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STANDARDS FOR THE PROTECTION OF CHILDREN FROM INTERNATIONAL ABDUCTION

Prefatory Note

In August, 2003, the National Conference of Commissioners on Uniform State Laws appointed a study committee to explore the feasibility of a uniform law to prevent child abduction in international custody disputes. The possible scope of the project was discussed at a meeting of the Joint Editorial Board for Uniform Family Law Acts on October 18, 2003. The Joint Editorial Board urged the NCCUSL Committee on Scope and Program to recommend the rapid creation of a drafting committee in this area.

Child abduction is a serious problem. The Office of Juvenile Justice and Delinquency Prevention estimated that 262,100 children were abducted in 1999; 203,900 of them (or 78%) were abducted by a family member. Stranger abductions accounted for only 115 cases. See Second National Incidence Studies of Missing, Abducted, Runaway, and Thrownaway Children (NISMAST-2) (Oct. 2002).

An abducting parent views the child’s needs as secondary to the parental agenda which is to provoke, agitate, control, attack or psychologically torture the other parent. D.C. Rand, The Spectrum of the Parental Alienation Syndrome, 15 AMER. J. FORENSICS PSYCHOLOGY 3 (1997). Indeed, while in a few instances a parent is protecting a child from real or imagined abuse, the primary motives appear to be to force a reconciliation with the other parent; to blame or punish the other parent; to reduce the fear of losing custody or visitation. Janet Chiancone, Parental Abduction: A Review of the Literature (U.S. Dep’t of Justice, OJJDP 2002).

Studies have demonstrated that preceding an abduction, there are warning signs, or common red flags, such as: (a) a parent has previously abducted the child or threatened to do so; (b) a parent has no strong ties to the child’s home state; (c) a parent has citizenship in another country, strong emotional ties to the country of origin; (d) a parent has friends or family living abroad; (e) a parent has a strong support network; (f) a parent has no financial reasons to stay in the area; (g) a parent is engaged in planning activities which indicate an attempt to move; (h) a parent shows a history of marital instability, violence or child abuse, or a prior criminal record. See Janet Johnston & Linda Girdner, Family Abductors: Descriptive Profiles and Preventative Interventions (U.S. Dep’t of Justice, OJJDP 2001); ABA, EARLY IDENTIFICATION OF RISK FACTORS FOR PARENTAL ABDUCTION (NCJ185026).

Studies have documented the emotional, and often physical, harm to abducted children. Abducted children suffer depression; loss of community; loss of medical benefits; loss of stability, security and trust; excessive fearfulness; loneliness; anger; helplessness; disruption in identify formation; and fear of abandonment. D.S. Huntington, PARENTAL KIDNAPPING: A NEW FORM OF CHILD ABUSE (1982); Patricia M. Hoff, KIDNAPPING: PREVENTION AND REMEDIES (ABA CENTRER FOR CHILDREN AND THE LAW 1997).
Texas and California both have statutes specifically addressing the problem of international child abduction. They have been passed with little opposition and set a framework to alert the court on concerns about abductions and methods to prevent it. The initial mandate to the committee was:

Resolved, that a drafting committee on the Prevention of Child Abduction in International Custody Disputes be approved by the Committee on Scope and Program to draft model or uniform legislation in this area, with an initial scope as suggested in this report.

The Conference subsequently appointed a Drafting committee on the Prevention of International Child Abduction with Lyle Hillyard, Utah, as chair. In addition to the drafting committee and official advisors, observers are Jeff Atkinson, ABA Family Law Section; Teresa Lauderdale, parent, Texas; Jenni Thompson, Polly Klaas organization; Lawrence R. Whyte, parent, Houston, Texas.

The first meeting was held on April, 2004. The committee decided to ask to expand the scope of the act because more child abductions occur within the United States than internationally. Seventy eight percent of all abductions are family abductions. 1773 family abductions occur for every stranger abduction. Families going through custody disputes and divorce proceedings are the highest risk group for potential abductions. When the kidnapper is kin, supra at 10-11.

