

PROPOSED LEGISLATION

The Parental Abduction Recovery, Enforcement, and Network Training Act

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The *Parental Abduction Recovery, Enforcement, and Network Training Act*©, or the PARENT Act, implements measures that can greatly eliminate past, present, and future acts of interstate and international parental abduction. Every year, hundreds of thousands of American children become victims of this crime because of the current system that fails to save the majority of them. Interstate and international parental abduction can be preventable through rebuilding resources designed to stop this crime and establishing greater enforcement of laws.

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INTRODUCTION OF PROPOSED LEGISLATION

“You join the ever growing number of parents that have voiced outrage at a system funded by your tax dollars, but cannot help you. You send nasty letters to OCI. You call your Congressman. You are going to change the system. You refused to be ignored. You are not going down without a fight. This is your child too. Before you know it, you are spending all your time trying to get someone---anyone to listen to you and help you find your child.”

▪“Shut Up and Sit Down”, Internet article by Maureen Dabbagh, mother of abducted daughter in Syria and founder of PARENT International

Currently H.R. 3240 (the International Child Abduction Prevention Act) offers means to improve federal resources to hinder international child abduction. While the intent is highly commendable to curb this escalating crime, there are potential weaknesses not being given attention. The *Parental Abduction Recovery, Enforcement, and Network Training Act*¹, or the PARENT Act is a proposed bill that has been reviewed by numerous members of Congress, but has not had the opportunity to be sponsored because of lack of understanding about international child abduction. The PARENT Act, if merged with H.R. 3240, eliminates any potential holes that could result in delays or further trouble in recovering children and prosecuting abductors.

The PARENT Act, focuses on eliminating parental abduction, a serious felony that threatens or destroys hundreds of thousands of children’s lives each year. Very often, a distraught parent of an abducted child (referred as a left-behind parent) seeks law enforcement assistance, legal help, or governmental support. The usual result is the parent returning home empty-handed.

The PARENT Act offers definite solutions to help resolve past, present, and future acts of international parental abduction. It proposes strategies to improve resources that have failed to stop interstate parental abduction and calls for greater enforcement of laws pertaining to these crimes.

Specifically, the PARENT Act concentrates on grand improvements within the federal structure that is responsible for the prevention of international and interstate child abduction. The Act proposes the following recommendations:

- 1)Restructure specific governmental offices to strengthen prompt and suitable action and assistance;
- 2)Construct policies that will insist better enforcement of laws pertaining to this crime;
- 3)Develop greater distribution of educational programs about child abduction prevention in local areas that are weakest throughout the United States;
- 4)Identify the need for a parent and child relationship to have the recognized protection guaranteed in the U.S. constitution to eradicate any false perceptions within legal circles that this crime is merely “a civil matter.”

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PARENTAL ABDUCTION

“Parental child abduction is not an act of love,” says Annette Marie Eddie-Callagain, an American lawyer with a private practice in Okinawa since 1995. “Eighty percent of parental abduction cases are motivated by revenge, and children become little pawns in the process.”

■ **“Think of the Children” by Kevin Buckland, *Metropolis Magazine*, Jan. 27. 2006**

Parental abduction has many names: parental child abduction, family abduction, family kidnapping, parental kidnapping, parental child kidnapping, parental child snatching, etc. Regardless of the name of the crime, it is a felony under state and federal statutes.² According to numerous governmental reports and legal definitions, the consensus is parental abduction encompasses the taking, retention or concealment of a child by a parent, other family member, or their agent, in derogation of the custody rights, including visitation rights, of another parent or family member. Unfortunately, a wide range of authorities with tremendous power by local, state, and federal government agencies are unfamiliar with this consensus or they simply prefer to disregard it. This is unacceptable. Whether it is a few children or, at present, hundreds of thousands of them, the Government is obligated to provide suitable protection from parental abduction.

Adding to the fear of a child abducted to another state is the potential threat of a child taken to a foreign country. There is a high rate of international parental abductions due to the increase of multicultural relationships, international marriages, and divorce rates, as well as the ease of global travel. Annually, tens of thousands of American children disappear from the United States because disgruntled parents, specifically those from other countries, choose to ignore U.S.-based custody orders and take matters into their own hands. The children from these crumbling marriages – forced into becoming pawns in a bitter divorce or tools of manipulation – vanish into countries that disregard foreign custody orders. For the left-behind parent seeking help, there is another obstacle ahead.

From the U.S. State Department and the U.S. Justice Department to the city police department, efforts to recover abducted children and prosecute abductors are – at best – minimal. Dubbed by the press as “incomprehensibly lackadaisical”³ for handling international child abduction cases, the Federal Government (including many lower government entities) misperceives the act of interstate or international parental abduction as non-violent, frivolous, or harmless.

Researchers and legal experts of parental abduction issues classify parental abduction as an insidious form of child abuse.⁴ Studies estimate a large percentage of children who are abducted become severely emotionally disturbed.⁵

² Examples: 18 USC §1204, 28 U.S.C. §1738A, and the International Child Abduction Remedies Act, 42 U.S.C. § 11601(a)(1)(“The Congress makes the following findings: (1) The international abduction or wrongful retention of children is harmful to their well-being . . .”)

³ *Stolen Children*, Editorial, WASHINGTON POST, May 9, 2000, A-30

⁴ Dorothy S. Huntington, Ph.D, *Parental Kidnapping: A New Form of Child Abuse* (p. 7); Patricia Hoff, *Parental Kidnappings: Prevention and Remedies*, American Bar Association (2000) (p. 1); Susan Kreston, *Prosecuting International Parental Kidnapping*, 15 NOTRE DAME JOURNAL OF LAW, ETHICS & PUBLIC POLICY 533 (2001)

⁵ Nancy Faulkner, PhD, *Parental Abduction is Child Abuse*, (presented to United Nations Convention on Child Rights), June 1999; William Rigler and Howard L. Wieder, *The Epidemic of Parental Child-Snatching: An Overview*;

According to a report by Patricia Hoff, Legal Consultant to the American Bar Association Center on Children and the Law:

“Abducted children suffer emotionally and sometimes physically at the hands of their abductors. Many children are told the other parent is dead or no longer loves them. Uprooted from family and friends, abducted children may have their names and appearances altered, and may be under strict instructions not to reveal their true identities or circumstances. Indeed, abducted children may be taught to fear the very people who could help them: police, teachers, doctors, etc. They may be kept out of school to avoid detection through school records. Because of the harmful effects on children, parental kidnapping has been characterized as a form of child abuse.”⁶

Researchers have documented cases demonstrating a majority of abducted children with symptoms of emotional distress, including anxiety attacks, societal disorders, eating problems, and nightmares. In her report to the United Nations titled “Parental Abduction is Child Abuse”, Dr. Nancy Faulkner identifies some these harmful disorders as Reactive Attachment Disorder, Learned Helplessness, Acute Stress Disorder, Post-Traumatic Stress Disorder, and various fears and phobias.⁷ Nevertheless, abducted children continue to vanish from their homes and the current resources, assigned to recover them, remain mostly stagnant.

How many children disappear from this “form of child abuse”?⁸ Despite the implementation of outstanding child safety measures like Amber Alerts, interstate child abduction continues at an alarming speed in the U.S. The National Center for Missing and Exploited Children (NCMEC) says abductions by parents are five times likely to occur than by strangers⁹. In the report titled *The National Incidence Studies of Missing, Abducted, Runaway, and Thrownaway Children* (NISMART II), statistics reveal an “estimated 203,900 children were victims of a family abduction in 1999.”¹⁰ About 10,000 of these cases are parental abductions to a foreign country each year.¹¹ Thousands of these abductions cases include American children kidnapped to countries that hold anti-American sentiment, possess extreme gender bias based on cultural or religious beliefs, lack protection of children’s rights, harbor terrorists, have no legal mechanisms to enforce custody orders, or reject foreign court orders in general.

So where can a left-behind parent go for help?

Susan Kreston, *Prosecuting International Parental Kidnapping*, 15 NOTRE DAME JOURNAL OF LAW, ETHICS & PUBLIC POLICY 533 (2001)

⁶ Hoff, *Parental Kidnappings: Prevention and Remedies*, p. 1

⁷ Nancy Faulkner, PhD, *Parental Abduction is Child Abuse*, (presented to United Nations Convention on Child Rights), June 1999

⁸ Susan Kreston, *Prosecuting Parental Kidnapping*, American Prosecutors Research Institute, 11:4 (1998)

⁹ Charles F. Hall, *International Child Abductions: The Challenges Facing America*, (April 9, 2004). *bepress Legal Series*. Working Paper 240. (p. 2)

¹⁰ *Highlights From the NISMART Bulletins*, Office of Juvenile Justice and Delinquency Prevention. U.S. Department of Justice. Washington, DC: (October 2002) (p.2)

¹¹ William Rigler and Howard L. Wieder, *The Epidemic of Parental Child-Snatching: An Overview* (p. 1)

DYSFUNCTIONAL FEDERAL RESOURCES

“Although the U.S. government -- specifically the Justice and State departments -- can assist parents in retrieving abducted children, their efforts are uneven at best. Parents complain that the Justice Department has little interest in their cases and that the State Department is unwilling to disrupt diplomatic relations over abducted children. Written policy directs consular officials to remain neutral, no matter the circumstances.”

■ **“Indifference Adds to Parents Horror”** by Cindy Loose, *Washington Post*, Dec. 24, 2000

There are clear distinctive gaps that exist in federal services that greatly obstruct left-behind parents’ efforts to recover their abducted children. These gaps are no secret to members of Congress because of the loud number of complaints by parents seeking their abducted children, the abysmal record of recovery, and previous Congressional hearings.

When international parental child abduction occurs in the U.S., the Federal Government can assist left-behind parents in two ways: (1) by conducting international effort to contact or the return the abducted child, or (2) by pressing federal prosecution and bring the abducting parent to justice.

Sadly, thousands of parents are constantly telling Congress this is not happening.

Failure at Diplomacy

“I am now going into my seventh year since my children were taken and (Office of Children’s Issues) have done very little in regards to the return of my children.”

■ **Joanna Stephenson, mother of three children abducted to Saudi Arabia**

When the United States became a signatory to The Hague Convention of Civil Aspects on International Child Abduction in 1988, the U.S. State Department’s Bureau of Consular Affairs was designated Central Authority to fulfill treaty obligations relating to the abduction of children.¹² In 1994, the Office of Children’s Issues (OCI) was incorporated into the U.S. State Department to devise and manage various policies and programs regarding adopted and abducted children as well as provide direction for American embassies and consulates about these issues. Recently, OCI added to its list of responsibilities the handling of outgoing international child abduction cases (American children illegally taken to other countries).

According to government reports, news articles, and personal testimony, the Office of Children’s Issues has made little progress to recover American children.

Hundreds of left-behind parents, angered by the ineptness of OCI, have vented to members of the House and Senate for over ten years. In response, there have been outcries by members of Congress and by others in congressional hearings regarding this problem. As Representative Dianne Watson of California observed, “given the terrible pain of each and every American

¹² See Exec. Order No. 12648, 53 Fed. Reg. 30637 (1988).

parent in these cases, the current state of affairs is absolutely unacceptable. We must do more to resolve cases, and to end the pain of families whose dear children have disappeared.”¹³

Nevertheless, OCI continues its ineffective path of unresolved cases. Abducted children remain illegally held in foreign countries; more children will disappear. Abductors freely walk without fear or concern that they broke the law and destroyed the lives of children.

If any effort is conducted by the Office of Children’s Issues to press the return of any abducted child, it is weak. Critics within the Government call the office’s diplomatic tactics as passive and unreliable; its strategies to encourage or press foreign governments to return abducted American children are mostly unproductive.¹⁴ For example, OCI will occasionally submit a letter to a foreign government requesting attention to a particular abduction case. These letters rarely bring children home.

Paul Marinkovich, a parent of a former abducted child, concurs the Office of Children’s Issues has been a failure of their responsibilities. In front of the U.S. Senate Foreign Relations Committee, he stated:

“...it is equally disturbing that our own State Department Office of Children’s Issues is sending a clear message out to all the Central Authorities involved that we are not concerned about our children. This is shown by their lack of return correspondence, their constant turning over of personal, their ridiculously vague and soft treatment of violations by other Central Authorities, their inherent lack of knowledge and training regarding foreign laws, and their overall lack of concern for the parents they are supposed to support. If I use my terribly mismanaged case as a barometer as to how the OCI is doing, then I can’t begin to imagine the lack of support other parents with softer voices are receiving from the OCI.”¹⁵

As an example to the above statement, OCI advises a left-behind parent to review a list of attorneys provided by an embassy or consulate to hire an attorney from the country that is illegally holding the child and seek custody.¹⁶ The list is usually outdated or contains names of inexperienced lawyers. Additionally, OCI does not offer to cover expenses for an attorney; the office merely suggests to the grieving parent to hire one.

This suggestion could generate greater trouble for many left-behind parents.

¹³ *A Parent's Worse Nightmare: The Heartbreak of International Child Abductions: Hearing before the Committee on International Relations, House of Representatives, 108th Cong., 2nd Sess., U.S. House of Representatives, (June 22, 2004) (p.31)*

¹⁴ *Foreign Affairs: Specific Action Plan Needed to Improve Response to Parental Child Abductions*, United States General Accounting Office. Report to the Chairman, Committee on International Relations, House of Representatives, March 2000 (p. 9); George Gedda, *Parents of kids taken away ask: About us?* LAREDO MORNING TIMES (AP News), April 19, 2000, 14A.

¹⁵ *Hearing on Implementation of the Hague Convention on the Civil Aspects of International Child Abduction Before the House Committee on International Relations, 106th Cong. (October 1, 1998)*

¹⁶ U.S. Department of State, *International Parental Child Abduction*, Web site

For instance, various parts of the Middle East and Africa believe a woman is a “second class” citizen or has an inferior social status. Within the context of Islamic law, gender bias hinders a fair and objective decision from a court of law that often favors the male¹⁷. In other words, an American mother seeking the return of her abducted child in *sharia* court will likely lose. Other countries object to this lack of equal treatment. Britain’s highest court, the House of Lords, condemn Islamic Law’s discrimination of women by calling it a violation to the “core principle in the protection of human rights.”¹⁸ According to the *Washington Post*, approximately 2,000 American-born children were illegally taken to Saudi Arabia by 2000¹⁹. The Office of Children’s Issues downplays those numbers and recognizes only 35 abduction cases of American children²⁰. Despite the differences, the majority of these children remain missing.

Some other countries prefer a different direction in gender bias. Fathers seeking custody are denied parental rights.

An example is Japan, a non-signatory to the Hague Convention criticized by law experts as “a haven for paternal child abduction”²¹. Despite Japanese laws addressing custody in “the best interests of the child, these civil law courts are known for decisions swayed by gender, disfavor joint custody, and lack laws recognizing parental abduction.

