

STATES OF JERSEY

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DRAFT CHILD CUSTODY (JURISDICTION) (JERSEY) LAW 2005 (APPOINTED DAY) ACT 200-

**Presented to the States on 1st November 2005
by the Legislation Committee**

STATES GREFFE



Jersey

DRAFT CHILD CUSTODY (JURISDICTION) (JERSEY) LAW 2005 (APPOINTED DAY) ACT 200-

REPORT

This Law is related to the Family Law Act 1986 of the United Kingdom which laid down the jurisdictional bases for the granting of custody orders in England and Wales, Scotland and Northern Ireland. That Act established a clear procedure for recognition and enforcement in each part of the United Kingdom of custody orders made in another part. The key to recognition and enforcement lies in registration.

This Law provides Jersey with a statutory framework consistent with that extending throughout the British Islands (except Guernsey, at present) under which orders with regard to the custody of children throughout the United Kingdom can be recognised and enforced reciprocally.

Wider powers are conferred on the Royal Court to order disclosure of a child's whereabouts or to order the recovery of a child. The Law also empowers the Royal Court to give direct effect to orders made by a court in the United Kingdom prohibiting the removal of a child from the jurisdiction. This addresses the problem that a restriction imposed by a court in the United Kingdom on taking a child abroad is of no effect in Jersey. As part of its enforcement powers, the Royal Court will be able to require a person to surrender any United Kingdom passport issued to or containing particulars of the child.

The Law also makes provision for a child who has moved outside Jersey to be treated in certain circumstances as though he or she is still habitually resident in Jersey. This is to deter the unauthorised removal of a child from one jurisdiction to another for the purpose of delaying enforcement of a custody order, or initiating or re-opening custody proceedings in a forum which the person removing the child thinks would be more favourable to him or her.

This Law, together with the Child Abduction and Custody (Jersey) Law 2005 and the Criminal Law (Child Abduction) (Jersey) Law 2005, completes a statutory framework for the better safeguarding of children against the harm and disruption caused to them by abduction or by arbitrary removal from one jurisdiction to another. With the bringing into force of the Children (Jersey) Law 2002 and the enactment of this subsequent legislation, the legal structures of the Island in matters concerning the welfare of children will have been reformed in such a way that the Jersey courts and child welfare bodies will be able to operate fully and effectively at the international level.

There are no additional financial or manpower implications for the States arising from this draft Act.

Explanatory Note

This Act brings the Child Custody (Jurisdiction) (Jersey) Law 2005 into force on 1st January 2006. The Law was passed by the States on 5th July 2005 (P.107/2005) and received Royal Assent on 12th October 2005.



Jersey

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Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES, in pursuance of Article 26(2) of the Child Custody (Jurisdiction) (Jersey) Law 2005,^[1] have made the following Act –

1 Commencement of Child Custody (Jurisdiction) (Jersey) Law 2005

The Child Custody (Jurisdiction) (Jersey) Law 2005 shall come into force on 1st January 2006.

2 Citation

This Act may be cited as the Child Custody (Jurisdiction) (Jersey) Law 2005 (Appointed Day) Act 200-.

[1] L.28/2005.