The second meeting of the committee was September 10-12, 2004, in Chicago. The purpose of the Act is to deter child abductions by family members both inside and outside of the United States.
STANDARDS FOR THE PROTECTION OF CHILDREN
FROM INTERNATIONAL ABDUCTION

SECTION 1. SHORT TITLE. This Act may be cited as the Standards for the Protection of Children from Family Abduction Act.

Comment

The purpose of this Act is to deter child abductions by family members both within and outside of the United States through use of preventive measures. The Act is civil law. It ensures that courts are aware of and use as many preventive measures as may be necessary to prevent the abduction of a child. This Act complements other existing legislation aimed at protecting children from abduction, such as the Uniform Child Custody Jurisdiction and Enforcement Act, 9 U.L.A. Part I 657 (1999); the Uniform Child Custody Jurisdiction Act, 9 U.L.A. Part I 115 (1988); the Parental Kidnapping Prevention Act of 1980, 28 U.S.C. 1738A; the Hague Convention on the Civil Aspects of International Child Abduction, 51 Fed. Reg. 10494 et seq. (1986); and the International Child Abduction Remedies Act (ICARA), 42 U.S.C. § 11601-11610, which also seek to deter abductions.

There are also other federal laws aimed at helping to locate missing children, including the Missing Children Act, 28 U.S.C. 534 (1982)(requires law enforcement to enter complete descriptions of missing children into the National Crime Information Center’s (NCIC) Missing Person File, even if the abductor has not been charged with a crime. If the parent has been charged with a crime, it may be entered into the NCIC by federal, state, and local law enforcement agents. See http://www.fas.org/irp/agency/doj/fbi/is/ncic.htm;); Missing Children Act, 42 U.S.C. 5771 (1984)(which established the National Center for Missing and Exploited Children in the Office of Juvenile Justice and Delinquency Prevention); National Child Search Assistance Act, 42 U.S.C. 5779 & 5780 (mandates elimination of waiting periods before law enforcement takes a missing child report, including family abduction cases; requires immediate entry of information into the NCIC Missing Person file; Requires close liaison with the National Center for Missing and Exploited Children (NCMEC); State Missing Children Clearinghouses (all states have established missing children clearinghouses to assist in locating and returning children).

Federal and state laws also make parental kidnapping a crime. The International Parental Kidnapping Crime Act (IPKCA),18 U.S.C. 1204, makes it a federal felony to remove a child under 16 from the United States, or to retain a child outside the United States with the intent to obstruct the lawful exercise of parental rights. A federal appellate court held that the International Parental Kidnapping Act was applicable to a father who took his children from the United States.
to India even though the pre-decree abduction was not illegal under state law. United States v. Fazal-Ur-Raheman-Fazal, 355 F.3d 40 (1st Cir. 2004). The Fugitive Felon Act, 18 U.S.C. 1073 enhances the ability of states to pursue abductors beyond state and national borders; permits the FBI to investigate cases that would otherwise be under state jurisdiction and authorizes use of UFAP warrants in parental kidnapping cases. Extradition Treaties Interpretation Act of 1998, 18 U.S.C. 3181, authorizes the United States to interpret extradition treaties that list "kidnapping" as encompassing the offense of parental kidnapping. In addition, the Alien Exclusion Act, 8 U.S.C. (A)(9)(C)(I) provides that any alien who, in violation of a custody order issued by a court in the United States, takes or retains a child out of the United States, may be excluded from the United States.

Currently, almost every state criminally forbids custodial interference by parents or relatives of the child. States differ as to whether a custody order must exist.

SECTION 2. DEFINITIONS. In this [act]:

(1) “Abduction” means [unlawfully, unauthorized, wrongfully] taking, keeping, withholding access to, or concealing a child from a lawful custodian [for the purpose of removing the child to another jurisdiction] for the purpose of depriving the lawful custodian with rights of access.

