

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**

The *Parental Abduction Recovery, Enforcement, and Network Training Act*, or the PARENT Act, focuses on eliminating parental abduction, a serious felony that has been destroying 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 appalling result for this parent is pain and sorrow due to unreliable agencies or unfamiliar laws.

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

The PARENT Act calls for an improvement within the federal structure that is responsible for the prevention of international and interstate child abduction with the following recommendations:

- 1) Restructure specific governmental offices to improve 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;
- 4) Recognize the protection of parental rights that are guaranteed in the U.S. constitution to eradicate any false perceptions within legal circles that this crime is merely “a civil matter.”

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.¹ 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”² 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.³ Studies estimate a large percentage of children who are abducted become severely emotionally disturbed.⁴

¹ 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”)

² *Stolen Children*, Editorial, WASHINGTON POST, May 9, 2000, A-30

³ Dorothy S. Huntington, Ph.D, *Parental Kidnapping: A New Form of Child Abuse*, (presented at the California District Attorneys Association Child Abduction Prosecution Seminar, March 21, 1990, (Irvine, CA), (p. 7); Patricia Hoff, *Parental Kidnappings: Prevention and Remedies*, American Bar Association, 2000 (paper originally prepared for the project “Obstacles to the Recovery and Return of Parentally Abducted”) (2000) (p. 1)

⁴ 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 identifies 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.”⁵

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.⁶ 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”?⁷ 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 strangers⁸. In the report titled *The National Incidence Studies of Missing, Abducted, Runaway, and Thrownaway Children (NISMAART II)*, statistics reveal an “estimated 203,900 children were victims of a family abduction in 1999.”⁹ About 10,000 of these cases are parental abductions to a foreign country each year.¹⁰ 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,

⁵ Hoff, *Parental Kidnappings: Prevention and Remedies*, p. 1

⁶ Nancy Faulkner, PhD, *Parental Abduction is Child Abuse*, (presented to United Nations Convention on Child Rights), June 1999

⁷ Susan Kreston, *Prosecuting Parental Kidnapping*, American Prosecutors Research Institute, 11:4 (1998)

⁸ Charles F. Hall, *International Child Abductions: The Challenges Facing America*, (April 9, 2004). *bepress Legal Series*. Working Paper 240. (p. 2)

⁹ *Highlights From the NISMAART Bulletins*, Office of Juvenile Justice and Delinquency Prevention. U.S. Department of Justice. Washington, DC: (October 2002) (p.2)

¹⁰ William Rigler and Howard L. Wieder, *The Epidemic of Parental Child-Snatching: An Overview* (p. 1)

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?

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.¹¹ 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).

¹¹ See Exec. Order No. 12648, 53 Fed. Reg. 30637 (1988).

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 noted, "given the terrible pain of each and every American 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."¹²

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.¹³ 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

¹² *A Parent's Worst 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)*

¹³ *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.*

to imagine the lack of support other parents with softer voices are receiving from the OCI.”¹⁴

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.¹⁵ 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 can generate greater trouble for many left-behind parents.

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 male¹⁶. 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.”¹⁷ According to the *Washington Post*, approximately 2,000 American-born children were illegally taken to Saudi Arabia by 2000¹⁸. The Office of Children’s Issues downplays those numbers and recognizes only 35 abduction cases of American children¹⁹. 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” .²⁰ 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.

¹⁴ *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)

¹⁵ U.S. Department of State, *International Parental Child Abduction*, Web site

¹⁶ 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)

¹⁷ Robert Verkaik, *Court rules Islamic law discriminatory*, The Independent UK, October 23, 2008

¹⁸ Cindy Loose, *Abduction Cases Draw Ire on Hill*, WASHINGTON POST, March 24, 2000, A04

¹⁹ *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)

²⁰ 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)

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.'"²¹

An American father thrust into a Japanese custody hearing can 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.²² 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."²³ 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 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."²⁴

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 penalty²⁵

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."²⁶

²¹ Colin P. A. Jones, *Child custody in Japan isn't based on rules*, SAN FRANCISCO CHRONICLE, August 27, 2006, E-3

²² Kirsten Brown, *Frustrated fathers of abducted children turn to public for support*. December 12, 2006. Scripps Howard Foundation Wire

²³ *Harboring stolen children: int'l kidnapers find safe haven in Japan*, Kyoto News, Kyoto News on the Web, September 17, 2007

²⁴ *Harboring stolen children: int'l kidnapers find safe haven in Japan*, Kyoto News

²⁵ Colin P. A. Jones, *Child custody in Japan isn't based on rules*, SAN FRANCISCO CHRONICLE

²⁶ U.S. Department of State, *International Parental Child Abduction*, Web site

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.²⁷

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."²⁸ IPKCA²⁹ 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.³⁰ 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.