Complaints to the Japanese courts about mediators’ favorable decisions to mothers are common and often ignored. According to a *San Francisco Chronicle* article about parental abduction and Japan, “Fathers who insist on their rights may be told by family court mediators, ‘Children don’t need a father all the way to age 18.’”²²

An American father thrust into a Japanese custody hearing an expect greater problems. In the United States, courts often give foreign child custody orders *full force and effect* in observance to the Uniform Child Custody and Jurisdiction Enforcement Act or related state laws. Japanese courts take an opposite stance. There are documented cases of Japanese court officials thumbing their noses to U.S. custody orders and parental rights. Japanese judges in international custody hearings demonstrate favorable “clear bias” to a Japanese mother.²³ A U.S. government official from the American embassy in Tokyo concurs, “An American parent in Japan may not be awarded any visitation rights at all in a divorce action.”²⁴ Walter Benda, a Virginia father of two abducted daughters in Japan, fought for his parental rights to the highest courts of Japan. Sadly, the courts shunned his rights. Benda agrees being an American and a father in a Japanese court

¹⁷ Sam Brotman et al, *Implementing CEDAW in North Africa and the Middle East: Roadblocks and Victories*, Middle East and North Africa (MENA) Report, (March 3, 2008) (p. 6)

¹⁸ Robert Verkaik, *Court rules Islamic law discriminatory*, The Independent UK, October 23, 2008

¹⁹ Cindy Loose, *Abduction Cases Draw Ire on Hill*, WASHINGTON POST, March 24, 2000, A04

²⁰ *The Department of State's Office of Children's Issues - Responding to International Child Abduction: Hearing before the Committee on Foreign Relations, United States Senate, 108th Cong., 1st Sess.* (June 26, 2003) (p. 42)

²¹ Colin P. A. Jones, *In the Best Interests of the Court: What American Lawyers Need to Know about Child Custody and Visitation in Japan*, 8 ASIAN-PACIFIC LAW AND POLICY JOURNAL 166 (Spring 2007) (p. 167)

²² Colin P. A. Jones, *Child custody in Japan isn't based on rules*, SAN FRANCISCO CHRONICLE, August 27, 2006, E-3

²³ Kirsten Brown, *Frustrated fathers of abducted children turn to public for support*. December 12, 2006. Scripps Howard Foundation Wire

²⁴ *Harboring stolen children: int'l kidnapers find safe haven in Japan*, Kyoto News, Kyoto News on the Web, September 17, 2007

are grounds for downfall. “Just by virtue of being born a Japanese citizen or by virtue of having abducted your children to Japan,” he says, “you're able to have 100 percent control of your children and deny contact to every other person...including the father and the extended family.”²⁵

Even if courts in Japan granted joint custody or visitation to an American parent, there are no reliable mechanisms to enforce the court orders. Custody and visitation orders are generally unenforceable leaving opportunity for the abducting parent to continue violation of court orders without penalty²⁶

The State Department admits American parents are “greatly disadvantaged in Japanese courts.” The State Department also claims, “there is no preferential treatment based on nationality or gender.”²⁷

Failure at Enforcement

“I don't think they have anywhere close to the sense of urgency and dedication that we as parents feel and require.”

- **Walter Benda, father of two daughters abducted to Japan and co-founder of the Japan chapter of the Children's Rights Council**

The probability of children abducted to a foreign country and returning to the United States is rare is due to federal authorities infrequent enforcement of current U.S. laws pertaining to international parental abduction.²⁸ Because of this current dilemma that clogs the process of prosecution and recovery, it is ever more clear that law enforcement officers and prosecutors need education about parental abduction.²⁹

In 1993, Congress passed the International Parental Kidnapping Crime Act (IPKCA), which made it a federal felony to remove a child from the United States or to retain a child (who has been in the United States) outside the United States. The Act was to "deter the removal of children from the United States to foreign countries in order to obstruct parental rights."³⁰ IPKCA³¹ was 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.³² Unfortunately, the U.S. Justice Department rarely complies with IPKCA because of a lack of trained personnel and indifference to the crime by Justice Department officials.

²⁵ *Harboring stolen children: int'l kidnappers find safe haven in Japan*, Kyoto News

²⁶ Colin P. A. Jones, *Child custody in Japan isn't based on rules*, SAN FRANCISCO CHRONICLE

²⁷ U.S. Department of State, *International Parental Child Abduction*, Web site

²⁸ Daniel Levine, *America's Stolen Children*, READER'S DIGEST, September 1999 (p. 36)

²⁹ Susan Kreston, *Prosecuting International Parental Kidnapping*, 15 NOTRE DAME JOURNAL OF LAW, ETHICS & PUBLIC POLICY at pg. 579

³⁰ H.R.Rep. No. 103-390, at 1 (1993), *reprinted in* 1993 U.S.C.C.A.N. 2419, 2419

³¹ 18 USC §1204

³² H. Rep. No. 103-390, at 3, *reprinted in* 1993 U.S.C.C.A.N. 2421

Within the U.S. Justice Department, issues pertaining to international parental abductions cases are assigned to the Child Exploitation and Obscenity Section (CEOS), a subsidiary within the Criminal Division. This division was created in 1987 to “protect the welfare of America’s children and communities by enforcing federal criminal statutes relating to the exploitation of children and obscenity.”³³ While calling itself “the nation’s experts in child exploitation and obscenity issues”, CEOS also counsels Assistant United States Attorneys actively handling or are considering international parental kidnapping prosecutions. This office is also designated to provide training to federal prosecutors and law enforcement officials regarding issues about international parental kidnapping such as federal laws and the Hague Convention. According to its Web site, “CEOS attorneys respond to inquiries from left behind parents and other members of the public regarding the resources available relating to international parental kidnapping.” This is not true as of today. The National Center for Missing and Exploited Children (NCMEC) is a private non-profit organization working in partnership with the U.S. Department of Justice to find and recover missing children and prevent child victimization. According to a senior official from NCMEC, CEOS lacks attorneys trained to handle international parental kidnapping cases.³⁴

For abductors, this lack of trained personnel is their doorway to escape from prosecution. Not only are they out of arm’s reach of the law by hiding in another country, but it’s unlikely any reach will be made.

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. A nationwide survey of 74 prosecutor’s offices, conducted by the American Prosecutors Research Institute [citation omitted], found that 78 percent of respondents handle only 1 to 5 parental abduction cases per year, 90.3 percent handle between 1 and 20 such cases per year, and only 4.2 percent handle more than 100 cases per year. The same survey found that just 1 in 25 prosecutor’s offices has a specialized parental abduction unit. Most parental abduction cases (57.5 percent) are handled by nonspecialists or by designated attorneys and the rest are handled by various designated units (domestic violence, family crimes, special assault, or child abuse).”³⁵

In addition to these shocking statistics, less than a percent of the abductors involved in parental abduction received a federal warrant.³⁶ In his written testimony before the Senate Foreign Relations Committee in 1998, left-behind parent Paul Marinkovich accused federal prosecutors of placing little priority to uphold the law that could stop international parental abduction.

³³ U.S. Department of Justice. *Child Exploitation and Obscenity Section (CEOS) Web site*

³⁴ In a letter sent to author, June 25, 2008

³⁵ Janet Chiancone et al, *Issues in Resolving Cases of International Child Abduction by Parents*, OJJDP JUVENILE JUSTICE BULLETIN (2001) (p. 7)

³⁶ Timothy W. Maier, *All Talk, No Action on Stolen Children*, Insight on the News (FindArticles.com) June 21,2001 (p. 3)

“So if strict enforcement of laws are a deterrent to crime, then what type of message is our Justice Department giving the American people by prosecuting only 1/100th of one percent of those who violate the International Parental Kidnapping Crime Act of 1993? How effective of a deterrent to the crime of International Parental Kidnapping is the issuance of a warrant for 1/10th of one percent of those who violate the International Parental Kidnapping Crime Act of 1993?

In Washington, D.C., an FBI representative admitted their field offices give priority to Crimes Against Children (CAC) violations that present the most immediate threat to children. “CAC matters related to non-family child abductions, the ongoing sexual exploitation of children, and child sex offenders, have been determined to pose the most immediate threats to children,” said FBI spokesperson Angela Bell. “Domestic and international parental kidnappings are also regarded as an important crime; however, the children often are not in imminent danger in most cases.”³⁷ Although psychologists and legal experts disagree and adamantly call it “child abuse”, the current misperception of the child not being in imminent danger signifies the dire need for greater parental abduction prevention.

Experts claim the failure to enforce the law is not only harming the left-behind parent, but is also creating greater perils for the abducted child. Maureen Dabbagh, mother of an abducted daughter in Syria and founder of the Virginia-based P.A.R.E.N.T. International, an advocacy organization to increase awareness about international parental abduction emphasizes the need for policies to enforce IPKCA must be established: “While the International Parental Kidnapping Crime Act does not put into place stipulations and conditions upon issuing such a warrant, individuals tasked with enforcing the law, often do. Unfortunately, the child suffers as the case is denied proper and aggressive criminal pursuit. These delays and improperly imposed conditions on issuing warrants have prevented effective case resolution.”³⁸

The Justice Department admits it is not often they prosecute under IPKCA. As previously stated, a federal warrant is issued to less than one percent of the abductors implicated in international parental abduction. Additionally, prosecutors assume “a U.S. indictment will prevent children from being returned.”³⁹ Former Senator Mike DeWine says these excuses reflect how low parental abduction is prioritized. He noted to Justice Department officials, “All I hear you say is why you can't do things.”⁴⁰

The National District Attorneys Association concurs excuses have to stop and enforcement must be top priority. According to former Deputy Director Susan Kreston, the possibility of abduction taking place must warrant immediate federal action: “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.”⁴¹

³⁷ From a 2003 interview with the author

³⁸ From a 2003 interview with the author.

³⁹ Timothy A. Maier, *Justice Ignores Stolen Kids*, Insight on the News (FindArticles.com), November 20, 1999

⁴⁰ Timothy A. Maier, *Justice Ignores Stolen Kids*, Insight on the News

⁴¹ Susan Kreston, *International Parental Kidnapping*, THE PROSECUTOR, 32.2 (March/April 1998)

Failure at Organization and Cooperation

“Working with the State Department was very frustrating. It was more talk than action.”

▪Mari Huscio, mother of Adam Haseeb who was abducted and killed in Syria.

When children are abducted to another country, left-behind parents compare their search for federal help like wandering in an elaborate labyrinth. Weeks, months, or years can transpire as left-behind parents roam aimlessly to locate a reliable primary contact within the Federal Government who can provide support and direction to recovery of their children and prosecution of the abductors.

Currently, the U.S. State Department, the U.S. Justice Department, and the National Center for Missing and Exploited Children have functions regarding international child abduction cases. This creates a problem because the U.S. State Department and U.S. Justice Department have analogous yet different roles regarding child recovery, extradition, and prosecution of an abductor to the United States. NCMEC, with its vast resources and manpower, remains mostly a clearinghouse on this issue.

Another important element missing is a central point of contact within the Federal Government for left-behind parents. Without a specific point of reference for left-behind parents to gain pertinent information about the status of their cases, further anxiety develops. The Office of Children’s Issues only apprises left-behind parents on the status of their civil cases; however, the office typically does not have access to information regarding the criminal aspects of these cases. Parents must struggle to seek this information from the Justice Department. However, there is no point-of-contact person designated to handle abduction cases.

According to a report by the United States General Accounting Office, there were many problems regarding the proper handling of abduction cases by the U.S. State Department and U.S. Justice Department. The report cited a failure to enforce the 1980 Hague Convention on the Civil Aspects of International Child Abduction⁴². It noted:

“The State and Justice Departments have recognized that they have problems and have planned actions they believe will correct most of them. For example, they plan to close gaps in federal services to left-behind parents, develop an integrated case-tracking system to manage international child abduction cases and undertake studies to improve compliance with the Hague Convention. Although some progress has been made in these areas, their plans lack the details necessary for effective implementation. For example, State and Justice have not developed a clear strategy or plan that defines measurable goals, objectives, and resources required to fully implement their planned actions.”⁴³

⁴² See 29 ILM 1501 (1980): a multilateral treaty that seeks to protect children from the harmful effects of abduction and retention across international boundaries by providing a procedure to bring about their prompt return.

⁴³ *Foreign Affairs: Specific Action Plan Needed to Improve Response to Parental Child Abductions*, United States General Accounting Office. Report to the Chairman, Committee on International Relations, House of Representatives, March 2000(p. 6)

Today, there is no clear strategy or plan. Consequently, gaps have greatly increased between the two departments and National Center for Missing and Exploited Children.

On August 1, 2008, the State Department assumed responsibility of all incoming international parental abduction cases that were once managed by NCMEC in collaboration with the Justice Department. Despite NCMEC's highly successful rate of returning abducted children to their home countries, no explanation for stripping this organization of this responsibility was cited.

Eight years after the GAO report, the Justice Department has not established a clear strategy or plan. This lack of action is clearly attributable to the lack of trained attorneys in CEOS to assist federal prosecutors with international child abduction cases.

POOR EDUCATIONAL NETWORK

“The Federal Government continues to be of no help.”

▪Michael Shannon, father of two sons abducted to Egypt in 2001.

Despite vast amounts of literature provided by experts and child abduction organizations about parental abduction, a large majority of judicial, legal, and law enforcement officials remain uninformed or unaware of this information. Appallingly, some officials with knowledge of these available resources choose not to set aside time to educate themselves about the legalities concerning parental abduction and the severities of the crime.

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. In Fresno, California, a superior court judge ignored the written confession of a Russian mother that admitted her two abductions in 1998. Without safeguards in the custody order, the court permitted the child to accompany the mother to Moscow in 1999. The child remains missing today.

For most state and federal courts in the United States, any forethought about international parental abduction is usually overlooked because judges and lawyers do not grasp the simplest concept that legal actions/rulings within their courts are insignificant or unenforceable in many countries.

So why are millions of dollars of educational resources not being distributed in areas needed most? Failure to educate greatly exacerbates the problem of child abduction. Without knowing how to prevent child abduction, where to find prosecutorial support, or what law enforcement is available, this lack of knowledge creates a conundrum for many law enforcement officers and judicial officials. In a 1999 Office of Juvenile Justice and Delinquency Prevention Program report:

“INTERPOL is underutilized by law enforcement in international parental kidnapping cases. Federal, State, and local law enforcement could make significantly greater use of INTERPOL as to abductions in progress and completed abductions. INTERPOL’s communications network may facilitate the interception of an urgent matter or the resolution of a longstanding one. Law enforcement needs training on immediate responses following an abduction, as well as on completed abductions, including contacting INTERPOL for appropriate assistance.”⁴⁴

This prevalent problem about understanding this crime often creates prejudicial viewpoints. For years, cries of parental abduction have fallen onto indifferent attitudes of local police, county sheriffs, state troopers, and county district attorney offices. The most common and ludicrous response is abduction cases must be handled outside the criminal justice system because they are civil in nature; another apathetic response is a parental abduction case is not within their jurisdiction. These misperceptions create greater chaos for a left-behind parent struggling with the loss of the child. That parent is redirected from one governmental bureaucracy to another.

Maureen Dabbagh of P.A.R.E.N.T. International agrees ignorance of the law produces unwarranted or local policies that contradict federal or state laws. “Many parents are unable to get warrants based on regional policy and are frustrated when law enforcement denies their request,” says Maureen. “To make matters worse, it is not the law that restricts the issuance of federal warrants when a child has been abducted, but rather individuals within law enforcement that apply policies that would define when a warrant would be issued, even when there is no question that a crime has been committed.”

Absurdly, there is greater attention by federal authorities to return abducted children illegally held in the United States to their home countries, regardless if the country is a signatory of the Hague Convention. Since 1996, the U.S. Justice Department and the National Center of Missing and Exploited Children held the reigns to returning foreign children. NCMEC’s handling of these cases, with assistance of federal prosecutors, resulted in a 90 percent return.⁴⁵ In 2000, the Elian Gonzalez incident drew much media attention. The Justice Department demonstrated its capability ignore public tension and act in the best interest of the child by sending law enforcement to recover and return the child to the custodial father from Cuba. Why does the Justice Department take precedence to recover foreign children rather than American children? Senator Patrick Leahy told the U.S. Senate he is “deeply concerned that the energy and effectiveness that our government showed in reuniting Elian and his father does not always seem to apply to its attempts to reunite American children and their parents.”⁴⁶

In response to NCMEC’s work to help recover children, the Office of Children’s Issues – noted for their shoddy handling of outgoing cases – used their Central Authority powers to assume all

⁴⁴ National Criminal Justice Reference Service, *A Report to the Attorney General on International Parental Kidnapping. Section 3: Current Federal Responses to International Parental Kidnapping*, report by the Office of Juvenile Justice and Delinquency Prevention Program.