(2) “[Certified][exemplified][teste] order” means a copy of an order relating to the legal or physical custody of or access to a child, certified as a true copy by the clerk of the court with which the original order was filed.

(3) “Child” means an individual under 18 years of age.

(4) “Child-custody determination” means a judgment, decree, or other order of a court providing for the legal or physical custody of, or visitation with, a child. The term includes a permanent, temporary, initial, and modification order.

(5) “Child-custody proceeding” means a proceeding in which legal or physical custody of, or visitation with, a child is an issue. The term includes a proceeding for divorce,
separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence.

(6) “Court” means a tribunal authorized under the law of a state to establish, enforce, or modify a child-custody determination.

(7) “Custodial parent” means a parent to whom a court has awarded sole or joint custody of a child.

(8) “International abduction” means [unlawfully, unauthorized, wrongfully] taking, keeping, withholding access to, or concealing a child from a lawful custodian [for the purpose of removing the child to another jurisdiction] for the purpose of depriving the lawful custodian with rights of access.

(9) “Jurisdiction” means a county, state, tribe or country.

(10) “Lawful custody” means the right to provide physical care to and exercise supervision over a child, pursuant to a court order or otherwise.

(11) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(12) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

[(13) “Tribe” means an Indian nation, tribe, or band, or Alaskan Native village, recognized by federal law or formally acknowledged by a state.]

Comment

A biological or legal parent has a natural right to the care and custody of a child. A
divorce or other legal proceeding may designate that a parent or another person is entitled to legal or physical custody. A parent who has visitation or access rights has the right to physical custody during the visitation periods.

The definition of a child as a person under age 18 is basically the same as in the Uniform Child Custody Jurisdiction and Enforcement Act and the Parental Kidnapping Prevention Act. State law determines when a child becomes emancipated before age 18 and whether a “disabled” child over the age of 18 would be included.

The definition of “child-custody determination” tracks both the UCCJEA and PKPA definition and encompasses any judgment, decree or other, regardless of local terminology, including such labels as “managing conservatorship” or “parenting plan.” One of the problems in this area is terminology. Both parents may retain legal custody rights, but only one parent at a time may have the right to physical custody. Therefore, abductions can occur against a parent who has visitation or access rights.

The definition of “child-custody proceeding” follows the Uniform Child Custody Jurisdiction and Enforcement Act.

SECTION 3. CONTENT OF ORDER FOR CUSTODY OF A CHILD.

(a) To facilitate the enforcement of the rights of lawful custodians, any order setting out the custody rights to a child [shall][may] contain all of the following:

(1) the basis for the court's exercise of jurisdiction;

(2) the manner in which notice and opportunity to be heard were given to the parent to whom custody was not granted;

(3) a clear description of the [parenting time, custody, visitation, or access rights] of each parent and the visitation rights of any one else who has been granted visitation;

(4) a provision stating that a violation of the order may subject the party in violation to civil or criminal penalties, or both[; and]

[(5) identification of the country of habitual residence of the child or children at the time of the child-custody determination.]
(b) The failure to include the provisions specified in subsection (a) does not invalidate a child custody determination or make the order unenforceable.

**Comment**

(1) Because subject matter jurisdiction is determined at the time of institution of the action, every child-custody determination should contain a statement specifying the basis for the court’s exercise of jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act or Uniform Child Custody Jurisdiction Act and the Parental Kidnapping Prevention Act, 28 U.S.C. 1738A. The more apparent on the face of the document that the court issuing the child-custody determination had proper jurisdiction, the more likely courts in other states and countries are to recognize the child-custody determination as valid. It is useful to include provisions to facilitate use of the Uniform Child Custody Jurisdiction and Enforcement Act and the Hague Convention on the Civil Aspects of International Child Abduction (implemented pursuant to 42 U.S.C. § 11601 et seq.).

(2) Due process requires that notice be given to interested parties. See UCCJEA § 205. There should be a statement that parties were properly served and given adequate notice.

