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Contents

Wisconsin's Adoption of the UCCJEA Significantly Alters and Clarifies Child Custody Jurisdiction

by Carlton D. Stansbury

Wisconsin became the 45th state in the country to repeal its version of the Uniform Child Custody Jurisdiction Act (UCCJA),[1] found in Chapter 822, Wis. Stats., and enact the significantly improved Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) (the Act). The Act, effective March 25, 2006,[2] clarifies various former provisions that have been interpreted inconsistently among Wisconsin courts and state courts throughout the country. Further, the Act is in conformity with the Parental Kidnapping Prevention Act (PKPA),[3] is in conformity with the Violence Against Woman Act (VAWA),[4] and incorporates 30 years of case law across the country that advances the purpose of the Act.[5] Unlike its predecessor, there is no longer a need to apply and harmonize both the UCCJEA and PKPA in any interstate jurisdictional custody determination.[6]

This article will summarize the major changes from the UCCJA to the UCCJEA in regard to general provisions, initial child custody determinations, and modification determinations. A separate article will summarize the major provisions regarding the registration and enforcement proceedings of the Act.

I. Scope of the UCCJEA

The actions to which the Act applies have been specifically expanded. Section 822.02(4), Stats., contains a broader definition of child custody proceedings[7] that are covered under the Act, including actions involving divorce, legal separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protections from domestic violence. The Act does not apply to a proceeding involving juvenile delinquency, contractual emancipation, or the authorization of emergency medical care for a child.[8] Further, enforcement under the Act is not a custody proceeding.[9]

A Wisconsin court is required to treat an Indian tribe as if it were a state. A tribe's child custody determination is enforceable by a state court if the child custody determination was made in substantial conformity with the jurisdictional standards of the Act. However, the Act does not otherwise extend to an Indian child if the Indian Child Welfare Act[10] governs the Indian child.

(Continued on page 95)

Wisconsin's Adoption of the UCCJEA
(Continued from page 93)

The Act expressly provides that a state court shall treat a foreign country as if it were a state for purposes of the Act's general provisions and jurisdiction. The enforcement portion of the Act is applicable to foreign countries only if the child custody determination was made in substantial conformity with the jurisdictional standards of the Act.[11] In accordance with the Hague Convention, a Wisconsin court need not apply the Act if the child custody law of a foreign country violates "fundamental principles of human rights."[12]

The model UCCJEA expressly states that the Act does not apply to adoption proceedings.[13] Adoption is excepted because it is a specialized area covered by the Uniform Adoption Act, which has different jurisdictional considerations for interstate adoptions.[14] Wisconsin, however, has not adopted the Uniform Adoption Act. Therefore, the Act, as adopted by the Wisconsin legislature, deleted the provision excluding the Act's application to adoption. At the same time, however, the legislature failed to specifically add adoption to the definition of "child custody proceeding."[15] Therefore, there may be a void in Wisconsin law as to jurisdiction and enforcement proceedings involving interstate adoptions.

II. Purposes and Definitions

The model UCCJEA omitted the section on "purposes." Although purpose provisions are frequently cited by the courts, the drafters believed that such provisions would be duplicative and unnecessary.[16] However, the Wisconsin version maintained the section on the purposes of the Act, and adopted certain edits proposed by the Act's commentators.[17] None of the edits were substantive. However, former § 822.01(1)(c), Stats., was deleted. While the former section accurately stated one of the purposes of the Act, attorneys often quoted the particular section to bolster their argument of a jurisdictional result that may have been inconsistent with the correct application of the UCCJA. The provision unintentionally caused confusion and implied that the ultimate test for jurisdiction was whether the state was the "best" for custody determination.[18] The edited "purposes" section should be more consistent with the actual application of the Act and should not be used to frustrate the unambiguous application of the Act.

Many of the definitions in the Act were edited. Some terms were added, while other terms were deleted. As a general rule, the changes to the definition section do not create substantive changes. A few definitions were either edited or added to increase clarity. For example, "modification" and "initial determination" were edited to make explicit that temporary orders are covered by the Act.[19] The definition of "person" was added to include a host of "persons" including individuals, legal entities, commercial entities, and governmental agencies.[20] "Commencement" was added to replace "pending" in order to alleviate timing problems with simultaneous proceedings.[21] Other definitions were changed to be consistent with the PKPA.[22]

A more substantive change was made to the definition of a "person acting as a parent." The Act extends the definition to include a person who

(Continued on page 96)

Editor's Column

by Daphne Webb

In 2000, the late Jim Podell was our editor of the *Wisconsin Journal of Family Law*; Gregg Herman was the associate editor, and Marjorie Schuett the assistant editor. That year Marjorie stepped down and I was asked to take her place. For three years I had the privilege of learning the ropes from Jim and Gregg. Ultimately I served these last two years as the editor of this journal. It's been a great privilege and a great learning experience.

The biggest innovation in my years associated with the *WJFL* was one instituted by Gregg Herman when he became editor: the creation of an editorial board. I owe gratitude and thanks to the wonderful editorial board members who have made the trek to Waukesha four times a year to generate articles for, brainstorm for, comment on, and innovate about the *Wisconsin Journal of Family Law*.

During my time as editor, the incomparable Margo Melli finished doing case notes after almost 30 years; Peggy Podell agreed to take her place and has done a wonderful job since then.

Greg Mager will step in with the January 2007 issue as editor of the *Wisconsin Journal of Family Law*. I'm happy to know that this great, continuous publication will be in such capable hands. My thanks to the Family Law Section Board, our Editorial Board, and all associated with the *WJFL*.

Correction: It was noted that in the previous Editor's Column, I failed to identify Darcy McManus as a family court commissioner and that the effective date of the 767 codification is actually January 1, not June 6, as was printed.

Wisconsin's Adoption of the UCCJEA
(Continued from page 95)

may not have physical custody of the child, but has had such custody for six months within the year immediately before the commencement of the proceeding. Such a person must also have been awarded custody or must claim a right to legal custody.[23]

III. Unambiguous Jurisdiction Rules

The Act covers initial custody determinations and modifications of previously entered determinations. The rules, however, differ for each. Therefore, it is critical to know what stage any proceeding is in, and once that stage is determined, the practitioner should avoid applying the wrong set of rules for that stage.

A. Initial Jurisdiction

The former UCCJA had four equal grounds for a Wisconsin court to exercise jurisdiction to make an initial determination. The grounds included the following: the child's home state; the child's best interest and significant contacts with the state; the child's physical presence in the event of an emergency; and the situation in which no other state could have jurisdiction or would exercise jurisdiction. The major change from the former UCCJA is that the Act provides that the child's home state is the *exclusive* jurisdictional basis for making a child custody determination.[24] All references to the child's best interest in determining jurisdiction have been deleted. A court's determination of whether it has jurisdiction is separate and distinct from the merits of the case.[25]

Further, the UCCJA provided that the time a child was absent from the state during the six-month period as a result of the child's removal or retention by a person claiming custody or for other reasons was included in the six-month calculation. The Act has omitted any reference to why a child may be absent from the home state, but the requirement that a parent or a person acting as a parent continue to live in the state is maintained.[26]

Under the Act, a Wisconsin court can exercise initial jurisdiction if it is not the home state *only* if: (1) no other state is the home state; or (2) the court of the child's home state has declined to exercise jurisdiction on the basis that Wisconsin is the more appropriate forum *and* there are significant connections with Wisconsin *and* there is substantial evidence in Wisconsin.[27] The child's home state can also decline jurisdiction on the basis of misconduct by a parent.[28] The best interest and significant connections tests can no longer be used to thwart the home state jurisdictional basis for custody determinations.

The prioritization of the bases for jurisdiction should greatly reduce conflicts over which state has jurisdiction for the initial determination. The problem will more likely occur when there is no home state. In that case, there will be more than one state only if each state can meet the significant connections and substantial evidence test, and there is a diminished likelihood that more than one state will meet both elements of the test. If there are two states with jurisdiction, only the state where the first proceeding was filed can exercise jurisdiction.[29]

Some courts and attorneys have confused the jurisdiction of a court to make child custody determinations with the court's personal jurisdiction over the parties. Some courts have declined jurisdiction to make a custody determination on the basis that there is no personal jurisdiction of a party. The Act makes it ultimately clear that physical presence or personal jurisdiction of a child or party is *not* required for a custody determination.[30] Therefore, it is entirely possible for a Wisconsin court to make a custody determination without personal jurisdiction over one of the parties. Such a rule is not unfettered power to exclude a party from a proceeding, however. The Act sets forth notice requirements as a prerequisite to exercising jurisdiction.[31] If there is proper notice, the court's custody determination is binding on all those persons served, even if the person did not participate in the proceedings.[32]

It is also noteworthy that a party in a jurisdictional proceeding who appears in the state in relation to an action under the Act has limited immunity. He or she is not considered to have submitted to personal jurisdiction in this state for any other action.[33]

B. Modification Jurisdiction

One of the problems with the UCCJA was that many courts interpreted the UCCJA to allow two courts to simultaneously modify a previous determination. The problem usually occurred in situations in which there was a new home state for a child, but there were still significant connections and a parent living in the state that issued the initial decree. This led to competing and inconsistent orders.[34]

The Act adopts the concept of "exclusive continuing jurisdiction." The unambiguous rule is that the state that initially made a child custody determination consistent with the Act has exclusive continuing jurisdiction to modify that initial custody determination until (1) neither the child, nor the child and one parent, nor the child and a person acting as a parent have a significant connection with the state and substantial evidence is no longer available in the state concerning the child, or (2) the child, the child's parents, and all persons acting as parents do not presently reside in the state.[35] Only the initial decree state may determine whether it has significant connection jurisdiction,[36] which will require a party seeking a modification in another state to obtain an order from the original decree state stating that it no longer has jurisdiction.[37] Any court can determine whether every party presently resides in the initial decree state.[38]

The original decree court can lose exclusive continuing jurisdiction even when an involved person remains in the state when "the relationship between the child and the person remaining in the state . . . becomes

so attenuated that the court could no longer find significant connections and substantial evidence…"[39]

Therefore, when there is a modification proceeding, the initial question is not the location of the child's home state, but rather, what state has continuing exclusive jurisdiction? The state with continuing exclusive jurisdiction retains solitary jurisdiction to modify its custody determination *even if a home state can be established elsewhere.*[40] The exception to the rule is if the initial decree state declines jurisdiction for inconvenient forum analysis or misconduct reasons.[41] Under the Act, there cannot be two states with concurrent jurisdiction to modify a custody determination.[42] A court is absolutely prohibited from modifying a custody determination if it does not have exclusive continuing jurisdiction and none of the limited exceptions apply.[43]

Jurisdiction attaches at the commencement of the proceeding.[44] Jurisdiction is not lost if the child, the child's parent, or a person acting as the child's parent moves from the state after the commencement of the modification proceeding.[45] However, the state with jurisdiction under those circumstances has the power to decline continuing jurisdiction.[46]

Only if the initial decree state has lost or declined its continuing exclusive jurisdiction can another state modify a previous determination, provided that the new state meets the requirements of making an initial custody determination.[47] Exclusive continuing jurisdiction is not reestablished if the child, a parent, or a person acting as a parent leaves the initial decree state and then returns to the state. Once the initial decree state loses exclusive continuing jurisdiction, it can modify its own order only if it has jurisdiction consistent with jurisdiction for initial determinations.[48] If a subsequent state acquires exclusive continuing jurisdiction, the state with initial jurisdiction can modify a previous determination only if the subsequent state declines jurisdiction, even if the child's home is reestablished in the initial state.[49]

The court's exclusive continuing jurisdiction is contingent on the fact that the court had jurisdiction under the Act to make the initial custody determination.[50] As a practice point, practitioners should include a statement of fact in the Findings of Fact, Conclusions of Law, and Judgment of Divorce (or similar document in other proceedings), that the jurisdictional provisions of Chapter 822 were satisfied when making the initial custody determination. In that case, if a court from another state is later determining whether to defer to Wisconsin's exclusive continuing jurisdiction, the parties do not have to litigate whether the requirements of the Act were met in the initial custody determination. The issue is limited to the test of continuing exclusive jurisdiction set forth in § 822.22(1)(b), Stats.

C.Emergency Jurisdiction

One of the grounds under the UCCJA for initial determination of jurisdiction was whether there was an emergency with the child and the child was physically present in the state. Although these factors were not specifically enumerated as support for modification jurisdiction, courts would justify modification jurisdiction in the event of an emergency. The new Act removes the emergency provision from the initial jurisdiction grounds and places it in a separate section. "This new section strikes a balance between the need to protect children in emergency situations and the need to preserve the system of allocating jurisdiction that has eradicated 'seize and run' jurisdiction."[51]

The balance struck is simple and clear. Wisconsin has *temporary* emergency jurisdiction if the child is present in the state and the child has been abandoned or other emergency circumstances exist relating to the child, or the child, a sibling, or a parent of the child is subjected to or threatened with mistreatment or abuse.[52] The practitioner should note that, based upon domestic violence concerns, the safety net has been spread over more than the child involved in the custody determination.

If there are no previous determinations entitled to enforcement and a child custody proceeding has not been commenced in the court with jurisdiction consistent with the Act, then a Wisconsin court can make a temporary custody determination. Such determination is in effect until the court with jurisdiction issues an order. The Wisconsin order becomes final if no action is commenced in the state with jurisdiction and the passage of six months occurs, thereby giving Wisconsin home state status.[53]

If there was a previous determination by a court with exclusive continuing jurisdiction, or if an action has been commenced in the state with jurisdiction, then any order issued by a Wisconsin court is temporary and must specify the time it believes is adequate to obtain an order from the state with jurisdiction. The Wisconsin order is then effective only for the time frame contained in the order.[54]

If a Wisconsin court is asked to assume emergency jurisdiction, and there has been a determination by a court with jurisdiction or there is an action pending in a state with jurisdiction, the Wisconsin court is mandated to communicate with the court of the other state. The communication is necessary to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.[55] This situation, more than any other situation, requires the invocation of the Act's provision that actions under the Act must be given priority on the court's calendar and handled expeditiously.[56]

Just as in other actions under the Act, the notice requirements of the Act are applicable in emergency situations.

(Continued on page 98)

Wisconsin's Adoption of the UCCJEA
(Continued from page 97)

The former UCCJA listed a number of different methods to provide notice and required at least ten days' notice before a hearing could be held. The Act deletes the ten-day notice requirement, and mandates instead that all notice be in a manner "prescribed by the law of this state for service of process or by the law of the state in which the service is made."[57] The Act further provides that notice shall be given in a manner reasonably calculated to give actual notice, but may be by publication if other means are not effective. Notice is not required for the exercise of jurisdiction if a party submits to the court's jurisdiction.[58]

Emergency jurisdiction is temporary and has strict procedural guidelines. Emergency jurisdiction is "an extraordinary jurisdiction reserved for extraordinary circumstances."[59] The emergency basis for jurisdiction is intended to apply in few cases. "Naturally there will be attempts to circumvent the Act by 'shouting fire' in every conceivable situation. Emergency jurisdiction must be denied, however, when it is invoked as a pretext in order to reopen a custody controversy."[60]

D. Declining Jurisdiction

A court with initial jurisdiction, exclusive continuing jurisdiction, or modification jurisdiction has two grounds under the Act to decline jurisdiction.

The court can decline jurisdiction if it believes that it is an inconvenient forum.[61] The Act's inconvenient forum section differs significantly from the UCCJA's. First, the issue may be raised on the court's own motion, by a party, or at the request of another court. The ability of another court to raise the issue was added to address domestic violence issues that may exist in determining which forum is better suited to resolve the issues.[62] Second, there are eight factors in making the determination that the court is *required* to consider in making a determination of inconvenient forum. The former act provided that the court may consider any number of factors. The factors were expanded, and now include consideration of domestic violence. Third, the Act does not require the court to communicate with the other court as part of its determination. Fourth, upon a determination of an inconvenient forum, the court can stay the proceeding only on the condition that an action is commenced in the more convenient forum; the court cannot simply dismiss the action based upon an inconvenient forum analysis. The court can, however, enter temporary orders pending commencement of the action in the other state.[63] Finally, the former UCCJA provided that if the court determined that it was "clearly" an inappropriate forum, the court could order the moving party to pay the travel expenses and attorneys fees and costs incurred by the other party and witnesses. The Act no longer includes this provision because a court undergoing an inconvenient forum analysis has jurisdiction under the Act.[64]

The second basis for declining jurisdiction involves conduct.[65] This section of the Act has completely truncated the companion section in the UCCJA. The same misconduct procedure applies whether the action is an initial determination or a modification action. The rule does not apply in emergency situations. The rule states that a court is required to decline to exercise jurisdiction if it has jurisdiction because a person seeking to invoke it has engaged in unjustifiable conduct. The exceptions include if the parties acquiesce to the exercise of jurisdiction, if another court defers to the court on inconvenient forum grounds, and if no other court would have jurisdiction.[66]

"Unjustifiable conduct" is not defined. However, it is likely that the intended conduct is similar to actions prohibited by the UCCJA. These included wrongfully taking a child to a state in order to establish jurisdiction. However, such actions taken as a means of protection from domestic violence are not considered "unjustifiable" if justified under the circumstances.[67] The ability to award attorneys fees and other costs as part of the sanction for the misconduct remains in the Act.[68]

E. Simultaneous Proceedings

As a result of the changes in determining which state has the initial jurisdiction and which state has continuing exclusive jurisdiction, and the prohibition of modifying another state's determination, the opportunity for simultaneous proceedings is dramatically reduced. As a general rule, no more than one state has jurisdiction at any given time. Simultaneous proceedings will arise only if there is no home state, no state with exclusive continuing jurisdiction, and more than one significant connection state.[69] In the rare case of simultaneous proceedings, the "first in time" rule controls.[70] The Act clearly states that, with the exception of an emergency situation, a Wisconsin court cannot exercise jurisdiction if at the time of the commencement of the proceeding in Wisconsin, a proceeding concerning the child has been commenced in another state with jurisdiction under the Act. A Wisconsin court can proceed if the action in the other state has been terminated or stayed based upon an inconvenient forum determination.[71] The result of this rule is to prevent forum shopping and reduce the costs necessary to resist the second action.

The practitioner should note that the parties can "stipulate" to jurisdiction only under the misconduct section of the Act.[72] Otherwise, if a party commences an action in a state without jurisdiction in conformity with the Act, any resulting order may be subsequently attacked as invalid because all orders must comply with the jurisdictional requirements of the Act.[73] This is true even if the other party received notice, submitted to personal jurisdiction, and did not raise jurisdictional objections. The Act is a subject matter jurisdiction statute, and subject matter jurisdiction cannot be

waived or stipulated by the parties.[74]

F. Other Provisions

The notice requirements contained in the petition or other initial pleading have slightly changed.[75] The practitioner's form petition and other initial pleadings should be amended accordingly. For example, if the party has participated as a party or witness in another proceeding concerning the child's custody, the party is required to identify the court, case number, and date of the proceeding. Further, domestic violence, enforcement, termination of parental rights, and adoptions are specifically set forth as proceedings that could affect the custody determination. In those situations, the party must disclose the court, case number, and nature of the proceedings. A party must also set forth the names and addresses of any third party that may have a right to physical custody of a child. If the party alleges in an affidavit that disclosure of the requirement information would place someone in jeopardy, the information can be sealed. Finally, if there is a deficiency in the information provided, the action is stayed rather than dismissed.[76]

The Act specifically provides that a party may be allowed to participate in the communication between courts of different states, except for scheduling matters. If the party is unavailable, then the party must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made. A record is required to be made of all communication, except for scheduling matters.[77]

The Act recognizes the advancement of technology and ability to gain information and testimony other than via in-person methods. The Act also acknowledges that actions pending under the Act will involve people in different states. Therefore, provisions are made to ease the process of obtaining evidence in other states.[78]

The Act encourages a high level of cooperation between courts of different states. Not only does the Act allow the courts of different states to freely communicate, but a court of one state can ask the court of another state to do the following: hold an evidentiary hearing; order a person to produce or give evidence; order an evaluation; forward to the requesting court a transcript, exhibits, and other evidence obtained by the other state court; and order a person to appear before a different court.[79]

It is noteworthy that the Act maintains its limitation to jurisdiction for custody determinations. It is not intended to be used as a basis for jurisdiction for other child-related determinations. Similarly, the Uniform Interstate Family Support Act has specific jurisdiction requirements for the establishment, modification, and enforcement of support orders.[80] UIFSA does not purport to change the jurisdictional requirements of the Act.[81] Therefore, the Act "continues the notion of divided jurisdiction."[82] For example, a court may have jurisdiction to dissolve a marriage and establish child support, but not jurisdiction to make a custody determination.[83] The drafters of both acts contemplated this result, and the occurrence of such event should not be deemed to alter the clearly defined jurisdictional rules contained in each act.[84]

IV. Conclusion

More than 30 years after Wisconsin's enactment of the UCCJA, the Legislature has adopted a new act that revises the law on child custody jurisdiction in light of subsequent federal enactments, enacts clearer standards for courts to consistently determine jurisdiction, and provides more guidance in the mechanics of jurisdictional disputes. Consequently, a practitioner's prior understanding and perception of the law should be abandoned and the new Act embraced and studied carefully. In the event of a jurisdictional dispute, a careful and close reading of the act will lead the practitioner to a conclusion consistent with preventing multiple and inconsistent custody orders between different states.[85]

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Endnotes

1. Michael R. Kerr, Deputy Executive Director, NCCUSL, presented in written materials to the American Bar Association Section of Family Law Council meeting, August 5, 2006, in Honolulu, Hawaii.

2. 2005 Wis. Act 130; Sec. 991.11, Stats. The publication date of the Act is March 24, 2006. The initial applicability is to child custody proceedings, including modification actions that are commenced on the effective date of the Act.

3. 28 U.S.C. § 1738A.

4. 18 U.S.C. §§ 2265-2266 (1994).

5. Spector, Robert G., "Uniform Child-Custody Jurisdiction and Enforcement Act (with Prefatory note and Comments by Robert G. Spector), 32 *Family Law Quarterly* 303 (Hereinafter Spector).

6. *See* Shapiro, "Uniform Child Custody Jurisdiction Act (UCCJA) and the Parental Kidnapping Prevention Act (PKPA): A Comparative Study," 11 *Wisconsin Journal of Family Law* 1 (1991).

7. Although Chapter 767 speaks in terms of "custody" for decision-making power, and "placement" for the allocation of the time the child spends with each parent, this article will use the more generic term of "custody determination" to address both considerations. The UCCJEA drafters recognized that different states have different terms for such provisions, but chose to use the term "custody" to apply to both considerations. Spector, at 317, footnote 24. The Act, as adopted, did not make the terms consistent with Chapter 767 or other related chapters.

8. Secs. 822.02(4), & 822.03, Stats. Note that all citations to chapter 822 will be to the UCCJEA version of chapter 822.

9. Sec. 822.02(4), Stats.

10. Sec. 822.04, Stats.; 25 U.S.C. § 1901, *et seq*.

11. Sec. 822.05, Stats.

12. *Id*.

(Continued on page 100)

Wisconsin's Adoption of the UCCJEA
(Continued from page 99)

13. Section 103, Uniform Child-Custody Jurisdiction and Enforcement Act. *See also* Uniform Child-Custody Jurisdiction and Enforcement Act, 32 *Family Law Quarterly* 314, 320 (1998) (hereinafter Model Act).

14. Hoff, "The ABC's of the UCCJEA," 32 *Family Law Quarterly* 267, 276 (1998) (Hereinafter Hoff).

15. Sec. 822.02(4), Stats.

16. Comment, section 101, Model Act at 314.

17. *Id*.

18. Spector, at 315, footnote 19. The omitted section read as follows: "assure that litigation concerning the custody of a child take place ordinarily in the state with which the child and his family have the closest connection and where significant evidence concerning his care, protection, training and personal relationships is most readily available, and that courts of this state decline the exercise of jurisdiction when the child and his family have a closer connection with another state."

19. Secs. 822.02(8) & (11), Stats.; Nelson, "The UCCJA and the UCCJEA: A Side-By-Side Comparison," 10 *Divorce Litigation* 233, 238 (1998) (hereinafter Nelson).

20. Sec. 822.02(12), Stats.; Nelson at 238.

21. Sec. 822.02(5), Stats.; Comment, section 102, Model Act, at 318.

22. *See generally*, Nelson, *supra*, and Hoff, *supra*.

23. Sec. 822.02(13), Stats.

24. Sec. 822.21, Stats.

25. Spector, at 309.

26. *Id.*; sec. 822.21(1)(a), Stats.

27. Sec. 822.21, Stats.

28. Sec. 822.21(1)(b), Stats.

29. Sec. 822.26, Stats.

30. Sec. 822.21(3), Stats.

31. Sec. 822.08, Stats.

32. Sec. 822.06. Stats.

33. Sec. 822.09, Stats.

34. Hoff, at 281.

35. Sec. 822.23, Stats.

36. Sec. 822.22(1)(a), Stats.

37. Comment, section 202, Model Act at 341.

38. Sec. 822.22(1)(b), Stats.

39. Comment, section 202, Model Act at 341.

40. *See* Hoff, at 282.

41. Secs. 822.21(1)(b), 822.23(1), & 822.28(1), Stats.

42. *See* Hoff, at 282-83.

43. Sec. 822.23, Stats.

44. Robert G. Spector, the reporter for the drafting committee, cites to *Interest of A.E.H.*, 468 N.W.2d 190 (Wis. 1991), to support the Comment's proposition. Spector, at 343, footnote 89. Therefore, case law decided prior to the enactment of the UCCJEA that does not conflict with the new Act remains good law.

45. Comment, section 201, Model Act at 343.

46. *Id*. at 343-44.

47. Sec. 822.23, Stats.

48. Sec. 822.22(2), Stats.

49. *Id*.

50. Sec. 822.22, Stats.

51. Hoff, at 283.

52. Sec. 822.24(1), Stats.

53. Sec. 822.24(2), Stats.

54. Sec. 822.24(3), Stats.

55. Sec. 822.24(4), Stats.

56. Sec. 822.07, Stats.

57. Sec. 822.25, Stats.

58. Sec. 822.08, Stats.

59. Comment, section 204, Model Act, at 340.

60. Spector, at 346, footnote 95.

61. Sec. 822.27, Stats.

62. Hoff, at 285, footnote 77.

63. Comment, section 207, at 357.

64. Sec. 822.27, Stats.; *see also* Comment, section 201, at 357.

65. Sec. 822.28, Stats.

66. *Id*.

67. Hoff, at 286; Comment, section 208, at 359.

68. Sec. 822.28(3), Stats.

69. Comment, section 206, at 353.

70. Sec. 822.26, Stats.

71. *Id.*

72. Sec. 822.28(1)(a), Stats.

73. *See, e.g.*, sec. 822.06, 822.21, 822.21, & 822.23, Stats.

74. *See Achtor v. Pewaukee Lake Sanitary Dist.*, 88 Wis. 2d 658, 664 (1979); *State ex. Rel. Skinkis v. Treffert*, 90 Wis. 2d 528, 531 (Ct. App. 1979).

75. Sec. 822.29, Stats.

76. Sec. 822.29(5), Stats.

77. Sec. 822.10, Stats.

78. Secs. 822.10 & 822.11, Stats.

79. Sec. 822.12, Stats.

80. *See generally*, Chapter 769, Stats.

81. Ironically, the impetus for the UCCJEA came from the jurisdictional work NCCUSL completed on UIFSA. Hoff, at 270.

82. Spector, at 317, note 22.

83. *Id*. *See also Stevens v. Stevens*, 682 N.E.2d 1309 (Ind. Ct. App. 1997).

84. Spector, at 317, note 22.

85. If there are questions in the interpretation and applicability of the new Act, this author highly recommends reviewing the comments to the model act as guidance. The Model Act and Comments can be found at www.law.upenn.edu/bll/ulc/uccjea/final1997act.htm. Although not specifically adopted by the Wisconsin legislature as part of the chapter, the comments provide an excellent guide to the implementation and intent of the model act.