⁴⁵ Timothy W. Maier, *State Abandons Kidnapped Kids*, Insight on the News (FindArticles.com), June 14, 1999 (pg. 1)

⁴⁶ *Reuniting American Children and Their Parents*, CONGRESSIONAL RECORD-SENATE, May 9, 2000 (Speech by Senator Patrick Leahy), S3683

incoming cases in conjunction to the Hague Convention on August 1, 2008. A NCMEC caseworker, asking to remain anonymous, was puzzled by this sudden move. “What did we do wrong to have these cases taken from us?” he asked.

INADEQUATE PROTECTION OF CHILDREN’S AND PARENTAL RIGHTS

“The Office of Children’s Issues attempted to close my relatively new, unresolved case with the following explanation: “... due to the fact that the Department cannot assist you further in this matter.”

▪Brett Weed, father of son & daughter abducted to Japan.

Left-behind parents often struggle with the various law enforcement and legal officials. While grief-stricken and horrified over the sudden realization of abduction, the parent falls into a heartbreaking game of watching authorities pass responsibility to someone else. City police will forward child abduction complaints to the county district attorney’s office. If county prosecutors don’t suggest filing a complaint to the FBI, they will consider the child as not abducted because the accused is a parent; therefore, it is a civil issue that must be decided in a family law court. A county sheriff will likely advise the mournful parent to see the FBI too. A FBI agent will refuse to act on the allegation unless ordered by a federal prosecutor to investigate. An Assistant U.S. Attorney will not act on the case because of the priority of the crime placed low on his or her personal list of crimes. According to former U.S. Senator Mike DeWine, the finger pointing must stop and governmental responsibility to bring abducted children home has to improve: “Ultimately, our Government has an obligation to these parents and, more important, to the children who have been kidnapped. It is time our Government agencies put American parents and their children first.”⁴⁷ When a government entity, functioning under color of law, chooses not to take lawful intervention on an abduction case, then the constitutionally protected right insuring the relationship bond between parent and child is being wrongfully ignored.

In many states, including California, courts have emphasized, “[C]hildren, too, have fundamental rights including the fundamental right to be protected from neglect and to “have a placement that is stable [and] permanent” *In re Jasmon O*, 8 Cal.4th 398, 419 quoting *In re Marilyn H*. 5 Cal.4th 295, 306. As mentioned earlier, parental abduction is identified as an insidious form of child abuse (Huntington, p. 7) (Hoff, p. 1) (Polly Klaas Foundation, p. 8). Yet, authorities frequently refuse to take immediate action when a child is illegally abducted to a foreign country. By denying a child’s “fundamental right to be protected,” this lack of intervention is a deliberate act of interference. Our highest court dictates there is a substantive component that “provides heightened protection against government interference with certain fundamental rights and liberty interests”, *Washington v. Glucksberg*, 521 U. S. 702, 720, including parents' fundamental right to make decisions concerning the care, custody, and control of their children, see, *e.g.*, *Stanley v. Illinois*, 405 U. S. 645, 651; see also *Reno v. Flores*, 507 U.S. 292, 301-302.

Just as a child’s right to be free from harm is a constitutionally protected interest under the Fourteenth Amendment, the relationship between a parent and child is also constitutionally

⁴⁷ *International Parental Kidnapping*, CONGRESSIONAL RECORD-SENATE, May 9, 2000 (Speech by Senator Mike DeWine), s3680

protected, *Lassiter v Department of Social Services*, 452 U.S. 18; *Quilloin v Walcott*, 434 U.S. 246; *Prince v Massachusetts*, 321 U.S. 158. In fact, the U.S. Supreme Court remarked that the rights of a parent to “the companionship, care, custody, and management of his or her children” are an interest that’s “far more precious” than any property right, *May v Anderson*, 345 U.S. 528, 533.

Regardless of state and federal laws identifying the definition of child abduction, there are many cases involving court officials and law enforcement officers concocting policies that are not compliant with the law. The U.S. Court of Appeals, Ninth Circuit, drew the line where immunity ends and liability begins because of incompetency committed by law enforcement officials mishandling an alleged child abduction case under color of law, *Henderson v Mohave County*, 54 F.3d 592, 594. The court added in its opinion that immunity does not protect “the plainly incompetent” (citing *Malley v. Briggs*, 475 U.S. 335, 341). Federal courts have noted a local government entity could face liability if there’s a breach of duty to protect a abused child, *Estate of Bailey v County of York*, 768 F.2d 503 (3rd Cir. 1985). So what is the solution to prevent ignorance of the law and encourage for greater enforcement?

What is missing is a mechanism ensuring immediate federal action to hinder, prevent, or deter child abduction. This mechanism would set the course to employ responsibilities to specific officials and clarify the needed constitutional protection between a parent and child.

The Federal Government places numerous mechanisms to guarantee specific protections from crimes. It investigates and prosecutes hate crimes as civil rights violations.⁴⁸ Video piracy causes huge losses to the U.S. economy each year; therefore, the FBI has an anti-piracy warning label to deter piracy of media and other commercial goods. If these fine mechanisms can be implemented to thwart discriminatory acts and protect consumer goods, why is there no mechanism to ensure prosecution to abductors and efforts to recover the children? Former Senator DeWine noted, “We go after countries that steal our products or violate patent and copyright laws, but not when they are supporting the theft of American children.”⁴⁹

The mechanism needed is in the PARENT Act. Child abduction needs to be elevated to a serious federal crime that 1) automatically triggers U.S. Justice Department enforcement, and 2) executes immediate constitutional protection of parent-child rights.

WHAT IS THE PARENT ACT?

“OCI often treated me as the adversary rather than a team member working together to protect a child’s rights to both parents.”

■Craig Alciati, father of a son abducted to France.

Parental abduction preys on hundreds of thousands of American children each year. Because of the severity of the crime and trauma that leaves “a devastating impact on the child who is

⁴⁸ For example, 42 U.S.C. §3631

⁴⁹ Cindy Loose, *Abduction Cases Draw Ire on Hill*, WASHINGTON POST, March 24, 2000, A04

abducted and also the parent who is left behind,”⁵⁰ there must be attention to why the current resources and laws have not been fully effective and make amends.

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 solutions to strengthen critically weak areas in child abduction prevention overlooked by previous congressional bills.

In conjunction H.R. 3240, the Act calls for the following main solutions:

- 1) Divide responsibilities, powers, duties, and responsibilities regarding prevention and protection of children from abduction to improve response of child abduction. Establish a State Department office that focuses solely on the civil issue of child abduction and uses its diplomatic powers to have foreign countries assist in the recovery of abducted children. Consequently, hire trained personnel in a new division within the U.S. Justice Department that works with the National Center for Missing and Exploited Children. This department would focus solely on the criminal aspect of the crime and use its powers and international resources to encourage foreign countries assist in the recovery of abducted children.
- 2) Establish compulsory policies to prevent abduction, recover children, and prosecute when possible.
- 3) Enhance distribution of training of child abduction awareness, prevention, and prosecution using other government and professional agencies, organizations, educational institutions, and groups throughout each state.
- 4) Establish means to elevate the crime of parental abduction to the same level of priority and severity as federal kidnapping.

Solution 1: The Child Abduction Recovery and Enforcement Division

“The Office of Children's Issues unfortunately has never been what it was intended to be which is a place of authority that U.S. citizens can turn to for assistance when their children are abducted to a foreign country. Instead, it is merely another file and data collecting agency of the Federal Government.”

- **Patricia Roush, advocate and mother of two daughters abducted to Saudi Arabia in 1986 (speech to the U.S. House Committee of Government Reform, June 12, 2002)**

The reason for appointing the U.S. State Department’s Bureau of Consular Affairs as Central Authority to the Hague Convention is an enigma. Under Article 1 of the Hague Convention, the purpose of the agreement is to prevent international child abductions and initiate action that would result in the return of an abducted child between signatories. The keywords to consider are “prevent” and “action.” These words are not in the description of Consular Affairs’ obligation to handle international child abduction cases. Consular Affairs claims to stand ready to lend a

⁵⁰ Kathi L. Grasso et al, *The Criminal Justice System’s Response to Parental Abduction*, OJJDP JUVENILE JUSTICE BULLETIN (December 2001)

helping hand when “citizens fall victim to crime.”⁵¹ When an abducted child disappears in a non-Hague country or a signatory that gives little weight to the Hague Convention, the helping hand merely delivers a list of attorneys to the left-behind parent.

When other signatories signed the Hague Convention, they designated the power of Central Authority to government entities working under the auspices of their justice department, attorney-general, or agency acting within a law enforcement or judicial arena. Examples are:

- *Australia*: Commonwealth Attorney-General's Department, International Family Law Section
- *Belgium*: Service Public Fédéral Justice
- *Canada*: Minister of Justice and Attorney General of Canada, Justice Legal Services
- *Denmark*: Danish Central Authority, Ministry of Justice
- *France*: Ministère de la Justice, Bureau de l'entraide civile et commerciale internationale
- *Germany*: Bundesamt für Justiz
- *Ireland*: Department of Justice, Equality and Law Reform
- *New Zealand*: Ministry of Justice
- *Norway*: Norwegian Ministry of Justice and the Police
- *United Kingdom (England and Wales)*: The Child Abduction Unit, Official Solicitor and Public Trustee

Unlike its counterparts with roles similar to the U.S. Justice Department, the Bureau of Consular Affairs has only powers of maintaining foreign relations and assisting Americans overseas with visas, absentee voting, and citizenship issues – not enforcement of laws.⁵² This causes many problems for left-behind parents seeking recovery of their abducted children. The Bureau of Consular Affairs is merely a diplomatic facilitator to promote the Hague Convention.

While H.R. 3240 proposes a new State Department office with authority to act on child abduction cases, the bill does not reflect on problems the Office of Children’s Issues, such as being an office that often hindered by upper echelons within the department who place foreign relations over child abduction. The PARENT Act, if merged with H.R. 3240, creates a backup plan should attempts to penalize countries acting as havens of child abductors are thwarted by higher offices with different priorities. What is needed is a federal government entity with the legal background and knowledge to work with left-behind parents and, if required, acting under color of law, seek recovery of abducted children within the perimeters of the Hague Convention or through the use of international police resources. Experts in the Hague Convention state:

A Hague Convention proceeding is a civil action brought in the country to which a child (under the age of 16) was wrongfully removed or retained. The Convention applies only between Contracting States and only when the wrongful abduction occurs after the Convention is in force between those States. In cases where the Convention is not in effect between the United States and the other

⁵¹ U.S. Department of State, *About the Bureau of Consular Affairs*, Web site

⁵² See 22 C.F.R. part 24, §94.4(a): “The U.S. Central Authority is prohibited from acting as an agent or attorney or in any fiduciary capacity in legal proceedings arising under the Convention”

nation involved in the dispute, U.S. courts must look to domestic law to determine jurisdiction and the extent of their authority.⁵³

Because enforcement of the Convention may require legal action, it is imperative to share the powers as Central Authority between the State Department and Justice Department. By doing so, there will be greater results approaching other countries to cooperate while lawfully enforce provisions of the Convention and protect children and parents whom are victims of this crime. Consequently, abductors hiding children in countries non-compliant to the Hague Convention or are not signatories would face a greater probability of prosecution rather than the current less-than-one-percent chance. As of today, the Central Authority's role is limited to that of a facilitator. When disputes occur between parties, the Office of Children's Issues, via Bureau of Consular Affairs, has no power to order a child's return.

On September 1, 1995, an agreement was established between the Office of Consular Affairs and the National Center for Missing and Exploited Children. The agreement designated all incoming cases – that is, foreign children abducted into the United States – to NCMEC. The Office of Children's Issues managed outgoing cases (American children abducted to another country).

With an estimated \$44 million in federal aid and contributions each year⁵⁴, NCMEC has used its role regarding child abduction prevention to provide information to judges, prosecutors, and attorneys.⁵⁵ It is a resource of vast informational materials for law enforcement officers and left-behind parents in search of an abducted child in the United States or overseas. Additionally, NCMEC functions as liaison for the U.S. Justice Department. OCI cannot parallel its work with the resources and capabilities that NCMEC currently offers. Nevertheless, what NCMEC provides and OCI does not respond to creates problems.

Although the Office of Children's Issues functions as U.S. Central Authority, NCMEC was assigned by OCI the responsibility to handle incoming cases of children abducted into the U.S. NCMEC and federal prosecutors maintained a 90 percent recovery rate of foreign children to their home countries⁵⁶. The U.S. State Department has never been able to declare similar success. OCI, while claiming to “place the highest priority on the welfare of children who have been victimized in such cases,”⁵⁷ cannot cite any percentage that is close to half of NCMEC/FBI's successful numbers. In response to this, the State Department took action to remove this embarrassing stain.

On April 1, 2008, U.S. State Department's Office of Consular Affairs, usurping its powers as Central Authority, decided to remove NCMEC's successful handling of incoming cases and incorporate the duties of managing these cases into the Office of Children's Issues. No reason

⁵³ Washington State Gender and Justice Commission, *Domestic Violence Manual for Judges (Appendix G: The Hague Convention on International Child Abduction: A Child's Return and the Presence of Domestic Violence)*, prepared by the Hague Convention Chapter Advisory Committee, September 2005 (p. 5)

⁵⁴ *Annual Report*, National Center for Missing and Exploited Children. Alexandria, VA, 2007 (p. 27)

⁵⁵ Nigel Lowe et al, *INTERNATIONAL MOVEMENT OF CHILDREN: LAW PRACTICE AND PROCEDURE*. Jordan Publishing Ltd. (2004) (p. 524)

⁵⁶ Timothy W. Maier, *State Abandons Kidnapped Kids*, *Insight on the News* (pg. 1)

⁵⁷ U.S. Department of State, *International Parental Child Abduction*, Web site

was given as to why NCMEC was demoted. No example demonstrated a failure by NCMEC. The State Department wrote “this change reflects the expansion of [the Office of Children’s Issues] capacity to manage the full range of case officer functions for incoming Hague abduction cases.”⁵⁸

Because of an ill-fated decision to give authority to a government entity with no capability of imposing power to bring American children home and has deplorable track record of cooperation with left-behind parents, change is needed. H.R. 3240 offers greater power to the proposed office that can propose penalties to uncooperative countries. However, the PARENT Act calls for the modification of Executive Order No. 12648 (53 F.R. 30637 [1988]) that currently designates the U.S. State Department as “Central Authority” in accordance to the Hague Convention. In conjunction to the modification, the Act calls for sharing all responsibilities of international and interstate parental abduction between the proposed office in the State Department and the proposed office in the Justice Department.

This proposed division in the Justice Department would also have authority to respond to non-Hague cases including, but not limited to, communication with their counterparts to request assistance that could result in the return of abducted children. Furthermore, this division would take appropriate action in the issuance of federal warrants without delay, the extradition of abductors and assist other prosecutors requiring information regarding IPKCA violations.

Currently, the U.S. Justice Department’s Child Exploitation and Obscenity Section (CEOS) is designated to handle international parental abductions cases. There are three problems of CEOS handling these cases:

- 1) They have no attorneys or experts with specific knowledge regarding child abduction laws within this division to provide advice or litigation support to Assistant United States Attorneys;
- 2) They are overwhelmed with the responsibility to handle other crimes against children, including responsibility to seek and prosecute child pornographers. This division lacks the needed attention to handle the thousands of cases regarding child abduction;
- 3) They rarely “respond to inquiries from left behind parents and other members of the public regarding the resources available relating to international parental kidnapping.”⁵⁹

There is a need for a new division within the Justice Department to specifically handle child abductions and assist the widespread number of left-behind parents seeking professional reliable federal assistance.