(3) Vague language such as “reasonable visitation” can lead to conflicts between the parents and make it difficult for law enforcement officers to know if someone is violating the order. Parenting time and visitation should be defined as precisely as possible in the court order. The dates and times for each parent’s parenting time should be specified, including holidays and birthdays. Telephone or internet contact provisions should be included.

(4) Judges need to impress upon both parties the importance of complying with the court order. It is suggested that the order state in bold language: VIOLATION OF THIS ORDER MAY SUBJECT THE PARTY IN VIOLATION TO CIVIL AND/OR CRIMINAL PENALTIES.

(5) The requirement that the order identify the country of habitual residence of a child may have little use unless abduction is feared soon after the order is given. The determination of habitual residence under the Hague Convention on the Civil Aspects of International Child Abduction will be made by the court in the country to which the child has been abducted at the time the issue is raised. To determine habitual residence, the court must focus on the child, not the parents, and examine past experience, not future intentions. The determination is fact specific. See Mozes v. Mozes, 239 F.3d 1067 (9th Cir. 2001); Friedrich v. Friedrich, 983 F.2d 1396 (6th Cir. 1993). There can be only one habitual residence. Miller v. Miller, 240 F.3d 392 (4th Cir. 2001).

**SECTION 4. JURISDICTION.** A request for relief under this [act] may be
commenced in any court that has jurisdiction to make a child-custody determination or has jurisdiction over the respondent.

Comment

If the court has personal jurisdiction over the respondent, it is clear that the court can impose any restriction, including the posting of a bond and turning in a passport to the court. However, there is a question whether a court with only subject matter jurisdiction under the UCCJEA can take a passport from the respondent. It may be necessary to obtain personal jurisdiction over the respondent if the remedy selected is to force the person to give up documents or post a bond.

SECTION 5. PETITION. An individual who is a lawful custodian of a child may file a motion in a pending case or an independent petition alleging that there is a substantial risk that another individual will abduct the child.

Comment

Usually the petition will be filed by a parent who fears that the other parent or family members are preparing to abduct the child. There may be a question whether a state department of social welfare could file an action under the Child in Need of Care provisions.

SECTION 6. HEARING. For the court to provide relief under this [act], the petitioner must show by a preponderance of the evidence that, based on the factors set forth in Section 8, there is a substantial risk that the respondent will abduct the child who is the subject of the petition. If the court finds a substantial risk of abduction, it shall determine what measures, including those described in Sections 10 and 11, will best protect the child from abduction.

SECTION 7. EMERGENCY EX PARTE RELIEF. If a petitioner alleges that an emergency exists and abduction is imminent, and there is credible evidence to support the allegation, the court immediately shall issue an ex-parte order granting temporary relief to the
extent necessary to prevent the abduction until a hearing can be held.

Comment

This section allows the court issue relief immediately to prevent an abduction. Both UCCJA 3(a)(3)(ii) and UCCJEA 201 recognize that emergencies require prompt judicial action. In both statutes the child must be present in the state for a court to exercise emergency jurisdiction. See People v. Beach, 240 Cal. Rptr. 50 (Ct. App. 1987)(finding threatened abduction presents an emergency sufficient for the exercise of jurisdiction under the UCCJA and the issuance of an interim custody order prohibiting the removal of the child from the state). State law determines the time for a full hearing on the merits.

SECTION 8. GENERAL ABDUCTION RISK FACTORS.

