

Suggestion: PARENT Act to be merged with H.R. 3240 (International Child Abduction Prevention Act)

What is the PARENT Act and how can it benefit H.R. 3240 (International Child Abduction Prevention Act)? The current house bill, H.R. 3240, proposes long-term solutions by establishing a State Department office that would focus on international child abduction, a crime that affects more than 10,000 American children each year. The proposed bill, the PARENT Act is a conglomerate of remedies suggested by various government agencies, Congress, experts on child abduction prevention, legal officials, and members of academia. It proposes immediate solutions that can strengthen critically weak areas in child abduction prevention, including the restructure of a dysfunctional federal system that has failed to protect children from becoming victims of international and interstate child abduction.

PURPOSE OF HR 3240 (INTERNATIONAL CHILD ABDUCTION PREVENTION ACT)

- Protect children from international child abduction by establishing effective mechanisms to provide assistance to and aggressive advocacy on behalf of parents whose children have been abducted from the United States to a foreign country.
- Creation of the U.S. State Department's Office on International Child Abductions (Ambassador-at-Large)
 - The office will coordinate with other United States agencies regarding criminal prosecutions, Interpol assistance in the issuance of warrants and alerts, pending cases, training etc.
 - Act as advisor to the U.S. President and Secretary of State about non-cooperative governments of countries regarding international child abduction cases. Suggest imposing penalties on countries that are non-cooperative.
 - Example according to H.R. 3240: the delay or cancellation of one or more scientific or cultural exchanges; public condemnation; withdrawal, limitation, or suspension of United States security assistance in accordance to the Foreign Assistance Act of 1961; direct U.S. executive directors of international financial institutions to oppose/vote against loans primarily benefitting the such government or the agency; limitation of benefits under the Trade Act of 1974.
 - Create an annual report about the issues of international child abduction.
- Promote an international consensus that the best interests of children are of paramount importance in matters relating to their custody, and that it is in the best interest of a child to have issues of custody determined in the State of their habitual residence immediately prior to the abduction;
- Facilitate the creation and effective implementation of international mechanisms, particularly the 1980 Hague Convention on the Civil Aspects of International Child Abduction, to protect children from the harmful effects of their wrongful removal and retention;
- Facilitate the compliance of the United States with reciprocal obligations contained in the Hague Convention regarding children wrongfully removed to or retained in the United States.

PURPOSE OF PARENTAL ABDUCTION RECOVERY, ENFORCEMENT, AND NETWORK TRAINING ACT (PARENT ACT)

- Establish appropriate federal resources that can assist parents of abducted children (aka left-behind parents).
 - Replace current dysfunctional U.S. State Department's Office of Children's Issues (OCI) that has been in forefront of mishandling international child abduction cases.
 - Hundreds of complaints by left-behind parents about OCI staff unqualified, not communicating, prematurely closing cases, not conducting any action, fabricating stories, and leaving after being assigned to the case (high turnover).
 - GAO recognizes OCI's poor record of resolving cases (March 2000)
 - Several past congressional hearings with numerous parents verifying OCI's inability to work with left-behind parents. "I am concerned that the U.S. Government does not serve as an effective advocate for American parents and children." - Senator Sam Brownback, Senate Committee on Foreign Relations regarding the Office of Children's Issues, S. Hrg. 108-200, June 26, 2003.
 - Suggestion: Establish a special division in the U.S. Justice Department capable of handling the hundreds of thousands of interstate and international child abduction cases.
 - According to a senior official from the National Center for Missing and Exploited Children (NCMEC), the DOJ's current division assigned to handle international child abduction cases, Child Exploitation and Obscenity Section (CEOS), does not have a trained staff to assist federal prosecutors. They are overwhelmed with the responsibility to handle other crimes against children, including responsibility to seek and prosecute child pornographers.
 - Less than a percent of the abductors involved in parental abduction received a federal warrant.¹
 - Out of an annual 350,000 cases of child abduction in the United States, about 10,000 of these cases are international parental abductions.² According to the Washington Post, there are over 2,000 cases of American children illegally held in Saudi Arabia.
- Strengthen federal laws that are rarely enforced or do not deter potential abductors.
 - Give federal prosecutors greater abilities to prosecute, such as, harsher penalties against abductors, prosecute or penalize family members who assist in the abduction, notify INTERPOL, etc.
 - International Parental Kidnapping Crime Act (IPKCA) or 18 USC §1204. The Act was to "deter the removal of children from the United States to foreign countries in order to obstruct parental rights."³ IPKCA⁴ was