The PARENT Act proposes the establishment of the *Child Abduction Recovery and Enforcement* division within the Criminal Division of the U.S. Justice Department

⁵⁸ 73 Fed. Reg. 211 (Oct. 30, 2008), s64540

⁵⁹ U.S. Department of Justice. *Child Exploitation and Obscenity Section (CEOS)*, Web site

By establishing this new division that would exclusively handle the massive amount of abduction cases, the above listed problems are eliminated by: 1) hiring attorneys knowledgeable in child abduction recovery and prosecution; 2) generating manpower to specifically assist in the deterrence and prevention of this crime; and 3) responding to requests from left-behind parents and others concerning what resources are available.

Also important, the incorporation of the *Child Abduction Recovery and Enforcement* division into the Justice Department eliminates a dilemma for parents of abducted children who are often passed from department to department, agency to agency, until someone responds. The PARENT Act removes the parents' nightmare of bureaucratic weaving by establishing a point of contact with the National Center for Missing and Exploited Children (NCMEC).

The U.S. Government Accountability Office⁶⁰ and the U.S. House Government Reform Committee concur the U.S. State Department's Consular Affairs has drawn much criticism about its Office of Children's Issues due to failure to pursue, protect, and/or recover abducted children from other countries. For years, left-behind parents, government agencies, and experts have noted OCI provides no assistance, or – at most – feeble measures, to secure the return of hundreds of thousands of American children. With the implementation of the *Child Abduction Recovery and Enforcement* Division, these problems would end.

Solution 2: Strict Enforcement of Laws and Improvement in Prosecution

“The child's safe and speedy return should be the primary concern of the law enforcement community.”
▪Susan Kreston, Deputy Director of the National District Attorneys Association, 1998⁶¹

An additional shock for a left-behind parent occurs when state or federal prosecutors exercise their prosecutorial discretion by refusing to take appropriate action to stop the crime. Prosecutors or law enforcement officials usually inform parents that parental abduction is a civil issue to be decided in a family law court.

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.”⁶²

⁶⁰ Cindy Loose, *Indifference Adds To Parents' Horror*, WASHINGTON POST. December 24, 2000: A01

⁶¹ Susan Kreston, *International Parental Kidnapping*, THE PROSECUTOR, 32.2 (March/April 1998), (p. 1)

⁶² Susan Kreston, *International Parental Kidnapping* (p. 1)

Whether the underlying reason for prosecutors and law enforcement officers turning their back on child abduction is incompetence, indifference, or ignorance, it is inexcusable. The safety and return of the child must be the main goal. Nonetheless, the current effort to tackle child abduction by enforcing laws and improving ways to apply prosecution is not a matter of importance to many authorities.

Since 2001, the U.S. Attorney's Office, Southern District of California, has refused to prosecute a non-custodial parent accused of abducting a California child to Russia in 1999. Although a custody order was issued from San Diego County and a state felony warrant for the non-custodial parent was issued, an Assistant United States Attorney told the left-behind parent there wasn't any evidence to prosecute. Today, the child remains abducted for over nine years.

In 2001, a five-year old girl from Ketchum, Idaho disappeared. The mother of the missing girl soon discovered the abductors were the child's father and older stepbrother. By the time the FBI was notified about the abduction, the child was residing in a small hut in the jungles of Costa Rica. Approximately a year later, a college student returned to the U.S. from a trip to Costa Rica and recognized the girl's face in a missing child photo on a postcard. Although the student notified the FBI, no action was taken for several months. This spurred the child's mother to hire a team that specializes in child abduction recovery. With help of Costa Rican law enforcement officials, the team apprehended the abductors and rescued the child.

Law enforcement officers and prosecutors are less likely to turn their backs on child abduction cases if given suitable training with appropriate support and tools to execute an effective investigation. As of now, law enforcement agencies argue obstacles to handling parental abduction cases are numerous. They cite examples as: 1) unable to interpret laws or statutes regarding custody and child abduction; 2) lack of knowledge regarding law enforcement's and prosecutors' roles in other jurisdictions; 3) difficult judges regarding enforcing civil custody orders; and 4) inability to rely on law enforcement officials from other jurisdictions regarding the recovery of the child and/or abductor.

The PARENT Act offers remedies to the above problems. The National District Attorneys Association notes that parental kidnapping cannot be labeled as a "civil or family court matter" but clearly, "a crime" that is recognized by every state in the nation. According to Susan Kreston, "The designation of this act as a crime, and not merely a violation of a civil custody decree, recognizes that criminal responsibility for this act is not excused simply because the abductor has a legal or biological relationship to the victims."⁶³

Until changes are made in the current flawed system, most international child abductors will manage to escape U.S. law enforcement and vanish without punishment. Child abduction will continue to be inaccurately thought as a frivolous harmless crime. If child abduction is elevated to a serious crime that automatically triggers greater enforcement by the Justice Department, this serious problem will end.

⁶³ Susan Kreston, *Prosecuting Parental Kidnapping*, American Prosecutors Research Institute, 11:4 (1998)

Solution 3: Greater Distribution of Training Resources

“Every day, the National Center for Missing and Exploited Children receives calls from lawyers, judges, and police officials who do not know where to begin, are unclear as to applicable law, or seek guidance on how to proceed. This issue desperately needs a cadre of recognized experts and standardized approaches. Too often, the abductor’s likelihood of success is dependent upon the jurisdiction in which he or she chooses to abduct.”

▪ *The Kid is With the Parent, How Bad Can It Be? The Crisis of Family Abductions*, by Ernie Allen, CEO of the National Center for Missing and Exploited Children

The police are placed in the forefront when a parent seeks help to locate their child. Judges have primary responsibility in custody hearings to issue decisions that may necessitate measures to prevent parental abduction. District attorneys are delegated the duty to enforce laws and judicial decisions that deter parental abduction. Assistant United States Attorneys and FBI agents have a principle obligation to protect children and prosecute their abductors to the fullest under numerous federal laws such as the International Parental Kidnapping Crime Act (18 U.S.C. §1204).

For years, Congress established numerous laws and policies to protect children from becoming victims of abduction. Examples are:

- The implementation of numerous criminal and civil laws regarding parental abduction:
 - The Federal Parent Locator Service (42 U.S.C. §653)
 - The International Child Abduction Remedies Act (42 U.S.C. §11601)
 - The National Child Search Assistance Act of 1990 (42 U.S.C. § 5780)
 - The Missing Children’s Act of 1982 (28 U.S.C. § 534(a))
 - The Missing Children’s Assistance Act (42 U.S.C. §§ 5771 et seq.)
 - The Parental Kidnapping Prevention Act of 1980 (28 U.S.C. § 1738A)
 - The Uniform Child-Custody Jurisdiction and Enforcement Act (UCCJEA)
- The ratification of the Hague Convention on the Civil Aspects of International Child Abduction
- Proposed the Family Abduction Prevention Act of 2007

Regrettably, many federal, state, and local law enforcement agencies and prosecutors admit lacking the knowledge on these laws and treaties when it comes to responding to interstate and international child abduction.⁶⁴

Agencies and organizations, such as NCMEC and the U.S. Justice Department’s Office of Juvenile Justice and Delinquency Prevention Program (OJJDP), offer training in parental abduction prevention. However, members within judicial and law enforcement circles are not aware of these available training resources, are unable to travel great distances to acquire training, or, more often, have little interest in learning due to prejudice or misperceptions. This critical problem requires immediate attention. The lack of knowledge about parental abduction, how to prevent this crime, and methods to prosecute abductors is at a grand scale. There are only small pockets of trained personnel in the U.S. capable of handling this crime. The answer is not educational materials, but spreading greater awareness of the crime using broad accessible sites of training in major cities across all states.

⁶⁴ Kathi L. Grasso et al, *The Criminal Justice System’s Response to Parental Abduction*, OJJDP JUVENILE JUSTICE BULLETIN (December 2001)

Missing children organizations identify this lack of education as “the Achilles’ heel” in the protection of children. According to a national study, approximately “70 percent of law enforcement agencies reported that they did not have written policies and procedures governing family abduction cases, and 63 percent did not receive formal training on the handling of family abduction cases.”⁶⁵ In another report: “Only 10 percent of the law enforcement agencies indicated that they had specialized program designed to address parental abduction in their jurisdiction.”⁶⁶

For example, the former chief of the Child Abduction Unit for the Fresno County District Attorney’s office (Fresno, California) admitted lacking experience and knowledge on child abduction laws. Her previous job title before becoming a deputy district attorney and chief was deputy insurance commissioner.⁶⁷ Another deputy district attorney working for the same Child Abduction Unit in Fresno defined child abduction as a crime that affects only custodial parents.

“If there's a court order and a parent takes the child away from the parent who has legal and physical custody, that would be abduction. If there's a court order and there's an order that a parent has visitation and is denied visitation, that would not be an abduction, that would be a violation of the order. There's a very clear distinction on that, so that if Mr. X had every other weekend visitation, and he had no visitation for six months, we would not file an abduction.”⁶⁸

California family law and IPKCA disagree with the above definition and recognize equal protection to all parents, regardless of custodial or visitation rights. Adding to the widespread ignorance of law and child abduction issues, judges often make grave errors in custody orders by not implementing child abduction preventive measures, even when there are “threats to flee the country” by the abducting parent.⁶⁹

In 1991, a Medina, Ohio judge permitted a Syrian father to have unsupervised visits with his daughter. The judge denied requests from the child’s mother and her attorney for a hearing to show evidence of violence and threats of abduction by the father. Shortly afterwards, the father illegally took the little girl to Syria. Today, the American child remains missing.

Parental abduction is child abuse. Greater emotional trauma to the abducted child will likely occur if there is no rapid recovery. To create the means of rapid recovery, it is essential to establish accessible training and national awareness about the crime and courses throughout the United States. The PARENT Act proposes using available professional missing children

⁶⁵ *America’s Hidden Crime: When the Kidnapper is Kin*, Report on Family Abduction: Public Opinion Insights and Best Practices. Polly Klaas Foundation. (March 2004) (p. 13-14)

⁶⁶ Janet Chiancone et al, *Issues in Resolving Cases of International Child Abduction by Parents*, OJJDP JUVENILE JUSTICE BULLETIN (2001)

⁶⁷ Information from court deposition of B. Dotta for a federal civil suit in connection to an international child kidnapping case.

⁶⁸ Information from court deposition of B. Frank for a federal civil suit in connection to an international child kidnapping case.

⁶⁹ Timothy W. Maier, *Kids Held Hostage*, Insight on the News (FindArticles.com), March 18, 1999, (p. 3)

agencies, state missing-children clearinghouses, educational institutions, and members of the state bar with specific skills and knowledge about child abduction, as well as the current available resources such as NCMEC and OJJDP.

Moreover, a training program must be established for Assistant United States Attorneys. At least one attorney in each office throughout the United States would be designated to handle abduction cases. The results would be greater attention to the crime instead of finger pointing, proper adherence to laws and policies established by Congress, trained personnel to assist left-behind parents rather than ignore them, and faster rates of recovery.

Solution 4: Other Remedies

“People have no idea what it feels like to have your child torn out of your heart, every second, minute, day and month. A lot of parents miss their child when they go away for a weekend, imagine what it feels like to not see your child for months or years. Imagine what it’s like coming home every day to your home filled with memories, clothes, photos, and toys of your child left behind.”

■Hal Berger, father of a child abducted twice to South Africa by non-custodial parent

The PARENT Act also reduces the unlikelihood of a federal authority unnecessarily closing a case.

The Office of Children’s Issues regularly closes parental abduction cases once a child reaches the age of sixteen. In kidnapping cases recognized under 18 USC § 1201, a child is considered a minor until the age of eighteen. The PARENT Act concurs that a child, given all the rights to be protected under the U.S. Constitution,⁷⁰ remains a minor until the age of eighteen. Consequently, the issue of closing a child abduction case because a child reached the age of adulthood is no longer acceptable. Regardless if a person is a minor or adult, the PARENT Act considers the Federal Government’s duty to uphold the law and provide all means to locate a missing/abducted child, even after the child surpasses the age of eighteen. The kidnapped child, who reaches the age of 18, is considered a kidnapped adult. All U.S. laws requiring attention and prosecution of this crime continue.

The maximum amount of three years of incarceration for an abductor, in accordance to 18 USC § 1204, is not severe. In fact, this maximum penalty demonstrates prejudice. There are hundreds of cases of children abducted as a toddler and withheld from the other parent until adulthood. Why does an abductor face a light sentence due to the relationship of the child when the criminal act is a malicious intent to inflict harm on the other parent? The PARENT Act elevates the seriousness of parental abduction to the equivalent of kidnapping to deter future acts of the crime.

There are cases in which the abductor accepts the small maximum sentence, knowing the child will remain under his/her custody indefinitely. Taking into consideration of the historic Lindbergh kidnapping (the abduction and murder of Charles Lindbergh's toddler son), the United States Congress adopted a federal kidnapping statute referred as the Federal Kidnapping Act 18 USC § 1201(a)(1) or *The Lindbergh Law*. It was intended to let federal authorities step in and

⁷⁰ *Parham v. J.R.* 442 U.S. 584, 627 (1979) “Constitutional rights do not mature and come into being magically only when one attains the state-defined age of majority. Minors, as well as adults, are protected by the Constitution and possess constitutional rights.”

pursue kidnapers once they had crossed a state border with their victim. Unfortunately, the exception to this law was parental/family abduction. The PARENT Act removes the bias misperception regarding the severity of this crime and includes a new provision under 18 USC § 1201. The provision provides courts greater penalties depending on the magnitude of the abduction. Incorporated into 18 USC §1204 is reference to penalties of this crime under 18 USC § 1201(g)(1)(C).⁷¹

For law enforcement, there are no federal measures to deter an abducting parent after he or she flees from the United States with a child to a country that disregards foreign custody orders. The only solution for federal authorities is an issuance of a federal warrant and a notice to INTERPOL should the parent travel to another country that has an extradition treaty with the U.S.

The PARENT Act emphasizes greater enforcement of the Alien Exclusion Act (8 U.S.C. (A)(9)(C)(I)). Currently, this long-standing law provides deterrence for 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.” The exclusion applies only to aliens and pertains to cases involving a child taken to a country that is a signatory to the Hague Convention. The exclusion concludes when the child is returned to the United States. The PARENT Act calls for greater strengths in the Alien Exclusion Act by including possible expulsion to relatives or friends who assist in the child abduction. The PARENT Act also includes expulsion to aliens (involved in abduction) who come from non-Hague Convention countries. This modification is due to the large number of abductions of American children illegally taken to their countries that act as safe havens for abducting parents.

Michael Shannon, a left-behind parent of two sons abducted to Egypt by the non-custodial mother and the children’s grandparents, says these additional provisions would have helped as deterrence. After the abduction in 2001, the grandmother returned to her southern California home. Shortly afterwards, she was arrested, extradited to Maryland and sentenced to 10 years in prison by a court for child abduction. However, the sentence was revised to three years and she served only 16 months before paroled and deported to Egypt. The children remain abducted today. Shannon is angry the Office of Children’s Issues remains distant. “Once the kids are taken out of the country, it goes to the State Department, which doesn't enforce the law,” he told the Daily Record in Baltimore, Maryland. “I just think it's ridiculous that the U.S. government has not spent a penny to get them back.”⁷²

Overall, modification and enforcement of the Alien Exclusion Act is needed to act as a tool for law enforcement officers and other federal authorities. According to law experts the Alien Exclusion Act, “may give the U.S.-based parent some leverage in negotiating for the child’s return if the alien parent needs to reenter the United States for business or personal reasons.”⁷³

⁷¹ See Section 11

⁷² *Md. Court of Appeals considers grandmother's crime*, by Ann Parks, THE DAILY RECORD, June 3, 2004, p. 7

⁷³ Patricia Hoff, *Parental Kidnappings: Prevention and Remedies*, American Bar Association, (paper originally prepared for the project “Obstacles to the Recovery and Return of Parentally Abducted”) (2000), (p. 8)

To ensure strict compliance of the proposed bill, a provision in the PARENT Act calls for a group of experts to monitor the progress of international child abduction cases and take appropriate action as legislation dictates.