(a) To determine whether there is substantial risk of the abduction of a child, the court may consider evidence that the respondent:

(1) has abducted the child;

(2) has threatened to abduct the child;

(3) lacks financial reason to stay in the jurisdiction; [including evidence that the respondent is financially independent, or is able to work outside of the jurisdiction, or has quit a job;]

(4) has recently engaged in a pattern of conduct that appears to include planning activities that could facilitate removal of the child from the jurisdiction, including:

(A) abandonment of employment;

(B) relocation activities, such as selling a primary residence or terminating a lease in the jurisdiction;

(C) extraordinary financial activities, such as closing bank accounts, liquidating assets, or hiding or destroying documents;
(D) applying for a passport, visa, or other travel documents,
purchasing airplane or other travel tickets for the respondent or for the child; or seeking to obtain
the child's birth certificate or school or medical records;
(5) has a history of domestic violence or child abuse;
(6) has a history of lack of cooperation with the court or ignoring or
violating court orders;
(7) has engaged in any other conduct the court considers relevant to the
possibility of abduction.
(b) In weighing the factors under subsection (a), the court must consider:
(1) any evidence that the respondent believed in good faith that the
conduct was necessary to avoid imminent harm to the child; and
(2) the age and maturity of the child.

Comment

The list includes the risk factors found in both the California and Texas statutes. See
CAL. FAM. CODE § 3408(b)(1); Tex. Fam. Code § 153.502. The risk factors are adapted from a
study done by Dr. Janet Johnston and Dr. Linda Girdner which found the risk factors to include
parents who have threatened to abduct or abducted previously; are suspicious and distrustful due
to a belief abuse occurred; are paranoid-delusional; are sociopathic; have no strong ties to the
child's home state but do have strong ties to another country; have engaged in planning activities;
have a history of marital instability, domestic violence and lack of parental cooperation; and feel
disenfranchised by the system. See Janet Johnston & Linda Girdner, Family Abductors:
Descriptive Profiles and Preventative Interventions (U.S. Dep’t of Justice, OJJDP 2001).

(b) One of the problems with the risk factors is that some of the same activities might be
undertaken by a victim of domestic violence. See Merle H. Weiner, International Child
Abduction and the Escape from Domestic Violence, 69 FORDHAM L. REV. 593 (2000); Claire
L’Heureux-Dubé, Cherishing our Children: The Role of the Hague Convention on the Civil
Aspects of International Child Abduction, V THE JUDGES’ NEWSLETTER 17, 19 (Spring 2003)
(stating “The Hague Convention . . . is not sensitive enough to the needs of mothers who abduct
their children in order to escape from abusive situations”).
SECTION 9. INTERNATIONAL ABDUCTION RISK FACTORS.

(a) If the threat of international abduction is alleged or raised, the court, in addition to the factors set forth in Section 8, shall also consider the following:

(1) whether the respondent has strong familial, emotional, or cultural ties to another country, particularly a country that is not a signatory to or compliant with the Hague Convention on the Civil Aspects of International Child Abduction; and

(2) whether the respondent lacks strong ties to the United States, regardless of whether the respondent is a citizen or permanent resident of the United States.

(b) In addition to the factors set forth in subsection (a), the court may consider:

(1) whether the respondent is undergoing a change in status with the United States [Homeland Security, INS] that would adversely affect the respondent’s ability to remain in the United States legally;

(2) whether an application by the respondent for United States citizenship has been denied;

(3) whether the respondent has forged or presented misleading or false evidence to obtain a visa, passport, social security card, or other identification card or has made a misrepresentation to the United States government; and

(4) whether the foreign country to which the respondent has ties:

(A) presents obstacles to the recovery and return of a child who is abducted to the country from the United States;

(B) does not have any legal mechanisms for immediately and effectively enforcing an order issued by this state regarding the possession of or access to the
child;

(C) has local laws or practices that would:

(i) enable the respondent, without due cause, to prevent the petitioner from contacting the child;

(ii) restrict the petitioner from freely traveling to or exiting from the country because of the petitioner's gender, nationality, or religion; or

(iii) restrict the child's ability legally to leave the country after the child reaches the age of majority because of the child's gender, nationality, or religion;

(D) is included by the United States Department of State on a list of state sponsors of terrorism;

(E) is a country for which the United States Department of State has issued a warning to United States citizens regarding travel to the country;

(F) does not have an embassy of the United States in the country;

(G) is engaged in active military action or war, including a civil war;

(H) is not a party to or compliant with the Hague Convention on the Civil Aspects of International Child Abduction according to the most recent report on compliance issued by the United States Department of State;

(I) does not provide for the extradition of a parental abductor and the return of the child to the United States; or

(J) poses a risk that the child's physical health or safety would be endangered in the country because of specific circumstances relating to the child or because of
human rights violations committed against children, including arranged marriages, lack of freedom of religion, child labor, lack of child abuse laws, female genital mutilation, and any form of slavery.

