

Union Calendar No. 309

105TH CONGRESS
2^D SESSION

H. R. 1690

[Report No. 105-546]

To amend title 28 of the United States Code regarding enforcement of child custody orders.

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 1997

Mr. ANDREWS introduced the following bill; which was referred to the Committee on the Judiciary

MAY 21, 1998

Additional sponsors: Mr. COOK, Mr. CLEMENT, Mr. GREEN, and Mr. COBLE

MAY 21, 1998

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend title 28 of the United States Code regarding enforcement of child custody orders.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. CHILD CUSTODY.**

2 (a) SECTION 1738A(b)(2).—Section 1738A(b)(2) of
3 title 28, United States Code is amended by inserting “or
4 grandparent” after “parent”.

5 (b) SECTION 1738A(b)(3).—Section 1738A(b)(3) is
6 amended by striking “or visitation” after “for the cus-
7 tody”.

8 (c) SECTION 1738A(b)(5).—Section 1738A(b)(5) is
9 amended by striking “custody determination” each place
10 it occurs and inserting “custody or visitation determina-
11 tion”.

12 (d) SECTION 1738A(b)(9).—Section 1738A(b) of
13 title 28, United States Code, is amended by striking “and”
14 at the end of paragraph (7), by striking the period at the
15 end of paragraph (8) and inserting “; and”, and by adding
16 after paragraph (8) the following:

17 “(9) ‘visitation determination’ means a judg-
18 ment, decree, or other order of a court providing for
19 the visitation of a child and includes permanent and
20 temporary order and initial order and modifica-
21 tions.”.

22 (e) SECTION 1738A(c).—Section 1738A(c) is amend-
23 ed by striking “custody determination” and inserting
24 “custody or visitation determination”.

1 (f) SECTION 1738A(c)(2)(D).—Section
2 1738A(c)(2)(D) is amended by adding “or visitation”
3 after “determine the custody”.

4 (g) SECTION 1738A(d).—Section 1738A(d) is
5 amended striking “custody determination” and inserting
6 “custody or visitation determination”.

7 (g) SECTION 1738A(e).—Section 1738A(d) is amend-
8 ed striking “custody determination” and inserting “cus-
9 tody or visitation determination”.

10 (g) SECTION 1738A(g).—Section 1738A(d) is
11 amended striking “custody determination” and inserting
12 “custody or visitation determination”.

13 (h) SECTION 1738A(h).—Section 1738A is amended
14 by adding at the end the following:

15 “(h) A court of a State may not modify for a child
16 a determination of visitation of such child made by a court
17 of another State unless the court of the other State has
18 declined to exercise jurisdiction to modify such determina-
19 tion.”.

20 **SECTION 1. CHILD CUSTODY AND VISITATION DETERMINA-**
21 **TIONS.**

22 *Section 1738A of title 28, United States Code is*
23 *amended as follows:*

24 (1) *Subsection (a) is amended by striking “sub-*
25 *section (f) of this section, any child custody deter-*

1 *mination” and inserting “subsections (f) and (g) of*
2 *this section, any custody determination or visitation*
3 *determination”.*

4 *(2) Subsection (b)(2) is amended by striking “a*
5 *parent” and inserting “, but not limited to, a parent*
6 *or grandparent or, in cases involving a contested*
7 *adoption, a person acting as a parent”.*

8 *(3) Subsection (b)(3) is amended—*

9 *(A) by striking “or visitation”;*

10 *(B) by striking “and” before “initial or-*
11 *ders”;* and

12 *(C) by inserting before the semicolon at the*
13 *end the following: “, and includes decrees, judg-*
14 *ments, orders of adoption, and orders dismissing*
15 *or denying petitions for adoption”.*

16 *(4) Subsection (b)(4) is amended to read as fol-*
17 *lows:*

18 *“(4)(A) except as provided in subparagraph (B),*
19 *‘home State’ means—*

20 *“(i) the State in which, immediately pre-*
21 *ceding the time involved, the child lived with his*
22 *or her parents, a parent, or a person acting as*
23 *a parent, with whom the child has been living*
24 *for at least six consecutive months, a prospective*

1 *adoptive parent, or an agency with legal custody*
2 *during a proceeding for adoption, and*

3 *“(i) in the case of a child less than six*
4 *months old, the State in which the child lived*
5 *from birth, or from soon after birth,*