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."³¹ 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

²⁷ Daniel Levine, *America's Stolen Children*, READER'S DIGEST, September 1999 (p.36)

²⁸ H.R.Rep. No. 103-390, at 1 (1993), *reprinted in* 1993 U.S.C.C.A.N. 2419, 2419

²⁹ 18 USC §1204

³⁰ H. Rep. No. 103-390, at 3, *reprinted in* 1993 U.S.C.C.A.N. 2421.

³¹ U.S. Department of Justice. *Child Exploitation and Obscenity Section (CEOS) Web site*

victimization. According to a senior official from NCMEC, CEOS lacks attorneys trained to handle international parental kidnapping cases.³²

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)."³³

In addition to these shocking statistics, less than a percent of the abductors involved in parental abduction received a federal warrant.³⁴ 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.

"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

³² In a letter sent to author, June 25, 2008

³³ Janet Chiancone et al, *Issues in Resolving Cases of International Child Abduction by Parents*, OJJDP JUVENILE JUSTICE BULLETIN (2001) (p. 7)

³⁴ Timothy W. Maier, *All Talk, No Action on Stolen Children*, Insight on the News (FindArticles.com) June 21,2001 (p. 3)

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.”³⁵ 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.”³⁶

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.”³⁷ 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.”³⁸

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.”³⁹

³⁵ From a 2003 interview with the author.

³⁶ From a 2003 interview with the author.

³⁷ Timothy A. Maier, *Justice Ignores Stolen Kids*, Insight on the News (FindArticles.com), November 20, 1999

³⁸ Timothy A. Maier, *Justice Ignores Stolen Kids*, Insight on the News

³⁹ 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 Abduction⁴⁰. 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,

⁴⁰ 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.

objectives, and resources required to fully implement their planned actions.”⁴¹

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.

⁴¹ *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)

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.”⁴²

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,

⁴² 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.

resulted in a 90 percent return.⁴³ 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.”⁴⁴

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 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.”⁴⁵ When a government entity, functioning

⁴³ Timothy W. Maier, *State Abandons Kidnapped Kids*, Insight on the News (FindArticles.com), June 14, 1999 (pg. 1)

⁴⁴ *Reuniting American Children and Their Parents*, CONGRESSIONAL RECORD-SENATE, May 9, 2000 (Speech by Senator Patrick Leahy), S3683

⁴⁵ *International Parental Kidnapping*, CONGRESSIONAL RECORD-SENATE, May 9, 2000 (Speech by Senator Mike DeWine), s3680

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 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.⁴⁶ 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.”⁴⁷

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 abducted and also the parent who is left behind,”⁴⁸ 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 particular, the Act calls for the following main solutions:

- 1) Transfer all powers, duties, and responsibilities regarding prevention and protection of children from abduction to trained personnel in a new division

⁴⁶ For example, 42 U.S.C. §3631

⁴⁷ Cindy Loose, *Abduction Cases Draw Ire on Hill*, WASHINGTON POST, March 24, 2000, A04.

⁴⁸ Kathi L. Grasso et al, *The Criminal Justice System’s Response to Parental Abduction*, OJJDP JUVENILE JUSTICE BULLETIN (December 2001).

- within the U.S. Justice Department that works with the National Center for Missing and Exploited 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 helping hand when “citizens fall victim to crime.”⁴⁹ 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 international

⁴⁹ U.S. Department of State, *About the Bureau of Consular Affairs*, Web site

- *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.⁵⁰ 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.

What is needed is an 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 nation involved in the dispute, U.S. courts must look to domestic law to determine jurisdiction and the extent of their authority.⁵¹

Because enforcement of the Convention may require legal action, it is imperative to transfer Central Authority to a federal government entity, or as the Act recommends, a division within the U.S. Justice Department that has the force and international resources. By doing so, there will be greater powers and better results to lawfully enforce provisions of the Convention and protect children and parents who 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

⁵⁰ 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."

⁵¹ 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)

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 year⁵², NCMEC has used its role regarding child abduction prevention to provide information to judges, prosecutors, and attorneys.⁵³ 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.

