

HOUSE BILL NO. 283

INTRODUCED BY C. KEOGH, S. GREEF, P. WEBB

A BILL FOR AN ACT ENTITLED: "AN ACT CORRECTING TECHNICAL CROSS-REFERENCING ERRORS IN MONTANA'S ENACTMENT OF THE UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT; AMENDING SECTION 40-7-109, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-7-109, MCA, is amended to read:

"40-7-109. Jurisdiction declined by reason of conduct. (1) Except as otherwise provided in ~~40-7-202~~ 40-7-204, if a court of this state has jurisdiction under this chapter because a person invoking the jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise 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 ~~40-7-139, 40-7-140, and 40-7-201~~ 40-7-201 through 40-7-203 determines that this state is a more appropriate forum under 40-7-108; or
(c) no other state would have jurisdiction under 40-7-201 through 40-7-203.

(2) If a court of this state 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 ~~wrongful~~ unjustifiable conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under 40-7-201 through 40-7-203.

(3) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection (1), it shall charge the party invoking the jurisdiction of the court with necessary and reasonable expenses, including costs, communication expenses, attorney 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 award would be clearly inappropriate. The court may not assess fees, costs, or expenses against this state except as otherwise provided by law other than this chapter."

NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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