; Friend, 10;
Fulton, 29; Howard, 9; Lautenbaugh, 18; Rogert, 16;
Stuthman, 22.

Read first time January 12, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to children; to amend section 43-1230, Reissue
2 Revised Statutes of Nebraska; to change provisions
3 relating to the international application of the Uniform
4 Child Custody Jurisdiction and Enforcement Act; to repeal
5 the original section; and to declare an emergency.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-1230, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 43-1230 (a) A court of this state shall treat a foreign
4 country as if it were a state of the United States for the purpose
5 of applying sections 43-1226 to 43-1247.

6 (b) Except as otherwise provided in subsection (c) or (d)
7 of this section, a child custody determination made in a foreign
8 country under factual circumstances in substantial conformity
9 with the jurisdictional standards of the Uniform Child Custody
10 Jurisdiction and Enforcement Act shall be recognized and enforced
11 under sections 43-1248 to 43-1264.

12 (c) A court of this state need not apply the act if
13 the child custody law of a foreign country violates fundamental
14 principles of human rights.

15 (d) A court of this state need not recognize and enforce
16 an otherwise valid child custody determination of a foreign
17 court under the act if it determines (1) that the child is a
18 habitual resident of Nebraska as defined under the provisions of
19 the Hague Convention on the Civil Aspects of International Child
20 Abduction, as implemented by the International Child Abduction
21 Remedies Act, 42 U.S.C. 11601 et seq., and (2) that the child
22 would be at significant and demonstrable risk of child abuse or
23 neglect as defined in section 28-710 if the foreign child custody
24 determination is recognized and enforced. Such a determination
25 shall create a rebuttable presumption against recognition and

1 enforcement of the foreign child custody determination and,
2 thereafter, a court of this state may exercise child custody
3 jurisdiction pursuant to subdivision (a)(1) and subsection (c) of
4 section 43-1238.

5 (e) The changes made to this section by Laws 2007,
6 LB 341, shall be deemed remedial and shall apply to all cases
7 pending on or before February 2, 2007, and to all cases initiated
8 subsequent thereto.

9 (f) A court of this state shall have initial and
10 continuing jurisdiction to make any determinations and to grant
11 any relief set forth in subsection (d) of this section upon
12 the motion or complaint seeking such, filed by any parent or
13 custodian of a child who is the subject of a foreign court's
14 custody determination and a habitual resident of Nebraska. The
15 absence or dismissal, either voluntary or involuntary, of an action
16 for the recognition and enforcement of a foreign court's custody
17 determination under subsection (b) of this section shall in no way
18 deprive the court of jurisdiction set forth in this subsection.
19 Subsection (c) of section 43-1238 shall apply to any proceeding
20 under this subsection.

21 This subsection shall be deemed remedial and shall apply
22 to all cases pending on or before the effective date of this act
23 and to all cases initiated subsequent thereto.

24 Sec. 2. Original section 43-1230, Reissue Revised
25 Statutes of Nebraska, is repealed.

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1 Sec. 3. Since an emergency exists, this act takes effect
2 when passed and approved according to law.