The group, consisting of professionals from various occupations, but with notable backgrounds in international child abduction prevention and/or prosecution, would be responsible for resolving dilemmas connected with the Hague Convention. They would identify and report about non-compliant signatories of the Hague Convention (information to be used as a legal resource for judges when deciding on international custody issues). Members of this group would also develop a strategic practice that can organize and improve interagency communication and child abduction prevention awareness. Additionally, the group would ensure means to improve quicker response on handling an abduction case and eliminate misperceptions about the crime.

FINAL NOTE: LEGAL REPRESENTATION UNDER THE HAGUE CONVENTION

As discussed earlier, the Hague Convention of Civil Aspects of International Child Abduction is a multilateral accord that aims at protecting children from becoming victims of international child abduction by demanding signatories a prompt return of abducted children that enter their country without consent of the parent who has custody rights.

While the goal of the Hague Convention aims to "to secure the prompt return of children wrongfully removed to or retained in one Contracting State," there a serious flaw that hinders left-behind parents.

As of today, there are 81 contracting countries to the Hague Convention including the United States. Should an abducted child from another country, a signatory of the Hague Convention, enter the United States, the signatory can provide legal representation for the parent.

Article 26 of the Hague Convention calls for signatories to provide legal counsel for parents seeking return of their children in foreign courts:

“In particular, [signatories] may not require any payment from the applicant towards the costs and expenses of the proceedings or, where applicable, those arising from the participation of legal counsel or advisers.”

However, the same article also notes that a reservation can be made “in accordance with Article 42,” declaring that the Contracting State shall not be bound to assume any costs “resulting from the participation of legal counsel or advisers or from court proceedings, except insofar as those costs may be covered by its system of legal aid and advice.”

This very important provision of financial assistance in legal representation is closed to Americans; therefore, the Hague Convention establishes an imbalance that tips unfavorably for American parents. They are forced to cover their own legal costs in addition to travel expenditures to the signatory country. An example is the case of David Goldman, the father of

Sean Goldman who was abducted to Brazil in 2004. He has amassed well over \$350,000 in legal and travel costs and the court battles continue.

New York University School of Law Professor Linda Silberman argues the Hague Convention has provided some remedy of child abduction cases, but “it’s far from perfect”, especially in the reality of obtaining legal representation. She writes:

“A continuing problem in the United States and several other countries is the securing of legal representation for Hague applicants. The general proposition of the Child Abduction Convention that Contracting States bear the costs and expenses of Hague proceedings, including the participation of legal counsel, is subject to an exception. By making a reservation, a Contracting State may declare that it is not bound to assume any costs resulting from the participation of legal counsel or from court proceedings, except insofar as those costs may be covered by its system of legal aid and advice. The United States has made the reservation, and because the United States does not have a comprehensive legal aid system, the problem of obtaining legal representation for Hague applicants is exacerbated; the U.S. Central Authority has had to spend extensive time and effort trying to obtain pro bono counsel for applicants who cannot afford to retain a private attorney. In several recent cases, an additional kind of unfairness has occurred: because the Hague applicant has been represented by a single-practitioner pro bono counsel against an unrepresented abductor, the court has looked for appointed counsel to represent the abductor. On several occasions where large law firms have agreed to represent the abductor on a volunteer basis, the resource allocation has tended to favor the abductor—a situation inconsistent with the general philosophy of the Child Abduction Convention.” (citations omitted)⁷⁴

In essence, this provision of Hague Convention has become a hindrance for American parents while other parents of foreign signatories benefit what the Hague Convention offers to regain their children.

Although the PARENT Act focuses on the restructure of the current federal resources to improve assistance of parents and children who are victims of international child abduction, it is imperative that Congress give serious consideration, and possibly include an amendment, about providing legal representation for American parents. The decision to turn its back on recovering abducted children, via the court system, must be removed so American parents can have equal support of using the legal representation within the Hague Convention.

⁷⁴ Linda Silberman, *The Hague Child Abduction Convention Turns Twenty: Gender Politics and Other Issues*, 33 N.Y.U. J. INT’L L. & POL. 221 (2000). Pg. 248-249

CONCLUSION

“I hope this problem can be revisited by Congress, especially in terms of State Department’s continued ‘involvement’ (frankly, lack thereof) in preventing abductions.”

- **Teresa Lauderdale, co-founder of Prevent International Parental Child Abduction**

The *Parental Abduction Recovery, Enforcement, and Network Training Act* corrects a dysfunctional federal structure of resources and demands 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 offers stronger diplomatic and prosecutorial powers. As of now, there is little to assist an abducted children or left-behind parent.

When it comes to deciding on this proposed legislation to Congress, remember the tens of thousands of abducted children and the parents of missing children ignored or disregarded by local, state, and federal authorities each year. Parental kidnapping is not a matter to be resolved by family members. It is not a civil case. It is crime according to all 50 states, including the District of Columbia, and authorities must vigorously treat this horrific crime as all other forms of child abuse. The Government does have an obligation to protect children from these kidnappings.

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A BILL

To ensure compliance with the 1980 Hague Convention on the Civil Aspects of International Child Abduction by countries with which the United States enjoys reciprocal obligations, to establish procedures for the prompt return of children abducted to other countries, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Parental Abduction Recovery, Enforcement, and Network Training Act” or in short form, the PARENT Act.

SEC. 2. FINDINGS; SENSE OF CONGRESS; PURPOSES.

(a) Findings- Congress finds the following:

- (1) The Department of State's Office of Children's Issues, which serves as the Central Authority for the United States for the operation of 1980 Hague Convention on the Civil Aspects of International Child Abduction, is currently handling approximately 1,900 open cases involving more than 2,800 children abducted by a parent or legal guardian from the United States to other countries. For a variety of reasons reflecting the legal and factual complexity of parental abduction cases and the significant obstacles to recovery, only a percentage of all cases are reported to the Department of State.
- (2) In fiscal year 2008, the Central Authority for the United States responded to cases involving 776 children abducted from the United States to countries with which the United States enjoys reciprocal obligations under the Hague Convention, but during that same time period only 248 children were returned from Hague Convention countries to the United States. Also in 2008, the United States Central Authority reported 344 newly filed Hague Convention applications involving 484 children wrongly removed to or retained in the United States. Two hundred ten children were returned under the Convention to their country of habitual residence.
- (3) The number of outgoing international child abductions reported to the Central Authority for the United States increased by about 60 percent in the last three years, and by about 40 percent in 2008 alone.
- (4) In evaluating the obstacles to recovering children abducted from a parent in the United States, the first difficulty is presented by countries who are signatories to the Hague Convention, but have not acted in compliance with the responsibilities of the Convention. According to the Central Authority for the United States, many countries have not acted in compliance with the terms it agreed to as a party to the Hague Convention such as Brazil, Honduras, Germany, France, Chile, Greece, Mexico, Slovakia, Switzerland, and Venezuela. These

signatories have demonstrated patterns of noncompliance or have a checkered history of denying parents access to their abducted children. The failure of these countries to meet their obligations is found in the actions of their designated central authorities, the performance of their judiciaries, as reflected in the legal process and decisions rendered to enforce or effectuate the Hague Convention, or the ability and willingness of law enforcement to insure the swift enforcement of orders rendered pursuant to the Hague Convention.

(5) The United States and other State Signatories to the Hague Convention have expressed their desire, through the Convention, “to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence, as well as to secure protection for rights of access.”

(6) In evaluating and assessing the problem of the abduction of children from the United States, the Central Authority for the United States in fiscal year 2008 reported that it had been provided notice of 306 cases of parental abductions involving 455 children taken from the United States to countries with which the United States does not enjoy an agreement related to the treatment of parental abduction cases and that are not signatories to the Hague Convention, currently including a cumulative total of 101 children in Japan, 67 children in India, and 37 children in Russia. The number of reported cases likely represents an even smaller percentage of the total number of United States children impacted as the process for the location and recovery of abducted children differs significantly with each country, and there is currently no formal protocol for intervening in such cases.

(7) According to the Department of State's April 2008 Report on Compliance with the Hague Convention on the Civil Aspects of International Child Abduction, “parental child abduction jeopardizes the child and has substantial long-term consequences for both the child and the left-behind parent.”

(8) **Parental abduction is child abuse according to the International Child Abduction Remedies Act, 42 U.S.C. § 11601(a)(1). State and federal courts also recognize child abduction as an insidious form of child abuse.** Abducted children are at risk of serious emotional and psychological problems and have been found to experience anxiety, eating problems, nightmares, mood swings, sleep disturbances, aggressive behavior, resentment, guilt and fearfulness, and as adults may struggle with identity issues, their own personal relationships, and parenting.

(9) **Left-behind** parents may encounter substantial **psychological and emotional trauma. Additionally, the majority has** no means to generate the enormous financial resources required to pursue individual civil or criminal remedies to attempt to secure the return of their children, even if such remedies were available or effective in foreign courts or political systems. Left-behind parents also often have to pursue child custody and other protective orders through expensive litigation at home.

(10) **Parental abduction is a criminal offense in each of the 50 States and the District of Columbia; it is also recognized as a violation of fundamental human rights according to the U.S. Supreme Court.**

(11) **In enacting the International Parental Kidnapping Crime Act of 1993 (Public Law 103–173; 107 Stat. 1998; 18 U.S.C. 1204), the act of international parental**

kidnapping became a Federal criminal offense; however, there have been little progress of enforcement under this Act;

(b) Sense of Congress- It is the sense of Congress that the United States should set a strong example for other Hague Convention countries in the timely location and return of children wrongly removed from and retained in the United States. **In addition, the United States must reflect its strong duty to protect the citizen rights of American children and uphold the parental rights of left-behind parents.**

(c) Purposes- The purposes of this Act are to--

(1) protect United States children from the harmful effects of international child abduction and to protect the right of children to exercise parental access with their parents in a safe and predictable way, wherever located;

(2) provide parents, their advocates, and judges the information they need to enhance the resolution of family disputes through established legal procedures, the tools for assessing the risk of wrongful removal and retention of children, and the practical means for overcoming obstacles to recovering abducted children;

(3) establish 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, from a foreign country to the United States, and on behalf of military parents stationed abroad;

(4) create a strong presence of protecting children from the threat of child abduction by creating greater provisions that will deter people from considering this criminal act;

(5) promote an international consensus that the best interests of children are of paramount importance in matter 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. **This includes the State that recognizes the threat of child abduction and has the legal mechanisms to determine objectively child custody;**

(6) provide the necessary training for military officials and training and assistance to military families to address the unique circumstances of the resolution of child custody disputes which occur abroad, or occur when a parent is serving abroad;

(7) 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; and

(8) 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.

SEC. 3. DEFINITIONS.

In this Act:

(1) **AMBASSADOR AT LARGE-** The term “Ambassador at Large” means the Ambassador at Large for International Child Abductions appointed under section 4.

(2) ANNUAL REPORT- The term “Annual Report” means the Annual Report on International Child Abductions required under section 5.

(3) APPROPRIATE CONGRESSIONAL COMMITTEES- Except as otherwise provided, the term “appropriate congressional committees” means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(4) CENTRAL AUTHORITY FOR THE UNITED STATES- The term “Central Authority for the United States” has the meaning given such term in article 6 of the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980. “Central Authority”, in this Act, refers to a proposed shared position by the State Department’s Office of International Child Abduction and the Justice Department’s Child Abduction Recovery and Enforcement division.

(5) CHILD – The definition of “child” is a person who has not attained the age of 18 years. Currently, the maximum age of a child listed as 16 years in 18 U.S.C. § 1204 is to be amended to 18 years of age.

(6) DIRECTOR – The term “Director” of “Director of the Division” refers to the person appointed director of Child Abduction Recovery and Enforcement division pursuant to section 18.

(7) DIVISION – The term “Division” means the Child Abduction Recovery and Enforcement division pursuant to section 18.

(8) HAGUE CONVENTION- The term “Hague Convention” means the Hague Convention on the Civil Aspects of International Child Abduction, established at The Hague on October 25, 1980.

(9) HAGUE CONVENTION COMPLIANCE REPORT- The term “Hague Convention compliance report” means the annual report on compliance with the Hague Convention required to be submitted by the Department of State to Congress under section 2803 of the Foreign Affairs Reform and Restructuring Act of 1998 (42 U.S.C. § 11611).

(10) HAGUE CONVENTION SIGNATORY- The term “Hague Convention signatory” means a country that has signed or acceded to the Convention and with which the United States has entered into a reciprocal agreement pursuant to the Convention.

(11) INTERNATIONAL CHILD ABDUCTION - The definition of “international child abduction”, also known as international parental abduction and international parental kidnapping, is defined in the International Parental Kidnapping Crime Act (18 U.S.C. § 1204).

(A) Any violation of this section by a person who was not a resident of, or present in, the United States at the time of the alleged offense is punishable in this country, whether the intent to commit the offense is formed within or outside the United States, if:

i. the child was a resident of, a citizen of, or present in, the United States at the time the child was taken, enticed away, kept, withheld or concealed; or

ii. Any violation of this section by a person who was not a resident of, or present in, the United States at the time of the alleged offense is

- punishable in this country, whether the intent to commit the offense is formed within or outside the United States, if:
- iii. the child is found in this country; or
 - iv. a parent, other lawful custodian, or person having visitation rights was a resident of the United States at the time the child was taken, enticed away, kept, withheld, or concealed.
 - v. Parental abduction is further defined as a continuing criminal act so long as the child remains abducted.
- (B) The definition of parental abduction does not apply to a person with a right to custody or visitation of a child who has been a victim of domestic violence who, with a good faith and reasonable belief that the child, if left with the other person, will suffer immediate bodily injury or emotional harm, takes, entices away, keeps, withholds, or conceals that child. "Emotional harm" includes having a parent who has been convicted of (or substantiating evidence exist of) domestic violence against the parent who is taking, enticing away, keeping, withholding, or concealing the child.

(12) MOU- The term "MOU" means a memorandum of understanding.

(13) MOU COUNTRY- The term "MOU country" means a country or entity with which the United States has entered into a memorandum of understanding to resolve cases of international child abduction. Such MOU's shall include--

(A) identification of a specific protocol designed to establish and effectuate the urgent return of children abducted from the United States not later than six weeks after the date of the application for return of the child having been received by the agency authorized for such purposes;

(B) identification of a specific protocol for the establishment and protection of the rights of both interim and ongoing parental access between children and their parents;

(C) identification of an official entity within the government possessing the authority to facilitate the resolution of child abduction cases in cooperation with the Office on International Child Abductions and left-behind parents in the United States;

(D) identification of the judicial or administrative agency possessing the authority to facilitate the prompt adjudication of a request for the return of an abducted child to the United States;

(E) identification of a law enforcement agency and available mechanisms and procedures to investigate and assist in the location, protection, and retrieval of an abducted child and to ensure the immediate enforcement of orders entered by the court in the habitual residence to return an abducted child to the United States;

(F) establishment of welfare and whereabouts visits between a United States embassy and a wrongfully removed or retained child; and

(G) additional requisite elements that shall be satisfied and maintained for purposes of section 6(b) as determined by the Secretary of State.

(14) NONSIGNATORY COUNTRY- The term "nonsignatory country" means a country which is neither a Hague Convention signatory nor a MOU country to which a United States child has been abducted or in which a United States child

remains wrongfully retained. The term may also apply to a country with one or more of the following criteria:

- (A) does not provide for the extradition to the United States of a parental abductor and minor child; or
- (B) has local laws or practices that disregard a custody order from within the United States; or
- (C) has local laws or practices that would restrict the other parent of the minor child from freely traveling to or exiting from the country because of the gender, race or religion of the other parent; or
- (D) has local laws or practices that would restrict the ability of the minor child from legally leaving the country after the child reaches the age of majority because of the gender, race or religion of the child; or
- (E) lacks the legal mechanisms to efficiently enforce a custody order; or
- (F) poses a significant threat that the physical or mental health or safety of the minor child would be endangered in the country because of war, human rights violations or specific circumstances related to the needs of the child.

(15) OFFICE- The term “Office” means the Office on International Child Abductions established pursuant to section 4.

(16) PARENTAL RIGHTS - The definition of “parental rights”, with respect to the child, is the protected constitutional right to legal and physical custody of the child whether joint or sole (and includes visiting rights) whether arising by operation of law, court order, or legally binding agreement of the parties, and will be respected as such.

(17) PATTERN OF NONCOOPERATION- The term “pattern of noncooperation” means a national government's systemic failure, evidenced by the existence of seven or more parental child abduction cases which, after having been properly prepared and transmitted by the Central Authority for the United States remain unresolved within its borders after 12 months or, where there are fewer than ten unresolved cases, any cases still unresolved after nine months from the time of receipt and transmittal by the Central Authority for the United States of a request to fulfill its international obligations with respect to the prompt resolution of cases of child abduction.

(18) RIGHTS OF ACCESS- The term “rights of access” means the rights of a parent and child to enjoy reasonable unfettered contact both within and outside the State of the child's habitual residence.

(19) UNRESOLVED ABDUCTION CASE- The term “unresolved abduction case” means an abduction case which has been properly documented to establish that pursuant to the law of the State of habitual residence of a minor child, an international abduction or wrongful retention of such child whose habitual residence immediately prior to the abduction was the United States, remains unresolved more than two months following the date of the receipt and transmittal by the Central Authority for the United States of the request for return of such child.

(20) UNRESOLVED ACCESS CASE- The term “unresolved access case” means an application for the establishment of rights of parental access on either an

interim or permanent basis, or the request for the enforcement of rights of parental access (contact orders) which have been previously established by a court of competent jurisdiction, which remain unresolved more than two months following the date of the receipt and transmittal by the Central Authority for the United States of a request for assistance in the organization of rights of access.

TITLE I--DEPARTMENT OF STATE ACTIVITIES

SEC. 4. OFFICE ON INTERNATIONAL CHILD ABDUCTIONS; AMBASSADOR AT LARGE FOR INTERNATIONAL CHILD ABDUCTIONS.

- (a) Establishment of Office- There is established within the Department of State an Office on International Child Abductions that shall be headed by the Ambassador at Large for International Child Abductions appointed under subsection (b).
- (b) Appointment- The Ambassador at Large shall be appointed by the President, by and with the advice and consent of the Senate. **The appointee will have knowledge and experience regarding the issues of international child abduction, including a minimal amount five years experience or equivalent training in related areas directly connected to international child abduction.**
- (c) Duties- The Ambassador at Large shall have the following responsibilities:
- (1) IN GENERAL- The primary responsibility of the Ambassador at Large shall be to--
 - (A) promote measures to prevent the international abduction of children from the United States;
 - (B) advocate on behalf of children whose habitual residence is the United States and who have been abducted to another country;
 - (C) assist left-behind parents in the resolution of abduction or refusal of access cases; and
 - (D) advance mechanisms to prevent and resolve cases of international child abduction abroad.
 - (2) ADVISORY ROLE- The Ambassador at Large shall be a principal adviser to the President and the Secretary of State regarding matters of international child abduction and refusals of rights of access, and shall make recommendations regarding--
 - (A) the policies of the United States Government toward governments with a pattern of noncooperation with respect to cases of international child abduction;
 - (B) coordination with other United States agencies regarding criminal prosecutions, Interpol assistance in the issuance of warrants and alerts, pending cases, training for United States forces, and the negotiation of agreements to protect United States forces stationed abroad;
 - (C) policies to address international child abduction globally;
 - (D) the position of the United States Government on cases establishing the future functioning of the Hague Convention in the country at issue; and

- (E) the position of the United States Government on a request to accept an accession to the Hague Convention.
- (3) **DIPLOMATIC REPRESENTATION-** Subject to the direction of the President and the Secretary of State, the Ambassador at Large is authorized to represent the United States in matters and cases relevant to international child abduction and refusals of rights to access in--
- (A) contacts with foreign governments, the World Organization for Cross-border Co-operation in Civil and Commercial Matters, the Hague Conference on Private International Law, and other international organizations of which the United States is a member;
 - (B) multilateral conferences and meetings relevant to international child abduction; and
 - (C) advocating accession to the Hague Convention, or, where accession to the Hague Convention is not possible, negotiating MOU's.
- (4) **REPORTING RESPONSIBILITIES-** The Ambassador at Large shall have the reporting responsibilities described in section 5.
- (5) **CASE FILE MANAGEMENT SYSTEM AND INFORMATION PROTOCOL-** The Ambassador at Large shall establish a case file management system within the Office to ensure the maintenance of accurate, complete, and timely information, to the extent available, on all cases of international child abduction or refusal of access about which the Office is notified, as well as a protocol for the receipt and updating of such information with actions taken by the Office and responses by the respective country, as well as deadlines required by the Hague Convention or the MOU at issue.
- (6) **UNIFORM CASE INTAKE PROCEDURES-** The Ambassador at Large shall establish uniform case intake procedures, which also make note of deadlines for responses pursuant to the Hague Convention or MOU, where applicable.
- (7) **CIVIL SERVICE EMPLOYEES-** The Ambassador at Large, in cooperation with the Secretary of State, shall ensure that a majority of the personnel of the Office are composed of civil service employees or members of the Service (as such term is described in section 103 of the Foreign Service Act of 1980 (22 U.S.C. § 3903)) who shall be permitted to remain with the Office for at least four years.
- (8) **LEGAL ADVICE-** The Ambassador at Large shall make available legal advice to case managers of the Central Authority of the United States on an as-needed basis to address country-specific legal issues and to provide such case managers with information that can be disseminated generally on questions frequently asked by left behind parents.
- (9) **USER FRIENDLY RESOURCES-** The Ambassador at Large shall establish user-friendly resources, including--
- (A) a toll free number that goes directly to the Office; and
 - (B) a language line for left behind parents who do not speak English.
- (10) **ASSISTANCE TO JUDGES-** The Ambassador at Large shall--
- (A) be responsible for producing and disseminating a training course for United States Federal and State judges likely to receive Hague Convention cases; and

(B) retain not fewer than four specially trained judges available on an as needed basis to advise United States Federal and State judges handling Hague Convention cases.

(d) Funding- The Secretary of State shall provide the Ambassador at Large with such funds as may be necessary for--

- (1) the hiring of staff for the Office;
- (2) the conduct of investigations by the Office;
- (3) the establishment of a case file management system;
- (4) the translation of case documents in cases that may have systemic effect in the country in question;
- (5) the development or acquisition of training materials; and for
- (6) necessary travel to carry out the provisions of this section.

SEC. 5. ANNUAL REPORT.

(a) In General- Not later than March 31 of each year or the first day thereafter on which the appropriate House of Congress is in session, the Secretary of State, with the assistance of the Ambassador at Large, shall submit to Congress an Annual Report on International Child Abduction by providing detailed information with respect to unresolved cases about which the Central Authority for the United States has been notified.

(b) **The Child Abduction Unit within the National Center for Missing and Exploited Children shall accumulate information it has, and well as from the Division under section 18, for the Ambassador-at-Large.** Each Annual Report shall contain the following:

(1) HAGUE CONVENTION SIGNATORY COUNTRIES- Information on the following:

(A) A current list of those countries with which the United States has reciprocal obligations under the Hague Convention.

(B) A current list of those countries that have requested the United States to accept their accession to the Hague Convention.

(C) The number of pending cases of alleged abduction of or refusal of access to children from the United States in each the countries referred to in subparagraphs (A) and (B), broken-out by type with date of original application and country of detention.

(D) The proportion of cases of abduction of or refusal of access to children from the United States resolved in each country since the advent of reciprocal Hague Convention obligations and the length of time each such case was pending.

(E) For each pending unresolved case, including the current reporting year and previous years--

(i) the date of the alleged abduction or wrongful retention;

(ii) the date any administrative or judicial application pursuant to the Hague Convention was brought, if applicable;

(iii) detailed information about each such case, including in the case of judicial application having been filed, the court handling the matter and the procedural history, the specific actions taken by

the United States chief of mission in the country to which the child is alleged to have been wrongfully removed or retained, and the date of submission of documents required by the application process; and

(iv) detailed information and an assessment of the lack of resolution about each such case together with a determination of any systemic issues related to the Hague Convention signatory country as well as recommendation to enhance the protocol for the improvement of the resolution of future cases.

(F) A description of the efforts of the Secretary of State or Ambassador-at-Large to encourage Hague Convention signatory countries to facilitate the work within such respective countries of nongovernmental organizations that assist parents seeking the return of children under the Hague Convention.

(G) Whether a state of reciprocity no longer exists between the United States and a Hague Convention signatory country such that United States parents, advocates, and judges should, in assessing the risk of wrongful removal or retention, require strong protective and preventative measures.

(H) All reporting requirements contained in the Hague Convention compliance report.

(2) MOU COUNTRIES- Information on the following:

(A) A list of those countries that are MOU countries.

(B) A description of the basic elements of the memorandum of understanding entered into with each country specified in subparagraph (A).

(C) Whether each such country is moving toward accession to the Hague Convention.

(D) The number of unresolved cases of wrongful removal or retentions of or refusal of access to children from the United States in each such country.

(E) The proportion of cases of abduction of or refusal of access to children from the United States resolved in each such country since the applicable MOU went into force.

(F) For each unresolved abduction or access case--

(i) the date of the alleged abduction or wrongful retention;

(ii) the date of any administrative or judicial process that was brought seeking the return of a minor child to the United States, or brought seeking rights of access to such child, and in the case of judicial process, the court in which the matter has been brought and the procedural history;

(iii) whether the protocols established pursuant to the applicable MOU have been followed;

(iv) detailed information about each such case, including the specific actions taken by the United States chief of mission in the country to which the child is alleged to have been wrongfully

removed or retained and actions by the Central Authority for the United States;

(v) detailed information on and an assessment of the lack of resolution as well as a determination of any systemic issues related to the MOU country with specific attention regarding any failure of any of the requisite elements of the MOU; and

(vi) recommendations to amend the applicable MOU to improve the resolution of cases and ameliorate any systemic issues.

(3) NONSIGNATORY COUNTRIES- Information on the following:

(A) A list of those countries that are neither Hague Convention signatory countries nor MOU countries.

(B) Information on efforts by the Department of State to encourage each such nonsignatory country to become a Hague Convention signatory country or MOU country.

(C) For each unresolved abduction or access case--

(i) the date of the alleged abduction or wrongful retention;

(ii) the date of any administrative or judicial process that was brought seeking the return of a minor child to the United States, or brought seeking rights of access to such child, and in the case of judicial process, the court in which the matter has been brought and the procedural history;

(iii) detailed information about each such case, including the specific actions taken by the United States chief of mission in the country to which the child is alleged to have been wrongfully removed or retained and any other action taken by the Central Authority for the United States;

(iv) detailed information on and an assessment of the reasons for the lack of a resolution in each such case as well as a review of the systemic issues in the host country which may contribute to or enhance the wrongful removal or retention of children; and

(v) recommendations for specific actions which may be taken by the United States Government to improve the resolution of cases and ameliorate any systemic issues.

(b) Exception- Each Annual Report required under this section may not include names of parties or of minor children. Other potentially party-identifying information shall also be excluded in cases in which the parent remaining in the United States or on a United States military installation has submitted a request in writing to the Central Authority for the United States that such information not be publicized. Information that is subject to attorney-client privilege may be provided with an executed waiver.

(c) Additional Thematic Sections- Each Annual Report under this section shall also include:

(1) information on the number of unresolved cases affecting parents who are members of the Armed Forces and a summary of assistance offered to such left behind parents;

(2) information on the use of airlines in international child abduction, including which airlines are most commonly used in abduction, voluntary airline practices

to prevent international child abduction, and recommendations for best airline practices; and

(3) information on actions taken by the Central Authority for the United States to train domestic and foreign judges in application of the Hague Convention.

(d) Standards and Assistance- The Secretary of State shall ensure that United States diplomatic and consular missions abroad maintain a consistent reporting standard with respect to cases of international child abductions from the United States to the country in which each such mission is located, provide appropriate assistance to parents from the United States who are visiting such country to obtain the return, rights of access to, or visitation rights with an abducted child, and remain informed of developments in cases of children abducted from the United States to the country in which such mission is located.

(e) Termination- Upon publication of the first Annual Report required under this section, the requirement for the Secretary of State to submit the Hague Convention compliance report, in addition to the Annual Report, shall terminate.

TITLE II--PRESIDENTIAL ACTIONS

SEC. 6. PRESIDENTIAL ACTIONS IN RESPONSE TO PATTERNS OF NONCOOPERATION IN CASES OF INTERNATIONAL CHILD ABDUCTIONS.

(a) Response to International Child Abductions-

(1) UNITED STATES POLICY- It shall be the policy of the United States to--

(A) promote the best interest of children in matters relating to their custody or rights of access by protecting them internationally from the harmful effects of their wrongful removal or retention;

(B) oppose practices or policies of the governments of foreign countries that fail to ensure children's prompt return to the United States in cases of international child abduction or the wrongful retention of a child, where the United States is the child's habitual residence immediately prior to such abduction, through the actions described in subsection (b); and

(C) oppose practices or policies of the governments of foreign countries that fail to ensure children's continued contact with their parents by providing for rights of access.

(D) ensure the protection and enforcement of custody and visitation rights when a court order is violated by an act of child abduction.

(2) REQUIREMENT OF PRESIDENTIAL ACTION- Whenever the President determines that the government of a foreign country has engaged in a pattern of noncooperation, the President shall promote the resolution of the unresolved cases through one or more of the actions described in section 9(a).

(b) Designations of Countries With Patterns of Noncooperation in Cases of International Child Abduction-

(1) ANNUAL REVIEW-

(A) IN GENERAL- Not later than March 31 of each year, the President shall review the status of unresolved cases in each foreign country to determine whether the government of each such country has engaged in a pattern of noncooperation during the preceding 12 months or since the

date of the last review of each such country under this paragraph, whichever is longer. The President shall designate each country the government of which the President has determined has engaged in a pattern of noncooperation as a Country With a Pattern of Noncooperation.

(B) BASIS OF REVIEW- Each review conducted under subparagraph (A) shall be based upon information regarding government responses to unresolved cases of international child abduction with respect to each such country, including the number of cases and the length of time such cases have been pending, as described in the latest Annual Report and on any other evidence available with respect to each such country.

(C) IMPLEMENTATION- Any review under subparagraph (A) of a country may take place singly or jointly with the review of one or more countries.

(2) DETERMINATIONS OF RESPONSIBLE PARTIES- For the government of each country designated as a Country With a Pattern of Noncooperation under paragraph (1)(A), the President shall seek to determine the agency or instrumentality thereof that is responsible for the pattern of noncooperation by such government in order to appropriately target Presidential actions under this section in response.

(3) CONGRESSIONAL NOTIFICATION- Whenever the President designates a country as a Country With a Pattern of Noncooperation under paragraph (1)(A), the President shall, as soon as practicable after such designation is made, transmit to the appropriate congressional committees information relating to--

- (A) the designation of the country, signed by the President; and
- (B) one or more of the Presidential actions described in paragraphs (10) through (16) of section 9(a) carried out against such country.

