

- SUBJECT:** The Uniform Child Abduction Prevention Act
- COMMITTEE:** Juvenile Justice and Family Issues — favorable, without amendment
- VOTE:** 5 ayes — Dutton, Eiland, Farrar, Gonzalez Toureilles, Hernandez
0 nays
4 absent — Bolton, Farias, Strama, Vaught
- WITNESSES:** For — Harry Tindall, Texas Commission on Uniform State Laws; Pamela Brown; Kenneth Connelly; (*Registered, but did not testify:* Peter Munson, Texas Commission on Uniform State Laws; Gay Cox; Louise Lee; Martha Musselman)
Against — None
- BACKGROUND:** A study commissioned by the U.S. Office of Juvenile Justice and Delinquency Prevention estimated that 262,100 children were abducted in 1999. Seventy-eight percent of these abductions were by a parent or family member. It is estimated that 1,000 of these kidnappings were international. If an abduction is international, the Hague Convention on the Civil Aspects of International Child Abduction, currently in effect between the United States and fifty-five countries, facilitates the return of an abducted child to the child's habitual residence. The U.S. Congress enacted the Parental Kidnapping Prevention Act of 1980 to deter abductions, discourage interstate conflicts, and promote cooperation between states about custody matters by resolving jurisdictional conflicts.

The American Bar Association Family Law Section has endorsed standard language for child abduction prevention laws crafted by the National Conference of Commissioners on Uniform State Laws. Four states have adopted such legislation, and four more states and the U.S. Virgin Islands are considering this legislation in 2007.
- DIGEST:** HB 2770 would establish the Uniform Child Abduction Prevention Act. A court could order abduction prevention measures in a child custody proceeding if evidence established there was a credible risk of abduction.

The abduction prevention order would remain in effect until it expired or was revoked, the child was emancipated, or the child turned 18.

A party in a child custody determination or any party that could seek custody could petition for abduction prevention measures to be implemented. The petition would have to be verified and include:

- any existing child custody determination;
- the risk factors for abduction;
- identifying information about the child and the respondent; and
- statements on any history of family violence or prior action to prevent abduction or domestic violence.

In determining the risk of abduction, the court would consider evidence that the respondent or the petitioner:

- had previously abducted, attempted to abduct, or threatened to abduct the child;
- had recently engaged in suspicious activities, including selling a residence, quitting a job, closing accounts, applying for travel documents, or seeking the child's records;
- disobeyed a child custody determination;
- engaged in family violence, stalking, or child abuse or neglect;
- lacked strong familial, financial, or emotional ties to the state;
- had strong ties to another state or country that did not enforce the Hague Convention on the Civil Aspects of International Child Abduction;
- had strong ties to another country that employed practices that might otherwise endanger the child's well-being;
- had issues with U.S. citizen status; or
- had engaged in certain acts of fraud, forgery, or misrepresentation.

In reviewing this evidence, the court would consider if the respondent believed his conduct was necessary to avoid imminent harm to the child or himself and any other evidence relevant to the respondent's need to retain the child.

A court order would include procedural information about the case, a description of each parent's custody and visitation rights, and the punishment for violation of the order.

If the court found a credible risk of abduction, the court would enter an abduction prevention order. In determining the measure to be ordered, the court would consider the child's age, the risk factors of abduction, and the difficulties of returning the child to the jurisdiction if abducted.

The following measures could be imposed in an abduction prevention order:

- travel restrictions;
- prohibitions on interactions with the child;
- requirements to register the abduction prevention order in other states;
- required registry of the child's passport with the Passport Issuance Alert Program and other child passport restrictions;
- requirements to provide certain documentation to various U.S. agencies prior to exercising visitation or custody; and
- requirements to obtain custody orders in a foreign country as relevant and necessary to a case.

An abduction prevention order also could impose conditions on exercising custody or visitation, including requiring supervision for visits, education regarding the effects of child abduction, and posting of a bond or security to deter abductions.

If abduction was imminent, a court could direct law enforcement to intervene on behalf of the rightful custodian or issue an ex parte warrant to take physical custody of the child. The warrant would have to include case relevant information as well as provisions for the safe interim placement of the child pending further orders from the court. Law enforcement would enforce the warrant in the least intrusive way possible yet could make forcible entry on private property if circumstances necessitated.

If the court took custody of the child, the respondent could petition to be heard at the earliest opportunity following execution of the warrant, but not later than the next judicial day unless that date was impossible. If it was found that the petitioner sought the warrant in bad faith, the respondent could be awarded reasonable attorney fees and court costs.

The bill would take effect September 1, 2007, and would apply to suits affecting the parent-child relationship pending in court on this date or filed on or after this date.