



Parental Child Abduction Laws in the U.S.*

DOMESTIC LAWS

UCAPA – Uniform Child Abduction Prevention Act – 2006

(Only applicable in States that have adopted the Uniform language – check your State’s legal code for applicability)

Applies to pre-decree and intrastate cases, to emergency situations, and to cases in which risk factors exist and the current child-custody determination lacks abduction prevention measures (UCAPA prefatory notes). The Act allows the court to impose measures designed to prevent child abduction both before and after a court has entered a custody decree.

Under the Act, an action for abduction prevention measures may be brought either by a court on its own motion, by a party to a child-custody determination or an individual with a right to seek such a determination, or by a prosecutor or public attorney.

Courts will rule on the petition based on a variety of factors enumerated in the Act (available through the Illinois General Assembly at: www.ilga.gov/commission/lru/56.abduction.pdf).

***This Uniform Act must be adopted and enacted into law by each state. Presently, NV, UT, NM, CO, SD, NE, KS, LA, MS, TN, AL, FL, DC, PA, and MI have enacted UCAPA.*

MISSING CHILD LAWS

MCA - Missing Children Act – 1982

(Amending 28 USC §534)

The Act required law enforcement to strenuously investigate **every** missing-child case and enter all pertinent information about the incident into the NCIC (National Crime Information Center) Missing Person File (MPC). It also required the FBI to provide assistance in appropriate cases and confirm NCIC entries for the child’s parents/guardians (Missing and Abducted Children: A Law-Enforcement Guide to Case Investigation and Program Management, National Center for Missing and Exploited Children).

NCSAA - National Child Search Assistance Act – 1990

(NCSAA, 42 USC §§5779 and 5780)

The Act mandated that Federal, state, and local law-enforcement agencies will not establish or observe a waiting period before accepting a missing-child case; all agencies will enter, without delay, reports of missing children younger than 18 years of age into the NCIC MPC file; all agencies will update identifying information about each case in NCIC within 60 days; each case will receive proper investigative action; and all investigators will maintain a close liaison with NCMEC about appropriate cases (Missing and Abducted

* This document was last updated on November 15, 2018. If you identify any errors or additional statutes that should be included, please email your comments to us at: info@returnushome.com.

Children: A Law-Enforcement Guide to Case Investigation and Program Management, National Center for Missing and Exploited Children).

The Adam Walsh Child Protection and Safety Act – 2006
(Adam Walsh Act, Pub Law No 109-248)

The Act strengthened the Child Search Assistance Act (CSAA) with a mandatory entry of missing-child reports into NCIC **WITHIN TWO HOURS OF RECEIPT OF A REPORT** (specifying “without delay” from the original language of CSAA) (Missing and Abducted Children: A Law-Enforcement Guide to Case Investigation and Program Management, National Center for Missing and Exploited Children).

DOMESTIC CUSTODY AND JURISDICTION LAWS

UCCJA – Uniform Child Custody Jurisdiction Act – 1968
(Adopted in all states by 1981)

Established jurisdiction over a child custody case in one state, and protected the order of that state from modification in any other state, so long as the original state retains jurisdiction over the case. (Uniform Law Commission)

***This law was replaced by UCCJEA*

UCCJEA – Uniform Child Custody Jurisdiction Enforcement Act – 1997
(Adopted in 49 states and introduced in MA in 2016; not enacted in PR)

Increased UCCJA by making it compatible with PKPA by adding interstate civil enforcement for child custody orders **and** limiting the state with jurisdiction over child custody to one, avoiding competing orders (as opposed to only preventing modifications to existing orders per the limits of UCCJA) (Uniform Law Commission).

PKPA – Parental Kidnapping Prevention Act – 1980
(PKPA, 28 USC §1738A)

The Act prioritizes the state in which the child has lived for six months preceding the filing of a petition as the place for custody litigation and prohibits a second state from assuming jurisdiction if there is an action pending in the state that has proper jurisdiction (Uniform Law Commission).

The Act also, for the first time, extended federal investigative resources to local authorities. Specifically, PKPA expanded use of the federal Fugitive Felon Act (18 U.S.C §1073) to include parental kidnappings where the abductor has been charged with a felony and is known to have fled the state. Additionally, an Unlawful Flight to Avoid Prosecution (UFAP) charge could be placed against the abductor, enlisting the FBI and US Department of Justice (DOJ) resources. Finally, the Act extended the resources of the Federal Parent Locator Service (FPLS) to searches for abducting family members in the same manner it attempts to trace child-support delinquents (Missing and Abducted Children: A Law-Enforcement Guide to Case Investigation and Program Management, National Center for Missing and Exploited Children).

Child Safety Act (part of the Violent Crime Control and Law Enforcement Act – 1994
(VCCLEA, Pub L No 103-322)

The Act provides for the establishment of supervised visitation centers to permit children at-risk of harm from their families to visit them in a safer environment (Missing and Abducted Children: A Law-

Enforcement Guide to Case Investigation and Program Management, National Center for Missing and Exploited Children).