6 *and periods of temporary absence of any such persons*
7 *are counted as part of such 6-month or other period;*
8 *and*

9 *“(B) in cases involving a proceeding for adop-*
10 *tion, ‘home State’ means the State in which—*

11 *“(i) immediately preceding commencement*
12 *of the proceeding, not including periods of tem-*
13 *porary absence, the child is in the custody of the*
14 *prospective adoptive parent or parents;*

15 *“(ii) the child and the prospective adoptive*
16 *parent or parents are physically present and the*
17 *prospective adoptive parent or parents have lived*
18 *for at least six months; and*

19 *“(iii) there is substantial evidence available*
20 *concerning the child’s present or future care;”.*

21 *(5) Subsection (b)(5) is amended by inserting*
22 *“or visitation determination” after “custody deter-*
23 *mination” each place it appears.*

24 *(6) Subsection (b) is amended by striking “and”*
25 *at the end of paragraph (7), by striking the period at*

1 *the end of paragraph (8) and inserting “; and”, and*
2 *by adding after paragraph (8) the following:*

3 *“(9) ‘visitation determination’ means a judg-*
4 *ment, decree, or other order of a court providing for*
5 *the visitation of a child and includes permanent and*
6 *temporary orders and initial orders and modifica-*
7 *tions.”.*

8 *(7) Subsection (c) is amended by striking “child*
9 *custody determination” in the matter preceding para-*
10 *graph (1) and inserting “custody determination or*
11 *visitation determination”.*

12 *(8) Subsection (c)(2)(D) is amended by adding*
13 *“or visitation” after “determine the custody”.*

14 *(9) Subsection (d) is amended by striking “child*
15 *custody determination” and inserting “custody deter-*
16 *mination or visitation determination”.*

17 *(10) Subsection (e) is amended—*

18 *(A) by striking “child custody determina-*
19 *tion” and inserting “custody determination or*
20 *visitation determination”; and*

21 *(B) by striking “a child” and inserting “the*
22 *child concerned”.*

23 *(11) Subsection (f) is amended—*

1 (A) by striking “determination of the cus-
2 tody of the same child” and inserting “custody
3 determination”;

4 (B) in paragraph (1) by striking “child”
5 and by striking “and” after the semicolon;

6 (C) in paragraph (2) by striking the period
7 and inserting “; and”; and

8 (D) by adding at the end the following:

9 “(3) in cases of contested adoption in which the
10 child has resided with the prospective adoptive parent
11 or parents for at least six consecutive months, the
12 court finds by clear and convincing evidence that the
13 court of the other State failed to consider—

14 “(A) the extent of the detriment to the child
15 in being moved from the child’s custodial envi-
16 ronment;

17 “(B) the nature of the relationship between
18 the biological parent or parents and the child;

19 “(C) the nature of the relationship between
20 the prospective adoptive parent or parents and
21 the child; and

22 “(D) the recommendation of the child’s legal
23 representative or guardian ad litem.

1 *This subsection shall apply only if the party seeking a new*
2 *hearing has acted in good faith and has not abused or at-*
3 *tempted to abuse the legal process.”.*

4 (12) *Subsection (g) is amended by inserting “or*
5 *visitation determination” after “custody determina-*
6 *tion” each place it appears.*

7 (13) *Section 1738A is amended by adding at the*
8 *end the following:*

9 “(h) *A court of a State may not modify a visitation*
10 *determination made by a court of another State unless the*
11 *court of the other State has declined to exercise jurisdiction*
12 *to modify such determination.*

13 “(i) *In cases of conflicts between 2 or more States, the*
14 *district courts shall have jurisdiction to determine which*
15 *of conflicting custody determinations or visitation deter-*
16 *minations is consistent with the provisions of this section*
17 *or which State court is exercising jurisdiction consistently*
18 *with the provisions of this section for purposes of subsection*
19 *(g).”.*

20 (14) *Section 1738A(c)(2) is amended—*

21 (A) *by inserting “or her” after “his” each*
22 *place it appears; and*

23 (B) *by inserting “or she” after “he”.*

Amend the title so as to read: “A bill to amend title 28, United States Code, with respect to the enforcement of child custody and visitation orders.”.

Union Calendar No. 309

105TH CONGRESS
2D Session

H. R. 1690

[Report No. 105-546]

A BILL

To amend title 28 of the United States Code regarding enforcement of child custody orders.

MAY 21, 1998

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed