



**Testimony of the Boston Bar Association
Before the Joint Committee on the Judiciary
in Support of H36/S746, An Act Relative to the Uniform Child Custody and
Jurisdiction Enforcement Act (UCCJEA)**

**Presented by Judge Edward Ginsburg (retired), Gayle Stone-Turesky, Stone,
Stone & Creem, and Theresa Ramos, Tracey & Associates, P.C.**

June 24, 2015

Senate Chairman Brownsberger, House Chairman Fernandes, and members of the Joint Committee on the Judiciary, I am here to testify on behalf of the Boston Bar Association, in my capacity as both a current member of the BBA Family Law Section's Steering Committee and a retired judge who served for 25 years as an associate justice of the Probate & Family Court.

The BBA is pleased to have the opportunity to submit this written testimony in support of House Bill 36 and Senate Bill 746, An Act Relative to the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA).

As it currently stands, **Massachusetts is the only state in the US which has not enacted the UCCJEA.** The purpose of the act is to remedy conflicts that occur under the current Massachusetts child custody jurisdiction scheme (M.G.L. c. 209B) when one of the parents of the child lives in another state. Under the UCCJEA, once

a state has exercised jurisdiction over custody, that state has exclusive jurisdiction over potential changes in the judgment or order, so long as a parent, the child, or someone acting as a parent remains in the original issuing state. This is a change from our current law, which cedes jurisdiction over our own custody orders to the home state of the custodial parent and child after six (6) months of their residency in the new state. Again, Massachusetts is the only state that cedes jurisdiction over its own orders in this way.

The current Massachusetts law is often unfair to the “left behind” non-custodial parent, who is then forced to travel and litigate in another state to resolve custody issues which arise after the departure from Massachusetts. The goal of the UCCJEA is to prevent forum shopping by a parent seeking a more favorable outcome in another state, and to prevent the problem of dueling lawsuits in different jurisdictions. The UCCJEA “exclusive jurisdiction” design for child custody cases mirrors current law in all fifty states for child support jurisdiction, including Massachusetts (M.G.L. c. 209D).

The mobility of US citizens has increased over time and will likely continue to do so. More and more people move about the country for various reasons, taking children with them. This only serves to heighten the importance of the UCCJEA. Efforts to permanently remove children from Massachusetts are the subject of some of the most difficult domestic litigation. These cases almost always go to trial because non-custodial parents are reluctant – and rightly so -- to agree to allow a custodial

parent to move out of Massachusetts if the result will be that, once six (6) months have passed, the left-behind non-custodial parent will be barred from going back to court in Massachusetts should circumstances change.

Enacting the UCCJEA will therefore make it easier for people to reach settlement agreements when the issue of removal arises. It will also create uniformity and cause far less confusion when a former Massachusetts resident seeks a modification in another jurisdiction. Currently in such cases, the former resident may try to convince the new jurisdiction that it should simply ignore the Massachusetts custody ruling.

The UCCJEA has built-in protections for victims of domestic violence, permitting their attendance at hearings by telephone, where warranted, and, in some cases, relinquishing jurisdiction to another state if reciprocal provisions are in place in that state. These protections can be improved with the adoption of a few friendly amendments proposed by the Boston Bar Association and the Women's Bar Association. Members of both organizations worked in collaboration over a period of many months to create small language adjustments to assuage concerns raised by domestic violence organizations in past years.

All of the other 49 states have already enacted the UCCJEA. In addition to the BBA, the UCCJEA has also been endorsed by the American Bar Association, the Massachusetts chapter of the American Academy of Matrimonial Lawyers, the

Massachusetts Bar Association, the Women's Bar Association the Massachusetts Council on Family Mediation, and the Polly Klaas Foundation for Missing Children .

The Boston Bar Association believes that the status quo is untenable for the vast majority of families who have parents living in different states. The BBA hopes that Massachusetts will not continue to be the only holdout on enacting the UCCJEA, and it is committed to enactment of a better custody jurisdiction law for Massachusetts in this legislative session. We believe the UCCJEA accomplishes this.