SECTION 10. GENERAL MEASURES TO PREVENT ABDUCTIONS.

(a) In determining which protective measures to take in the best interests of the child, the court shall consider:

(1) the state’s policy of providing both parents with meaningful access to their child;

(2) the risk of abduction of the child by a parent, family member, or someone acting in concert with a family member based on the court's evaluation of the risk factors;

(3) any obstacle to locating, recovering, and returning the child if the child is abducted; and

(4) the extent of physical and psychological harm to the child if the child is abducted.

(b) After considering the risk factors, if the court finds a substantial risk of abduction, the court may take any or all of the following measures to protect a child from abduction:

(1) appoint an attorney for the child;

(2) appoint an appropriate person other than the respondent as the [sole] custodian of the child;

(3) adjust the existing custodial relationship in such a way as to avoid the
risk of abduction;

(4) require supervised visitation or parenting time for the respondent by a visitation center or independent organization until the court finds that supervised visitation is no longer necessary;

(5) enjoin the respondent or any person acting on the respondent's behalf from:

(A) disrupting, or removing the child from the school, child-care facility, or similar facility in which the child is enrolled; or

(B) approaching the child at any location other than a site designated for supervised visitation;

(6) require the respondent to post a bond or provide other security in an amount sufficient to serve as a financial deterrent to abduction, the proceeds of which may be used to offset the cost of recovery of the child in the event there is an abduction;

(7) restrict the right of the respondent, petitioner, or other person subject to the proceeding to remove the child from the jurisdiction without permission of the other parent or the court;

(8) require the respondent to receive counseling on the harmful effects to the child and the criminal consequences of abduction of a child;

(9) require a party who has moved to another state to register the custody order in the other state, if there is a mechanism for registration, as a prerequisite to allowing the child to travel to that state for visits; and

(10) authorize the assistance of law enforcement.
Comment

To quell the fear that a parent may use the “risk of abduction” to alienate or deprive the other parent of access as a vindictive move, section (a) sets the framework for the court to consider the least restrictive measures to maximize opportunities for continued parental contact while minimizing the opportunities for abduction. For example, different protective measures may be warranted if the parent is contemplating an abduction to a neighboring state than to a foreign country which has a different culture and legal system which does not recognize the legal rights of women.

(a)(2) A judge finding that any of the risk factors have been proved by a preponderance of the evidence should not award joint custody. The finding of a risk factor is sufficient to overcome the presumption in favor of joint custody. The American Bar Association Family Law Section adopted a Model Joint Custody statute in August, 1989. The Model Statute Section 1 expressly states, “Joint custody is inappropriate in cases in which spouse abuse, child abuse or parental kidnapping is likely to occur.” The Model Statute also requires the court to consider “any history of or potential for child abuse, spouse abuse, or parental kidnapping” and “the geographic proximity of the parents to each other as this relates to the practical considerations of joint physical custody” when determining whether joint custody is in the best interests of the child.

(a)(4) Children abducted by family members often suffer severe lifelong emotional and psychological damage. Where children are missing for a lengthy period, their lives are different than those missing only a few days. In a 1983 study, 89 percent of sampled children who suffered or were threatened with family abduction showed symptoms of grief and rage toward the left-behind parent, as well as “mental indoctrination” perpetrated by the abductor. D.H. Schetky & L.H. Haller, Parental Kidnapping, 22 AM. ACAD. CHILD PSYCHIATRY 279, 284 (1983); Geoffrey L. Greif & Rebecca Hegar, When Parents Kidnap (1993); Rebecca L. Hegar & Geoffrey L. Grief, Impact on Children of Abduction by a Parent, A Review of the Literature, 62 AM. J. ORTHOPSYCHIATRY 599 (1992).