The separation of responsibilities has often confused Central Authorities from signatory countries of the Hague Convention. 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 countries⁵⁴. 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,"⁵⁵ 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 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."⁵⁶

⁵² *Annual Report*, National Center for Missing and Exploited Children. Alexandria, VA, 2007 (p. 27)

⁵³ Nigel Lowe et al, *INTERNATIONAL MOVEMENT OF CHILDREN: LAW PRACTICE AND PROCEDURE*. Jordan Publishing Ltd. (2004) (p. 524)

⁵⁴ Timothy W. Maier, *State Abandons Kidnapped Kids*, *Insight on the News* (pg. 1)

⁵⁵ U.S. Department of State, *International Parental Child Abduction*, Web site

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

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. 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 transfers all responsibilities of international and interstate parental abduction, preventative and prosecutorial, to a proposed division within the U.S. Justice Department.

This proposed division 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.”⁵⁷

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

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.

⁵⁷ U.S. Department of Justice. *Child Exploitation and Obscenity Section (CEOS)*, Web site

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 Office⁵⁸ 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, 1998⁵⁹**

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

⁵⁸ Cindy Loose, *Indifference Adds To Parents' Horror*, WASHINGTON POST. December 24, 2000: A01.

⁵⁹ Susan Kreston, *International Parental Kidnapping*, THE PROSECUTOR, 32.2 (March/April 1998), (p. 1)

matters and should not “waste” the resources of the criminal justice system.”⁶⁰

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

⁶⁰ Susan Kreston, *International Parental Kidnapping*, THE PROSECUTOR (p. 1)

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.”⁶¹

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 of 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.

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

⁶¹ Susan Kreston, *Prosecuting Parental Kidnapping*, American Prosecutors Research Institute, 11:4 (1998)

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.⁶²

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.

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."⁶³ 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."⁶⁴

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.⁶⁵ 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

⁶² Kathi L. Grasso et al, *The Criminal Justice System's Response to Parental Abduction*, OJJDP JUVENILE JUSTICE BULLETIN (December 2001)

⁶³ *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)

⁶⁴ Janet Chiancone et al, *Issues in Resolving Cases of International Child Abduction by Parents*, OJJDP JUVENILE JUSTICE BULLETIN (2001)

⁶⁵ Information from court deposition of B. Dotta for a federal civil suit in connection to an international child kidnapping case.

Mr. X had every other weekend visitation, and he had no visitation for six months, we would not file an abduction.”⁶⁶

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.⁶⁷

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 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.

⁶⁶ Information from court deposition of B. Frank for a federal civil suit in connection to an international child kidnapping case.

⁶⁷ Timothy W. Maier, *Kids Held Hostage*, Insight on the News (FindArticles.com), March 18, 1999, (p. 3)

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,⁶⁸ 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 PARENT Act elevates the seriousness of parental abduction to the equivalent of kidnapping to deter future acts of the crime.

The maximum amount of three years incarceration for an abductor, in accordance to 18 USC §1204, is not severe. 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 pursue kidnappers 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).⁶⁹

⁶⁸ *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.”

⁶⁹ See Section 11

In addition to greater penalties, the PARENT Act emphasizes greater enforcement of the Alien Exclusion Act (8 U.S.C. (A)(9)(C)(I)), and includes non-Hague Convention countries. 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. Adding greater deterrence is applicability of the Alien Exclusion Act to relatives or friends who assist in keeping the child abduction. The PARENT Act includes non-Hague Convention countries due the large number of abductions of American children illegally taken to countries deemed as safe havens for abducting parents.

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, “this section 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.”⁷⁰

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.

COSTS AND EXPENDITURES

“When it comes to international abductions by foreign spouses, the government often places diplomacy above the needs of American children and their parents.”

- **“Kids Held Hostage” by Timothy W. Maier, *Insight on the News*, March 8, 1999.**

The PARENT Act does not request additional funding for the proposed *Child Abduction Recovery and Enforcement* division. Funding for the Child Abduction Unit in the Office of

⁷⁰ 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)

Children's Issues would be forwarded to the establishment of the new division in the U.S. Justice Department.

Expenditures for an annual convention/forum on child abduction prevention will derive from funding that is also for the Office of Children's Issues Child Abduction Unit and, if needed, other funds from within the Justice Department used to promote education.

Funding would be made available to cover the cost of extraditing abductors. The amount set aside by the Office of International Affairs (OIA) would be solely for the handling of extradition and not for any other expenses. Violations recognized in state *or* federal laws serve as purpose of an extradition request.

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.