ICAPRA (Goldman Act) – International Child Abduction Prevention and Return Act – 2014 ***(ICAPRA, 6 USC 241)***

As required by Title III of the International Child Abduction Prevention and Return Act 6 U.S.C. 241, the Department of Homeland Security, U.S. Customs and Border Protection (CBP), in coordination with the U.S. Department of State and other federal agencies, has established the Prevent Abduction Program (PAP) which seeks to prevent the departure of a child from the United States when presented with an order from a court of competent jurisdiction which prohibits the child's removal from the United States.

Parents who are concerned their child will be abducted, or who have questions about the International Child Abduction Prevention and Return Act and other abduction prevention measures, may contact the Department of State Office of Children's Issues Prevention Branch at 1-888-407-4747 or via email at preventabduction1@state.gov. For further information on preventing International Parental Child Abduction, please visit <http://travel.state.gov/content/childabduction/english/preventing.html>.

INTERNATIONAL CUSTODY AND JURISDICTION LAWS

Hague Convention (Convention) – Hague Convention on the Civil Aspects of International Child Abduction - 1980

The Convention protects children from wrongful removal across international borders and provides procedures to aid in their safe return. The Convention's platform is intended to guarantee that one signatory nation will respect and follow the custody rights and laws of all other signatory nations. This Convention has been the principal mechanism for enforcing the return of abducted children to the United States. While the treaty authorizes the prompt return of the abducted child, it does not impose criminal sanctions on the abducting parent. The Convention does not act as an extradition treaty, nor does it purport to adjudicate the merits of a custody dispute. It is a civil remedy designed to preserve the status quo by returning an abducted child to the country of his or her "habitual residence" and allowing the judicial authorities in that country to adjudicate the merits of a custody dispute ([International Parental Child Abductions, Congressional Research Service, 2014](#)).

*** The Convention has been signed by the following countries (as of 11/15/2018): Andorra, Argentina, Armenia, Australia, Austria, the Bahamas, Belgium, Belize, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China (Hong Kong & Macau only), Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Lithuania, Luxembourg, Republic of Macedonia, Malta, Mauritius, Mexico, Monaco, Morocco, Netherlands, New Zealand, Norway, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Romania, Saint Kitts & Nevis, San Marino, Serbia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Thailand, Trinidad & Tobago, Turkey, Ukraine, United Kingdom (Anguilla, Bermuda, Cayman Islands, Falkland Islands, Isle of Man, Montserrat), Uruguay, Venezuela, and Zimbabwe.*

ICARA – International Child Abduction Remedies Act – 1988 ***(ICARA, 42 USC §11601)***

This Act empowers state and federal courts to hear cases under the Convention and allows the Central Authority access to information in certain American records regarding the location of a child and abducting parent. In the United States, the Office of Children's Issues (OCI) in the Department of State serves as the Central Authority in instances where children are wrongly removed from the United States. A

parent seeking the return of a child who the parent claims has been wrongly abducted may apply to the “Central Authority” of the child’s habitual residence or of any other signatory nation to the Hague Convention ([International Parental Child Abductions, Congressional Research Service, 2014](#)).

IPKCA – International Parental Kidnapping Crime Act – 1993 ***(IPKCA, 18 USC §1204)***

This Act makes it a criminal offense to remove a child from the United States or retain a child, who has been in the United States, outside of the United States with the intent to obstruct the lawful exercise of parental rights ([Missing and Abducted Children: A Law-Enforcement Guide to Case Investigation and Program Management, National Center for Missing and Exploited Children](#)).

The term “parental rights” refers to the right to joint or sole physical custody of a child obtained through a court order, a legally binding agreement between the involved parties, **or by operation of law**. A parent can use IPKCA as an affirmative defense, and it will not detract from the provisions of the Convention. IPKCA may provide the potential to prosecute wrongful acts of parents, but it cannot guarantee the return of children from foreign countries where their parents wrongfully removed them ([International Parental Child Abductions, Congressional Research Service, 2014](#)).

INA – Immigration and Nationality Act ***(48 U.S.C. §1182(a)(10)(C)(i))***

The Act provides that any alien who, in violation of a custody order issued by a U.S. court, takes or retains a child out of the United States, may be excluded from the United States. The exclusion applies only to aliens, not to U.S. citizens, and does not apply if the child is taken to or kept in a country that has ratified the Convention. The exclusion ceases to apply when the child is surrendered. This exclusion can also be applied to relatives or friends who assist in keeping the child abroad. This act may give the U.S.-based parent leverage in negotiating for the child’s return if the alien parent needs to reenter the United States for any reason ([International Parental Child Abductions, Congressional Research Service, 2014](#)).