¹ Timothy W. Maier, *All Talk, No Action on Stolen Children*, Insight on the News (FindArticles.com), June 21, 2001 (p. 3)

² William Rigler and Howard L. Wieder, *The Epidemic of Parental Child-Snatching: An Overview* (p. 1)

³ H.R.Rep. No. 103-390, at 1 (1993), *reprinted in* 1993 U.S.C.A.N. 2419, 2419

⁴ 18 USC §1204

designed to accomplish four purposes: (1) to ease extradition of the abductor by making parental kidnapping a federal offense; (2) to serve as a restraint; (3) to enhance international efforts when seeking the return of a child; and (4) to provide a clear message to other nations that the United States acknowledges the gravity of international parental kidnapping.⁵ However, the Act is rarely used because of a lack of trained personnel and indifference to the crime by Justice Department officials.

- The U.S. Justice Department's Office of Juvenile Justice and Delinquency Prevention Program admits weakness within its own agency: "Inadequate law enforcement response to parental abduction may be related to the fact that few jurisdictions have had much experience in prosecuting such cases."⁶
- The National District Attorneys Association concurs: "It should be the policy of every office to vigorously prosecute international parental kidnapping. A less than certain outcome to the case should not preclude formal charges. If the evidence is legally sufficient, a 'reasonable probability' of conviction supports proceeding with prosecution."⁷
 - According to the Justice Department: "INTERPOL is underutilized by law enforcement in international parental kidnapping cases.
 - According to the National District Attorneys Association, this "infrequent" prosecution of international child abduction cases is unacceptable and enforcement is essential: "When the prosecutor is presented with the case, one of four classic fact patterns is usually present: both child and the abductor are missing, the child has been located but not returned, the abductor has been located but is not within the jurisdiction of the court, or the child has been recovered and the abductor is within the prosecution's jurisdiction. Regardless of the particular scenario presented, prosecutors need to be aware of the special procedures involved in these cases, including possible civil avenues to affect the child's return, how to best use national and international investigatory resources that are available, and extradition procedures for the defendant. Prosecutors also need to be prepared to refute the myth that these cases are really family court matters and should not "waste" the resources of the criminal justice system."⁸
- Have NCMEC as the point of contact and liaison between left-behind parents and DOJ officials. NCMEC and DOJ successfully worked together in conjunction to child abduction cases until OCI removed these responsibilities two years ago.
- Establish greater means of educational assistance and national distribution of education to various government entities.

⁵ H. Rep. No. 103-390, at 3, *reprinted in* 1993 U.S.C.C.A.N. 2421

⁶ OJJDP Bulletin, Dec. 2001, pg. 7

⁷ Susan Kreston, *International Parental Kidnapping*, THE PROSECUTOR, 32.2 (March/April 1998)

⁸ Susan Kreston, *International Parental Kidnapping* (p. 1)

- Even if there are red flags forewarning the threat of parental abduction, family courts continue to permit children to accompany their parent to other countries regardless of the risk or consequences.
- Millions of dollars have been allotted to child abduction prevention and awareness; however, few people know about the courses or the literature. Additionally, no one wishes to learn.
- The Justice Department and NCMEC have literature regarding protection, prevention, and prosecution. As of now, there is little distribution or strong awareness of crime prevention courses.

SUMMARIZATION

By merging H.R. 3240 with the *Parental Abduction Recovery, Enforcement, and Network Training Act*, corrections can be made to restructure a dysfunctional federal system of resources and implement policies of enforcement and protection of children that fall victim to parental abduction. Just as “parental abduction” is worded in the PARENT Act as child abuse, there is also a call for the recognition and enforcement of parental rights that are protected under the Fourteenth Amendment of the U.S. Constitution. Furthermore, it implements special stipulations can to elevate the severity of this specific crime and promotes greater need of education about parental abduction to those who can make a difference.

Ideally, H.R. 3240 and the PARENT Act offer stronger diplomatic and prosecutorial powers. As of now, there is little to assist an abducted children or left-behind parent.