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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Committee:

Principal Author: Larry Synclair

Bill No:

Delegation:

**TITLE OF BILL: PARENTAL ABDUCTION RECOVERY,
ENFORCEMENT, AND NETWORK TRAINING ACT**

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES
OF AMERICA IN CONGRESS ASSEMBLED,

Preamble: Whereas hundreds of thousands of American children continue to become victims of interstate and international parental abduction each year, and there is a need for better governmental resources to hinder parental abduction which is a felonious crime in all States, the United States hereby permits this Act to establish a federally funded governmental unit with the sole purpose to recover American children and prosecute abductors. In addition, provisions within the Act are granted to enhance awareness about this crime to state and federal authorities using available current resources to distribute the information; accordingly, by elevating the crime of parental abduction to a level the parallels federal kidnapping, measures within the Act will be enacted to ensure greater response to the crime.

SECTION 1. SHORT TITLE

This Act may be cited as the Parental Abduction Recovery, Enforcement, and Network Training Act (or the PARENT Act, for short).

SECTION 2. FINDINGS

Congress find that –

- (a) each year, hundreds of thousands of children are kidnapped by a parent in violation of law, court order, or legally binding agreement and brought to, or taken from, the United States;
- (b) 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 a fundamental human rights;
- (c) 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;
- (d) parental abduction is child abuse according to the International Child Abduction Remedies Act, 42 U.S.C. § 11601(a)(1).

SECTION 3. DEFINITIONS

- (a) The definition of “child” is a person who has not attained the age of 18 years.
- (b) The maximum age of a child listed as 16 years in 18 U.S.C. §1204 is amended to 18 years of age;
- (c) 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;
- (d) The definition of “interstate parental abduction” is whoever wrongfully removes or retains a child from a State with jurisdiction or intentionally acts in violation of a custody order to obstruct the lawful exercise of parental rights;
 - (e) The definition of “international parental abduction” is defined under 18 U.S.C. §1204. 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:
 - (1) 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
 - (2) the child is found in this country; or
 - (3) 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.
 - (f) Parental abduction is further defined as child abuse that transpires from hands of the abductor;
 - (g) Parental abduction is further defined as an act that can produce psychological trauma to parents separated from their child due to this crime;
 - (h) Parental abduction is further defined as an act to destroy a parent and child relationship; therefore, it is a violation of parental rights that must be protected under the Fourteenth Amendment of the U.S. Constitution;
 - (i) 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.
 - (j) “Foreign country”, in this Act, means any country that:
 - (1) is not a signatory to the Hague Convention on the Civil Aspects of International Child Abduction; or
 - (2) does not provide for the extradition to the United States of a parental abductor and minor child; or
 - (3) has local laws or practices that disregard a custody order from within the United States; or
 - (4) 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
 - (5) 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
 - (6) lacks the legal mechanisms to efficiently enforce a custody order; or

- (7) 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.

SECTION 4. PROTECTION OF PARENTAL RIGHTS

All parents, under the definition in Section 3(c) 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 Section 3(j).

SECTION 5. TRANSFER

- (a) All funding, responsibilities, and duties regarding international parental abduction assigned to the Child Abduction Unit within Office of Children's Issues, located in the U.S. Department of State's Consular Affairs, are to be transferred to the U.S. Department of Justice's Child Abduction Recovery and Enforcement division (see Section 7).
- (b) This encompasses the transfer of all past and currently active abduction cases within the Office of Children's Issues or at the written request of a left behind parent. All cases are to be fully transferred no later than one year after approval of this Act.

SECTION 6. TRANSFER OF SOME DUTIES TO THE NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN

- (a) The National Center for Missing and Exploited Children (NCMEC) maintains responsibility of compiling information from parents or law enforcement officials about child abduction.
- (b) Acting as liaison, NCMEC is assigned to assimilate and prepare case information for the Child Abduction Recovery and Enforcement division (see Section 7).
- (c) NCMEC 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.

SECTION 7. ESTABLISHMENT OF THE CHILD ABDUCTION RECOVERY AND ENFORCEMENT 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").
- (b) Under Section 8 of this Act, the Division is designated as the Central Authority under the Hague Convention on the Civil Aspects of International Child Abduction (42 U.S.C. § 11601 *et seq.*, herein referred as the Hague Convention).
- (c) Should it be conclusively evident that a child is abducted under the definitions stated in Section 3(d) or (e), the Division initiates action to recover the child, prosecute the abductor, or both;