- (c) Presidential Actions With Respect to a Country With a Pattern of Noncooperation-
- (1) IN GENERAL- Subject to paragraphs (2), (3), and (4) with respect to each Country With a Pattern of Noncooperation designated under subsection (b)(1)(A), the President shall, after the requirements of sections 7 and 8 have been satisfied, but not later than 90 days (or 180 days in case of a delay under paragraph (2)) after the date of such designation of a country under such subsection, carry out one or more of the following actions under subparagraph (A) or (B):
- (A) PRESIDENTIAL ACTIONS- One or more of the Presidential actions described in paragraphs (10) through (16) of section 9(a).
 - (B) COMMENSURATE ACTIONS- Commensurate action in substitution to any action referred to in subparagraph (A).
- (2) AUTHORITY FOR DELAY OF PRESIDENTIAL ACTIONS- If, on or before the date that the President is required to take action under paragraph (1) with respect to a Country With a Pattern of Noncooperation, the President determines and certifies to Congress that a single, additional period of time not to exceed 90 days is necessary--
- (A) for a continuation of negotiations that have been commenced with the government of such country to bring about a cessation of the pattern of noncooperation by such country, or

- (B)(i) for a review of corrective action taken by such country after designation of such country as a Country With a Pattern of Noncooperation, or
 - (ii) in anticipation that corrective action will be taken by such country during such 90-day period,
- the President shall not be required to take such action until the expiration of such period of time.

(3) EXCEPTION FOR ONGOING PRESIDENTIAL ACTION- The President shall not be required to take action under this paragraph (1) with respect to a Country With a Pattern of Noncooperation if with respect to such country the following apply:

- (A) The President has taken action pursuant to such paragraph in a preceding year.
- (B) Such action is in effect at the time such country is designated as a Country with a Pattern of Noncooperation under subsection (b)(1)(A).
- (C) The President reports to Congress the information described in paragraphs (1), (2), (3), and (4) of section 8(a) regarding the actions in effect with respect to such country.
- (D) At the time the President designates a country as a Country With a Pattern of Noncooperation, if such country is already subject to multiple, broad-based sanctions imposed in significant part in response to human rights abuses, and such sanctions are ongoing, the President may determine that one or more of such sanctions also satisfies the requirements of this subsection. In a report to Congress pursuant to paragraphs (1), (2), (3), and (4) of section 8(a), the President shall specify the specific sanction or sanctions that the President determines satisfy the requirements of this subsection. Such specified sanctions shall remain in effect subject to section 8.

(d) Rule of Construction- A determination under this Act, or any amendment made by this Act, that a foreign country has engaged in a pattern of noncooperation shall not be construed to require the termination of assistance or other activities with respect to such country under any other provision of law, including section 116 or 502B of the Foreign Assistance Act of 1961 (22 U.S.C. § 2151(n) and § 2304).

SEC. 7. CONSULTATIONS.

(a) Notification-

- (1) IN GENERAL- Except as provided in paragraph (2), in accordance with existing law and regulation, the Secretary of State shall notify in writing the member of the House of Representatives representing the district of a left behind parent when such parent reports an international child abduction to the Department of State. The Secretary shall maintain a computerized data tracking system to track and monitor such reported international child abduction cases.
- (2) EXCEPTION- Paragraph (1) shall not apply if the left behind parent does not consent to the notification described in such paragraph.

(b) Duty To Consult With Foreign Governments- The President shall--

- (1) request consultation with the government of a country to which a child is alleged to have been wrongfully removed or retained, regarding the pattern of noncooperation giving rise to action under section 9; and
 - (2) if agreed to, enter into such consultations, privately or publicly.
- (c) Duty To Consult With Left Behind Parents in the United States- The President shall consult with left behind parents of children in the foreign countries, or appropriate representatives or representative groups of such parents, concerning the potential impact of United States policies to promote the resolution of unresolved cases in countries described in subsection (a).
- (d) Duty To Consult With Other United States Interested Parties- The President shall, as appropriate, consult with other United States interested parties regarding the potential impact of intended action in countries described in subsection (a) on economic or other interests of the United States.

SEC. 8. REPORT TO CONGRESS.

At such time as the President decides to take action under section 9 in response to a country that the President has designated as a Country With a Pattern of Noncooperation and the President decides to take action under paragraphs (10) through (16) of section 9, the President shall transmit to the appropriate congressional committees a report on the following:

- (1) IDENTIFICATION OF PRESIDENTIAL ACTIONS- An identification of the action or actions described in paragraphs (10) through (16) of section 9 (or commensurate action in substitution thereto) to be taken with respect to such country.
- (2) DESCRIPTION OF VIOLATIONS- A description of the unresolved cases of child abduction giving rise to the action or actions to be taken by the President.
- (3) PURPOSE OF PRESIDENTIAL ACTIONS- A description of the purpose of the Presidential action or actions.
- (4) EVALUATION-
 - (A) DESCRIPTION- An evaluation, in consultation with the Secretary of State, the Ambassador at Large, the parties described in subsections (c) and (d) of section 7, and other parties the President determines appropriate, of--
 - (i) the impact upon such unresolved cases in such country;
 - (ii) the impact upon the government of such country;
 - (iii) the impact upon the population of such country; and
 - (iv) the impact upon the United States economy and other interested parties.
 - (B) AUTHORITY TO WITHHOLD DISCLOSURE- The President may withhold part or all of such evaluation from the public, if classified, but shall provide the entire evaluation to Congress.
- (5) STATEMENT OF POLICY OPTIONS- A statement that noneconomic policy options designed to bring about a resolution of the pattern of noncooperation in such country have reasonably been exhausted, including the consultations required in accordance with section 7.

SEC. 9. PRESIDENTIAL ACTIONS.

(a) Description of Presidential Actions- Except as provided in subsection (c), the President may take the following actions with respect to a country that the President has designated as a Country With a Pattern of Noncooperation under section 6:

- (1) A private demarche.
- (2) An official public demarche.
- (3) A statement of nonreciprocity under the Hague Convention.
- (4) A public condemnation.
- (5) A public condemnation within one or more multilateral fora.
- (6) The delay or cancellation of one or more scientific exchanges.
- (7) The delay or cancellation of one or more cultural exchanges.
- (8) The denial of one or more working, official, or state visits.
- (9) The delay or cancellation of one or more working, official, or state visits.
- (10) The restriction of the number of visas issued to nationals of such country pursuant to subparagraphs (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. § 1101(a)(15)).
- (11) The withdrawal, limitation, or suspension of United States development assistance in accordance with section 116 of the Foreign Assistance Act of 1961 (22 U.S.C. § 2151n).
- (12) Directing the Export-Import Bank of the United States, the Overseas Private Investment Corporation, or the Trade and Development Agency not to approve the issuance of any (or a specified number of) guarantees, insurance, extensions of credit, or participation in the extension of credit with respect to such government or the agency or instrumentality of such government determined by the President to be responsible for such pattern of noncooperation.
- (13) The withdrawal, limitation, or suspension of United States security assistance in accordance with section 502B of the Foreign Assistance Act of 1961 (22 U.S.C. § 2304).
- (14) In accordance with section 701 of the International Financial Institutions Act of 1977 (22 U.S.C. § 262d), directing the United States executive directors of international financial institutions to oppose and vote against loans primarily benefitting the such government or the agency or instrumentality of such government determined by the President to be responsible for such pattern of noncooperation.
- (15) The denial, withdrawal, suspension, or limitation of benefits provided pursuant to title V of the Trade Act of 1974 (19 U.S.C. § 2461 et seq.), relating to the Generalized System of Preferences.
- (16) Ordering the heads of the appropriate United States agencies not to issue any (or a specified number of) specific licenses, and not to grant any other specific authority (or a specified number of authorities), to export any goods or technology to such government or to the agency or instrumentality of such government determined by the President to be responsible for such pattern of noncooperation, under--
 - (A) the Export Administration Act of 1979;

- (B) the Arms Export Control Act;
- (C) the Atomic Energy Act of 1954; or
- (D) any other statute that requires the prior review and approval of the United States Government as a condition for the export or re-export of goods or services.

(17) Prohibiting any United States financial institution from making loans or providing credits totaling more than \$10,000,000 in any 12-month period to such government or to the agency or instrumentality of such government or determined by the President to be responsible for such pattern of noncooperation.

(18) Prohibiting the United States Government from procuring, or entering into any contract for the procurement of, any goods or services from such government or from the agency or instrumentality of such government determined by the President to be responsible for such pattern of noncooperation.

(b) Commensurate Action- Except as provided in subsection (c), the President may substitute any other action authorized by law for any action described in paragraphs (1) through (16) of subsection (a) if such action is commensurate in effect to the action substituted and if such action would further the purposes of this Act as specified in section 2(c). The President shall seek to take all appropriate and feasible actions authorized by law to obtain the cessation of such pattern of noncooperation. If commensurate action is taken under this subsection, the President shall transmit to the appropriate congressional committees a report on such action, together with an explanation for taking such action.

(c) Exceptions- Any action taken pursuant to subsection (a) or (b) may not prohibit or restrict the provision to such country of medicine, medical equipment, or supplies, food, or other humanitarian assistance.

SEC. 10. EFFECTS ON EXISTING CONTRACTS.

The President shall not be required to apply or maintain any action under this section--

(1) in the case of procurement of defense articles or defense services--

(A) under existing contracts or subcontracts, including the exercise of options for production quantities, to satisfy requirements essential to the national security of the United States;

(B) if the President determines in writing and transmits to Congress a report that the government of a foreign country or the agency or instrumentality of such government to which such action would otherwise be applied is a sole source supplier of such defense articles or services, that such defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(C) if the President determines in writing and transmits to Congress a report that such defense articles or services are essential to the national security of the United States under defense co-production agreements; or

(2) to products or services provided under contracts entered into before the date on which the President publishes in the Federal Register notice of such action in accordance with section 12.

SEC. 11. PRESIDENTIAL WAIVER.

(a) In General- Subject to subsection (b), the President may waive the application of any of the actions described in paragraphs (10) through (16) of section 9(a) (or commensurate action in substitution thereto) with respect to a country that the President has designated as a Country With a Pattern of Noncooperation under section 6, if the President determines and so reports to the appropriate congressional committees that--

- (1) the government of such has satisfactorily resolved the unresolved cases giving rise to the application of any of such actions and--
 - (A) if such country is a Hague Convention signatory country, such country has taken measures to ensure future compliance with the provisions of the Hague Convention;
 - (B) if such country is an MOU country, such country has taken measures to ensure future compliance with the provisions of the MOU at issue; or
 - (C) if such country is a Nonsignatory country at the time the abductions or retentions resulting in the unresolved cases occurred, such country has become a Hague Convention signatory country or a MOU country;
- (2) the exercise of such waiver authority would further the purposes of this Act; or
- (3) the important national interest of the United States requires the exercise of such waiver authority.

(b) Congressional Notification- Not later than the date of the exercise of a waiver under subsection (a), the President shall notify the appropriate congressional committees of such waiver or the intention to exercise such waiver, together with a detailed justification thereof.

SEC. 12. PUBLICATION IN FEDERAL REGISTER.

(a) In General- Subject to subsection (b), the President shall ensure publication in the Federal Register of the following:

- (1) DETERMINATIONS OF GOVERNMENTS, AGENCIES, INSTRUMENTALITIES OF COUNTRIES WITH PATTERNS OF NONCOOPERATION- Any designation of a country that the President has designated as a Country With a Pattern of Noncooperation under section 6, together with, when applicable and to the extent practicable, the identities of agencies, instrumentalities, or officials determined to be responsible for such pattern of noncooperation.
- (2) PRESIDENTIAL ACTIONS- A description of any action under paragraphs (10) through (16) of section 9(a) (or commensurate action in substitution thereto) and the effective date of such action.
- (3) DELAYS IN TRANSMITTAL OF PRESIDENTIAL ACTION REPORTS- Any delay in transmittal of a report required under in section 8.
- (4) WAIVERS- Any waiver issued under section 11.

(b) Limited Disclosure of Information- The President may limit publication of information under this section in the same manner and to the same extent as the President may limit the publication of findings and determinations described in section 654(c) of

the Foreign Assistance Act of 1961 (22 U.S.C. § 2414(c)), if the President determines that the publication of such information--

- (1) would be harmful to the national security of the United States; or
- (2) would not further the purposes of this Act.

SEC. 13. TERMINATION OF PRESIDENTIAL ACTIONS.

Any action taken under this Act or any amendment made by this Act with respect to a foreign country shall terminate on the earlier of the following dates:

- (1) Not later than two years after the effective date of such action unless expressly reauthorized by law.
- (2) Upon the determination by the President, in consultation with the Office, and certification to Congress that the government of such country has taken substantial and verifiable steps to correct the pattern of noncooperation at issue that gave rise to such action.

SEC. 14. PRECLUSION OF JUDICIAL REVIEW.

No court shall have jurisdiction to review any Presidential determination or agency action under this Act or any amendment made by this Act.

SEC. 15. UNITED STATES ASSISTANCE.

(a) Implementation of Prohibition on Economic Assistance- Section 116(c) of the Foreign Assistance Act of 1961 (22 U.S.C. § 2151n(c)) is amended--

- (1) in matter preceding paragraph (1), by inserting “and in consultation with the Ambassador at Large for International Child Abduction” after “Freedom”;
- (2) in paragraph (3)(B), by striking the period at the end and inserting “; and”; and
- (3) by adding at the end the following new paragraph:
“(4) whether the government--

“(A) has engaged in a pattern of noncooperation regarding unresolved cases of alleged international child abduction or denial of rights of access, as such terms are defined in the International Child Abduction Prevention Act of 2009; or
“(B) has failed to undertake serious and sustained efforts to locate children allegedly abducted to the country when such efforts could have been reasonably undertaken.”

(b) Implementation of Prohibition on Military Assistance- Section 502B(a)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. § 2304(a)(4)) is amended--

- (1) in subparagraph (A), by striking “or” at the end;
- (2) in subparagraph (B), by striking the period at the end and inserting “; or”; and
- (3) by adding at the end the following new subparagraphs:
“(C) has engaged in a pattern of noncooperation regarding unresolved cases of alleged international child abduction or denial of rights of access, as such terms are defined in the International Child Abduction Protection Act of 2009; or

“(D) has failed to undertake serious and sustained efforts to locate children allegedly abducted to the country when such efforts could have been reasonably undertaken.”

(c) Expanded Consultation- Section 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. § 2304(b)) is amended, in the first sentence, by inserting “and with the assistance of the Ambassador at Large for International Child Abduction,” after “the Ambassador at Large for International Religious Freedom,”.

SEC. 16. MULTILATERAL ASSISTANCE.

Section 701 of the International Financial Institutions Act (22 U.S.C. § 262d) is amended by adding at the end the following new subsection:

“(h) In determining whether the government of a country engages in a pattern of gross violations of internationally recognized human rights, as described in subsection (a), the President shall give particular consideration to whether such government--

“(1) has engaged in a pattern of noncooperation regarding unresolved cases of alleged international child abduction or denial of rights of access, as such terms are defined in the International Child Abduction Prevention Act of 2009; or

“(2) has failed to undertake serious and sustained efforts to locate children allegedly abducted to such country when such efforts could have been reasonably undertaken.”

SEC. 17. AMENDMENT TO GENERALIZED SYSTEM OF PREFERENCES; ELIGIBILITY FOR GENERALIZED SYSTEM OF PREFERENCES.

Section 502(b)(2) of the Trade Act of 1974 (19 U.S.C. § 2462(b)(2)) is amended--

(1) by inserting after subparagraph (H) the following new subparagraph:

“(I) Such country is a country with a pattern of noncooperation regarding unresolved cases of alleged international child abduction or denial of rights of access, as such terms are defined in the International Child Abduction Prevention Act of 2009.”; and

(2) in the flush left matter after subparagraph (I)--

(A) by striking “and (H)” and inserting “(H)”; and

(B) by inserting after “(D))” the following: “and (I)”.