Psychologists have now classified family abduction as child abuse because of the intense secrecy, isolation and separation of the child from their loved ones and long term emotional trauma. Polly Klaas Foundation, America’s Hidden Crime: When the Kidnapper is Kin
(b) Bonds can be a deterrent. Judges in several states have required parents to post a bond to ensure compliance with court orders. See Rayford v. Rayford, 456 So. 2d 833 (Ala. Civ. App. 1984) ($5000 bond required where father had violated previous order and concealed children for three years).

(10) Many law enforcement officers are unclear about their role in responding to parental kidnapping cases. A provision in the custody order directing law enforcement officer to “accompany and assist” a parent to recover an abducted child may be useful. One study showed that 70% of law enforcement agencies reported that they did not have written policies and procedures governing family abduction cases. The United States Supreme Court is hearing a case against a police department in Colorado that failed to enforce a restraining order against the father who ultimately took and killed his three children. See Gonzales v. City of Castle Rock, 366 F.3d 1093 (10th Cir. 2004). The mother obtained a restraining order against the violent father; the father snatched the children from the street. The mother told police where the children were because the father called from an amusement park. The police failed to act. A few hours later the father was killed in a police shootout and the children were found in the car.

SECTION 11. MEASURES TO PREVENT INTERNATIONAL ABDUCTIONS. If the court finds it necessary to take measures to protect a child from international abduction, the court may order any or all of the following:

(1) order passport and travel controls, including controls that:

   (A) prohibit the respondent and any person acting on that person's behalf from removing the child from this state or the United States;

   (B) require the respondent to surrender any passport issued in the child's name, including any passport issued in the name of both the parent and the child; and

   (C) prohibit the respondent from applying on behalf of the child for a new or replacement passport or international travel visa;

(2) If the court believes the risk of abduction is minimal and allows the child to
travel, the court may require the traveling person to provide the court or the lawful custodian
with any of the following:

(A) the travel itinerary of the child;

(B) copies of round trip airline tickets;

(C) a list of addresses and telephone numbers where the child can be
reached at all times[; and]

[(D) an open airline ticket for the left-behind parent in case the child is
not returned.]

(3) Obtain an order from another country containing terms identical to the
custody and visitation order issued in the United States [recognizing that these orders may be
modified or enforced pursuant to the laws of the other country], as a prerequisite to allowing a
child to travel to that country for visits.

(4) Require the respondent to provide:

(A) to the United States Department of State’s Office of Children’s Issues
and the relevant foreign consulate or embassy:

(i) notice in record form of the court-ordered passport and travel
restrictions for the child; and

(ii) a properly authenticated copy of the court order detailing the
restrictions and documentation of the parent’s agreement to the restrictions; and

(B) to the court proof of receipt of the written notice to the United States
Department of State’s Office of Children’s Issues and to the relevant foreign consulate or
embassy of passport restrictions.
SECTION 12. RESTRICTIONS NOTED.

(a) If the court imposes any or all of the conditions listed in either Section 10 or 11, those conditions must be specifically noted on the [minute order] of the court proceedings.

(b) If the court determines there is a risk of abduction that is sufficient to warrant the application of one or more of the prevention measures authorized by Section 401 or 402, the court shall inform the parties of the telephone number and address of the [child abduction unit in the office of the district attorney] in the county where the custody or visitation order is being entered.

Comment

SECTION 13. UNIFORMITY AND APPLICATION AND CONSTRUCTION.

This [act] shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of [act] among the states enacting it.

SECTION 14. SEVERABILITY CLAUSE. If any provision of this [act] or is application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [act] which can be given effect without the invalid provision or application, and to this end the provisions of this [act] are severable.

SECTION 15. EFFECTIVE DATE. This [act] takes effect . . . .