- (d) The Division has a supervisory role in swift interstate and international child abduction investigations and prosecution; this includes abductions to countries that are non-signatories to the Hague Convention. Immediate response and action is given to all abduction cases, whether it is stranger or parental abduction.
- (e) The Division collaborates with other international agencies or officials to recover abducted children, to extradite an abducting parent, or both.
- (f) Attorneys handling specific child abduction case within this Division acts as a point of contact for state and federal officials.
 - (1) They provide information about legal and law enforcement assistance available by the Federal Government. Attorneys will also provide legal information to law enforcement officers and prosecutors involved in interstate and international parental abduction cases;
 - (2) Attorneys within the Division dutifully, without delay, provide up-to-date information to NCMC caseworkers functioning as a communication liaison for parents of abducted children, law enforcement officers, judicial officials, or persons with legal authority to have access to a specific case;
- (g) All personnel 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 the abduction. Under current policy, additional training will be paid for by the Federal Government;
- (h) 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 an employment background as a prosecutor with experience in prosecuting abductors;
 - (1) Under the auspices of the Director of the Division, an 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 originate from within their jurisdiction.
 - (2) The Assistant United States Attorneys designated to be responsible for interstate and international child abduction cases must attend training each year to maintain awareness of current laws and resources.
- (i) 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;
- (j) Regarding international parental abduction cases, it is standard policy for the Division to take necessary action with its foreign counterpart or a law enforcement or judicial entity of the country the child is abducted to, and seek the return of the child through the Hague Convention or through other means of international comity;
- (k) Should a foreign country not comply with the Hague Convention although it is signatory of this treaty, or a non-signatory country does not cooperate with the Division, an investigation shall commence should evidence of child abduction be

- apparent (under Section 3(d) or (e)), 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 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
 - (2) 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 NCMEC and other professional agencies involved with parental abduction prevention to provide annual statistic reports about child abduction. Included into the report is information for legal, judicial, and law enforcement authorities about identifying abduction, legalities in enforcement, obstacles regarding enforcement (and how to resolve them), prosecution procedures, jurisdiction issues, and psychological issues stemming from abduction.
 - (1) This report includes full accurate account of all funding for the Division including annual reports of accounting in order to eliminate inequities and waste;
 - (2) The Division is to establish a comprehensive information technology system for the following:
 - a. development of data that can assist in making decisions regarding interstate and international abduction cases;
 - b. provide courts, when requested, with country-specific information to help judicial officials decide on appropriate safeguards for international child custody cases;
 - c. share information with other countries to foster the return of children under the Hague Convention and otherwise.
 - (o) 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.
 - (p) Using the available resources of NCMEC and other non-profit and/or professional organizations in various states, the Division will offer and supervise 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.
- (q) 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.
- (r) 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.
- (s) 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;

SECTION 8. 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 is designated as the U.S. Central Authority to discharge the duties which are imposed by the Convention and the International Child Abduction Remedies Act upon such authorities."

SECTION 9. AMENDS TO TITLE 42, CHAPTER 121, SECTION 11608a

- (a) All references to "Secretary of State" or within this Section are replaced with "United States Attorney General";
- (b) All references to "Department of State" within this Section are replaced with "Department of Justice";
- (c) All references to "Office of Children's Issues" within this Section are replaced with "Child Abduction Recovery and Enforcement division";
- (d) All references to "Office" within this section are replaced with "Division";

- (e) Amends in subsection (a) regarding director requirements are:
 - (1) “Director of the Office of Children's Issues of the Department of State” to “Director of the Child Abduction Recovery and Enforcement division” or “Director of the Division”;
 - (2) “A strong background in consular affairs” to “a strong legal background as a prosecutor as well as a supportive role in children’s rights, constitutional rights, and family law”;
- (f) Correction in subsection (b) is that each case officer will not have a caseload that exceeds 35;
- (g) Amends in subdivision (c) are:
 - (1) “The Secretary of State shall designate in each United States diplomatic mission an employee” is replaced with “The Department of Justice shall designate a person from the legal attaché office or from the Department of Justice;
 - (2) “The Director of the Office” is replaced with “the Director of the Division.”
- (h) Subdivision (d)(2)(a) is removed and (d)(2)(b) joins (d)(2).

SECTION 10. 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, involved with child abduction prevention. 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) develop protocol aimed specifically at developing, learning, and/or sharing recovery strategies and putting into place and automatic protocol that would allow for immediate implementation of a specific strategy through a coordinated effort of those agencies, which will be utilized.

SECTION 11. FEDERAL ASSISTANCE OUTSIDE THE UNITED STATES

- (a) Should it be conclusively evident that a child is abducted under the definitions stated in Section 3(d) or (e), the Division will 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 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.

SECTION 12. 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).

SECTION 13. INCREASE OF MAXIMUM PENALTIES

18 U.S.C. § 1204, that specifies a smaller period of incarceration, is changed to new 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."

SECTION 14. 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 Section 6(g)(6), 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.

SECTION 15. EFFECT

This bill will take effect January 1st of the next year after passage.