TITLE III—DEPARTMENT OF JUSTICE ACTIVITIES

SEC. 18. THE CHILD ABDUCTION RECOVERY AND ENFORCEMENT DIVISION; THE DIRECTOR OF THE DIVISION

(a) Established within the U.S. Department of Justice’s Criminal Division is the Child Abduction Recovery and Enforcement division (referred to in this section as “Division”).

(1) Under this Act to inherent powers of enforcement, the Division is also designated as the Central Authority under the Hague Convention on the Civil Aspects of International Child Abduction (42 U.S.C. § 11601 *et seq.*)

(2) The Division, inheriting responsibilities and duties regarding prosecution of international parental abduction cases and recovery, will receive half of the

funding that is assigned to the Office of Children's Issues, located in the U.S. Department of State's Consular Affairs Department. The Office of International Child Abductions are to receive the other half of the funding currently assigned to the Office of Children's Issues.

(3) This encompasses the transfer of all existing active cases within OCI or at the written request of a left behind parent.

(4) All cases are to be fully transferred and fully compliant no later than one year after approval of this Act.

(5) Should it be conclusively evident that a child is abducted under the definitions stated in the Act, the Division initiates immediate action to recover the child, prosecute the abductor, or both;

(b) The Division has a supervisory role in swift interstate and international child abduction investigations and prosecution. Immediate response and action is given to all abduction cases, whether it is stranger or parental abduction, involves violations of custodial or visitation rights, and regardless if the case involves signatories or non-signatories of the Hague Convention.

(c) The Division collaborates with other international agencies or officials to recover abducted children, to extradite an abducting parent, or both.

(d) Attorneys within this Division, handling specific child abduction cases, act as a point of contact for state and federal officials.

(1) Attorneys provide information about legal and law enforcement assistance available by the Federal Government.

(2) Attorneys also provide legal information to law enforcement officers and prosecutors involved in interstate and international parental abduction cases.

(3) Without delay, attorneys within the Division dutifully provide up-to-date information to the National Center for Missing and Exploited Children (NCMEC).

(4) All attorneys within the Division must be highly knowledgeable and regularly trained in the legal and law enforcement procedures regarding child abduction, including interstate and international parental abduction. Such personnel are to be trained to effectively manage and communicate, when needed, with parents of abducted children who are often traumatized by abduction. Under current policy, additional training will be paid for by the Federal Government;

(e) The United States Attorney General appoints a Deputy Assistant Attorney General to head the Division (referred herein as "Director of the Division"). This appointed person must have full knowledge of legal and law enforcement procedures regarding child abduction, including interstate and international parental abduction. The person must have a career background as a prosecutor with experience in prosecuting child abductors;

(f) Under the auspices of the Director of the Division, at least one Assistant United States Attorney from each U.S. Attorney's office across the United States is appointed to handle interstate and international child abduction that originates from within their jurisdiction;

(g) The Assistant United States Attorneys from each U.S. Attorney's office designated to manage interstate and international child abduction cases must attend training each year to maintain awareness of current laws and resources.

(h) The Division is responsible in overseeing the mandatory filing of an abducted child's name in the National Crime Information Center (NCIC), in conformity to the National

Child Search Assistance Act (42 U.S.C. §5779 & 5780) should local or state authorities not act accordingly.

(i) Regarding international parental abduction cases, it is standard policy for the Division to take immediate action, in conjunction with the State Department's Office of International Child Abductions, to seek the return of the child through the Hague Convention or through other means of international comity should the country be a non-signatory of the Hague Convention. This includes communication to collaborate with its foreign counterpart, a law enforcement agency, or judicial entity of the country the child is being withheld.

(j) Within six months, the Division is to establish and fund a network of professionally trained mediators to resolve international child abduction cases.

(k) Should a foreign country not comply with the Hague Convention although it is a signatory of this treaty, or a non-signatory country does not cooperate with the Division, an investigation shall commence at once should evidence of child abduction be apparent (under this Act) as well as serious consideration into the prosecution of the accused under 18 U.S.C. § 1073 (Unlawful Flight to Avoid Prosecution), 18 U.S.C. § 1204 (International Parental Kidnapping Crime Act), or any other violation of United States law the evidence suggests;

(l) Should evidence of child abduction be apparent and a warrant is issued, the Division notifies INTERPOL immediately about "flagging" the abducting parent's passport with a "red notice" and a "yellow notice" to the abducted child's name.

(m) Authority is given to the Division for negotiating a child's return.

(1) This includes application of the Alien Exclusion Act, 8 U.S.C. (a)(9)(C)(I) if evidence reveals relatives or friends assisting in the abduction or keeping the child abroad. The Alien Exclusion Act is also applicable to non-signatories of the Hague Convention.

(2) This includes enforcement of Section 212(a)(10)(C) of the U.S. Immigration and Nationality Act (INA), foreign nationals who, in violation of a U.S. court order, detain or retain a child, withhold custody of a child, or assist other foreign nationals in such conduct, could be found ineligible for U.S. visas. Any involvement in international child abduction could jeopardize a foreign national's ability to travel to the United States.

(3) This includes possible freezing of all financial assets of the abducting parent or supporting relative with the arrest warrant for parental abduction.

(n) The Division collaborates with the National Center for Missing and Exploited Children and other professional agencies involved with parental abduction prevention to provide annual statistic reports about child abduction during the month of March. Included into the report is information about identifying abduction, legalities in enforcement, obstacles regarding enforcement (and how to resolve them), prosecution procedures, jurisdiction issues, a list of cooperative/uncooperative countries regarding child abduction recovery, and psychological issues stemming from abduction.

(1) This information will be available for legal, judicial, and law enforcement authorities, as well as other governmental agencies within the United States.

(2) This report includes full accurate account of all funding for the Division including annual reports of accounting in order to eliminate inequities and waste.

- (o) Within one year, the Division is to establish a comprehensive information technology system for the following:
- (1) development of data that can assist in making decisions regarding interstate and international abduction cases;
 - (2) provide courts, when requested, with country-specific information to help judicial officials decide on appropriate safeguards for international child custody cases;
 - (3) share information with other countries to foster the return of children under the Hague Convention and otherwise.
- (p) Using the available resources of NCMEC and other professional organizations, the Division will supervise and publicize the creation of seminars throughout all 50 states and the District of Columbia that:
- (1) provide training to State and Federal law enforcement, prosecutors, and attorneys on the investigation and prosecution of parental kidnapping.
 - (2) provide training to state and federal personnel who deal with left-behind parents to ensure they have the necessary sensitivity and expertise to respond effectively in parental abduction cases and are conversant with the rights and services available for these crime victims.
 - (3) become available after the Division has been operable for one year.
- (q) Using the available resources of NCMEC and other non-profit and/or professional organizations in various states, the Division will be responsible for supervising the funding of seminars and programs to educate parents, attorneys, judicial officials and other interested parties about:
- (1) the Hague Convention, other international agreements concerning children, sovereignty and dual nationality issues that can be obstacles to recovery, the relationship between domestic violence and parental kidnapping, the impact of abduction on children and parents, and prevention.
 - (2) practical application of laws pertaining to jurisdiction, including application of 18 U.S.C. § 3238.
 - (3) differing and sometimes conflicting purposes of the civil and criminal aspects of abduction.
 - (4) specific material that defines the role of all agencies that respond to international abduction cases, i.e. INTERPOL, FBI, U.S. State Department's Passport Office, immigration, etc.
 - (5) department policies, including changes, so that parents will understand differences between what is law and what is policy.
- (r) Under the auspices of the Division, education is also provided by instructors from various educational institutes and non-profit organizations that demonstrate a level of knowledge and professionalism in the psychological trauma of interstate and international child abduction to children and parents. Instructors also can establish a coordination of resources that brings about resolution.
- (s) The Division, in conjunction with NCMEC and other federal agencies, manages the selection of handbooks and other materials with information about interstate and international child abduction for all U.S. embassies and consulates, and other government departments and agencies that may handle interstate or international parental abduction cases.

(t)With the assistance of NCMEC and selected missing children organizations, the Division creates and funds an annual conference/forum for judicial officials, law enforcement officers, attorneys, government employees, people involved in child abduction prevention, parents of missing children and others without prejudice to those wishing to attend unless they may be deemed a security threat for the purpose of providing experts in various fields related to international child abduction to educate those attending. Funding includes facilities, refreshments, location, and expert guest speakers from a variety of fields related to parental abduction, including non-governmental experts. This is to begin within three years.

SEC. 19. AMENDS TO 22 C.F.R. SECTION 94.2

The language within this regulation shall be modified to state the following: “The Child Abduction Recovery and Enforcement division in the Criminal Division of the U.S. Department of Justice and the Office of International child Abductions in Consular Affairs of the U.S. State Department are designated as U.S. Central Authorities to discharge the duties which are imposed by the Convention and the International Child Abduction Remedies Act upon such authorities.”

SEC. 20. AMENDS TO TITLE 42, CHAPTER 121, SECTION 11608a

(a)Added is” The United States Attorney General shall fill the position of Director of the Child Abduction Recovery and Enforcement division of the Department of Justice (in this section referred to as the "Division") with an individual of senior rank who can ensure long-term continuity in the management and policy matters of the Division and has a strong background in legal and law enforcement procedures regarding child abduction, including interstate and international parental abduction. The person must have experience as a prosecutor and prosecuting child abductors.

(b) Amends in subsection (b) is: Effective upon the approval of the Act, there shall be assigned to the Office of Children's Issues of the Department of State a sufficient number of case officers to ensure that the average caseload for each officer does not exceed 50

(c) Added to subdivision (c) are:

1.“The Director of the Child Abduction Recovery and Enforcement shall designate a person from the legal attaché office who shall serve as point of contact for matters relating to international abductions of children by parents to the Division;

2.“The National Center for Missing and Exploited Children shall accumulate information from the Child Abduction Recovery and Enforcement division and report to each parent who has requested assistance regarding an abducted child overseas. Without disclosing confidential information that could impede an investigation or prosecution, each report shall include information on the current status of the abduction and the efforts of the Department of Justice to resolve the case.”

(d) Subdivision (d)(2)(a) is amended as “the Secretary of State or the Director of the Division has reported the reason the case was closed to the parent who requested assistance.

SEC. 21. POLICY GROUP

(a) Established is the Policy Group, which comprises of representatives from Federal agencies and departments as well as members of other professional organizations, directly involved with child abduction prevention. Candidates to become part of the Policy Group will be selected by the House Missing and Exploited Children's Caucus at the same time the Division is being established. It is chaired by the Division and meets bi-annually or more often as needed;

(b) The purpose of this Policy Group is to:

(1) review and foster resolutions of difficult interstate and international parental abduction cases, both Hague and non-Hague, including cases identified by the Division.

(2) explore systemic problems with the implementation of the Hague Convention and seek solutions.

(3) help identify and create a list of Hague Convention countries as being non-compliant by any governmental agency.

(4) promote interagency coordination in the resolution of cases.

(5) establish and maintain a network of mediation sources to resolve child abduction cases.

(6) develop protocol aimed specifically at developing, learning, and/or sharing recovery strategies and putting into place an automatic protocol that would allow for immediate implementation of a specific strategy through a coordinated effort of those agencies, which will be utilized.

SEC. 22. FEDERAL ASSISTANCE OUTSIDE THE UNITED STATES

(a) Should it be conclusively evident that a child is abducted under the definitions stated in section 3, the Division will immediately alert the legal attaché office (or related office under the U.S. Department of Justice) in the appropriate U.S. Embassy or consulate located in the country the abductor has absconded the child.

(b) This office is to take any and all swift and immediate action necessary to have the child returned to the United States; This includes:

(1) immediate dialog with appropriate authorities of the foreign country requesting the return of the child to the United States.

(2) request to Department of State for denial of visa application to any relative or friend of the abductor that has knowledge of the whereabouts of the abducted child or the abductor, or has participated or conspired in the child's abduction;

(3) working with an FBI field office holding jurisdiction of a case in the United States to assist in obtaining proper warrant, provisional arrest requests and extradition, when applicable.

SEC. 23. NO STATUTE OF LIMITATIONS

There is no statute of limitations regarding crimes of abduction. By the age of eighteen, these abducted children are considered adult victims of interstate or international kidnapping and the laws and penalties regarding adult kidnapping are applied thereafter. Regardless of age, it is required all appropriate federal authorities, headed by the

Division, continue to take all action necessary in the recovery of the abducted adult victims and seek immediate prosecution of the abductor(s) in accordance to 18 U.S.C. § 3559(c)(2)(E) and (F)(i).

SEC. 24. INCREASE OF MAXIMUM PENALTIES

The maximum period of incarceration according 18 U.S.C. § 1204 is modified to the penalty guidelines under 18 U.S.C. § 1201. A new subparagraph (C) states the offender “is a parent, a grandparent, a brother, a sister, an aunt, an uncle, or an individual having legal custody of the victim; the sentence under this section for such offense shall include a possible maximum imprisonment of 20 years.”

SEC. 25. AUTHORIZATION OF APPROPRIATIONS

(a) There is authorized to be appropriated for the U.S. Department of Justice and the National Center for Missing and Exploited Children such sums necessary for each fiscal year to carry out this Act. These funds can derive from former funds made available to the Office of Children’s Issues’ Child Abduction Unit.

(b) The Division will supervise the funding of seminars and programs, as listed in the Act, to non-profit and professional organizations and businesses that have the capabilities and credentials to organize these events.

(c) Funds are exclusively set aside each year for extradition of persons in foreign countries accused of international child abduction or a crime related to it.

(1) A state or federal prosecutor involved with an international parental abduction case may ask for extradition funding if an extradition treaty is in force between the United States and the country where the accused is located.

(2) When a prosecutor requests extradition, the Division must be notified to contact the Office of International Affairs (OIA) for advice and financial assistance.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 26. TRANSFER OF SOME DUTIES TO THE NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN

(a) The National Center for Missing and Exploited Children continues its function as a primary point of contact for parents, law enforcement officials, attorneys, or any person with legal authority to submit or receive information pertaining to a child abduction case.

(b) NCMEC maintains responsibility of compiling information from parents or law enforcement officials about child abduction.

(c) Acting as communication liaison, NCMEC assimilates and prepares case information for the Child Abduction Recovery and Enforcement division (see section 18).

(d) If requested, NCMEC acts as communication liaison for the Office of International Child Abductions regarding specific abduction cases.

SEC. 27. THE PROTECTION OF PARENTAL RIGHTS TO HINDER POTENTIAL THREATS OF INTERNATIONAL PARENTAL ABDUCTION.

All parents, under the definition of this Act and within the jurisdiction of the United States shall have the same protection of parental rights in every State and Territory to the companionship, care, custody, and management of his or her children. No State or Territory can jeopardize these parental rights by permitting an act that could hinder a parent from the companionship, care, custody, and management of his or her children. No State or Territory can jeopardize these parental rights by placing a child in foreign country as defined in the Act.

SEC. 28. AMENDMENT OF RESTRICTION FOR THE ISSUANCE OF PASSPORTS FOR CHILDREN UNDER AGE 14.

Section 236(a)(2)(B) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 is amended--

- (1) in clause (ii), by striking `or' at the end;
- (2) in clause (iii), by striking the period at the end and inserting `; or'; and
- (3) by adding at the end the following new clause:

“(iv) in cases in which the child is living outside the United States, such person is a United States citizen, has joint custody over the child, and is executing the application for issuance of a passport outside the United States.”

SEC. 29. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2010 through 2013 to carry out this Act and the amendments made by this Act.

END