
HOUSE BILL 1121

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By Representatives Goodman, Leavitt, Reeves, Lekanoff, and Wylie; by request of Uniform Law Commission

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1 AN ACT Relating to the uniform child abduction prevention act;
2 and adding a new chapter to Title 26 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** This act may be known and cited as the
5 uniform child abduction prevention act.

6 NEW SECTION. **Sec. 2.** The definitions in this section apply
7 throughout this chapter unless the context clearly requires
8 otherwise.

9 (1) "Abduction" means the wrongful removal or wrongful retention
10 of a child.

11 (2) "Child" means an unemancipated individual who is less than 18
12 years of age.

13 (3) "Child custody determination" means a judgment, decree, or
14 other order of a court providing for the legal custody, physical
15 custody, or visitation with respect to a child. The term includes a
16 permanent, temporary, initial, and modification order.

17 (4) "Child custody proceeding" means a proceeding in which legal
18 custody, physical custody, or visitation with respect to a child is
19 at issue. The term includes a proceeding for dissolution of marriage,

1 separation, neglect, abuse, dependency, guardianship, parentage,
2 termination of parental rights, or protection from domestic violence.

3 (5) "Court" means a superior court of this state.

4 (6) "Domestic violence" has the meaning given in RCW 7.105.010.

5 (7) "Petition" includes a motion or its equivalent.

6 (8) "Protection order" means a "full protection order" or a
7 "temporary protection order," as defined in RCW 7.105.010.

8 (9) "Record" means information that is inscribed on a tangible
9 medium or that is stored in an electronic or other medium and is
10 retrievable in perceivable form.

11 (10) "State" means a state of the United States, the District of
12 Columbia, Puerto Rico, the United States Virgin Islands, or any
13 territory or insular possession subject to the jurisdiction of the
14 United States. The term includes a federally recognized Indian tribe
15 or nation.

16 (11) "Travel document" means records relating to a travel
17 itinerary, including travel tickets, passes, reservations for
18 transportation, or accommodations. The term does not include a
19 passport or visa.

20 (12) "Wrongful removal" means the taking of a child that breaches
21 rights of custody or visitation given or recognized under the law of
22 this state.

23 (13) "Wrongful retention" means the keeping or concealing of a
24 child that breaches rights of custody or visitation given or
25 recognized under the law of this state.

26 NEW SECTION. **Sec. 3.** RCW 26.27.101, 26.27.111, and 26.27.121
27 apply to cooperation and communications among courts in proceedings
28 under this chapter. For purposes of this section, "court" has the
29 meaning given in RCW 26.27.021.

30 NEW SECTION. **Sec. 4.** (1) A court on its own motion may order
31 abduction prevention measures in a child custody proceeding if the
32 court finds that the evidence establishes a credible risk of
33 abduction of the child.

34 (2) A party to a child custody determination or another
35 individual or entity having a right under the law of this state or
36 any other state to seek a child custody determination for the child
37 may file a petition seeking abduction prevention measures to protect
38 the child under this chapter.

1 (3) A prosecutor or public authority designated under RCW
2 26.27.541 may seek a warrant to take physical custody of a child
3 under section 9 of this act or other appropriate prevention measures.

4 NEW SECTION. **Sec. 5.** (1) A petition under this chapter may be
5 filed only in a court that has jurisdiction to make a child custody
6 determination with respect to the child at issue under chapter 26.27
7 RCW.

8 (2) A court of this state has temporary emergency jurisdiction
9 under RCW 26.27.231 if the court finds a credible risk of abduction.

10 NEW SECTION. **Sec. 6.** A petition under this chapter must be
11 signed under penalty of perjury and include a copy of any existing
12 child custody determination, if available. The petition must specify
13 the risk factors for abduction, including the relevant factors
14 described in section 7 of this act. Subject to RCW 26.27.281(5), if
15 reasonably ascertainable, the petition must contain:

16 (1) The name, date of birth, and gender of the child;

17 (2) The customary address and current physical location of the
18 child;

19 (3) The identity, customary address, and current physical
20 location of the respondent;

21 (4) A statement of whether a prior action to prevent abduction or
22 domestic violence has been filed by a party or other individual or
23 entity having custody of the child, and the date, location, and
24 disposition of the action;

25 (5) A statement of whether a party to the proceeding has been
26 arrested for a crime related to domestic violence, stalking, or child
27 abuse or neglect, and the date, location, and disposition of the
28 case;

29 (6) Information regarding any protection order previously entered
30 involving either party or the child; and

31 (7) Any other information required to be submitted to the court
32 for a child custody determination under RCW 26.27.281.

33 NEW SECTION. **Sec. 7.** (1) In determining whether there is a
34 credible risk of abduction of a child, the court shall consider any
35 evidence that the petitioner or respondent:

36 (a) Has previously abducted or attempted to abduct the child;

37 (b) Has threatened to abduct the child;

1 (c) Except for planning activities related to providing for the
2 safety of a party or the child while avoiding or attempting to avoid
3 domestic violence, has recently engaged in activities that may
4 indicate a planned abduction, including:

5 (i) Abandoning employment;

6 (ii) Selling a primary residence;

7 (iii) Terminating a lease;

8 (iv) Closing bank or other financial management accounts,
9 liquidating assets, hiding or destroying financial documents, or
10 conducting any unusual financial activities;

11 (v) Applying for a passport or visa or obtaining travel documents
12 for the respondent, a family member, or the child; or

13 (vi) Seeking to obtain the child's birth certificate or school or
14 medical records;

15 (d) Has engaged in domestic violence, stalking, or child abuse or
16 neglect;

17 (e) Has refused to follow a child custody determination;

18 (f) Lacks strong familial, financial, emotional, or cultural ties
19 to the state or the United States;

20 (g) Has strong familial, financial, emotional, or cultural ties
21 to another state or country;

22 (h) Is likely to take the child to a country that:

23 (i) Is not a party to the Hague Convention on the Civil Aspects
24 of International Child Abduction and does not provide for the
25 extradition of an abducting parent or for the return of an abducted
26 child;

27 (ii) Is a party to the Hague Convention on the Civil Aspects of
28 International Child Abduction but:

29 (A) The Hague Convention on the Civil Aspects of International
30 Child Abduction is not in force between the United States and that
31 country;

32 (B) Is noncompliant according to the most recent compliance
33 report issued by the United States department of state; or

34 (C) Lacks legal mechanisms for immediately and effectively
35 enforcing a return order under the Hague Convention on the Civil
36 Aspects of International Child Abduction;

37 (iii) Poses a risk that the child's physical or emotional health
38 or safety would be endangered in the country because of specific
39 circumstances relating to the child or because of human rights
40 violations committed against children;

1 (iv) Has laws or practices that would:
2 (A) Enable the respondent, without due cause, to prevent the
3 petitioner from contacting the child;
4 (B) Restrict the petitioner from freely traveling to or exiting
5 from the country because of the petitioner's gender, gender identity,
6 sexual orientation, nationality, marital status, or religion; or
7 (C) Restrict the child's ability legally to leave the country
8 after the child reaches the age of majority because of a child's
9 gender, gender identity, sexual orientation, nationality, or
10 religion;
11 (v) Is included by the United States department of state on a
12 current list of state sponsors of terrorism;
13 (vi) Does not have an official United States diplomatic presence
14 in the country; or
15 (vii) Is engaged in active military action or war, including a
16 civil war, to which the child may be exposed;
17 (i) Is undergoing a change in immigration or citizenship status
18 that would adversely affect the respondent's ability to remain in the
19 United States legally;
20 (j) Has had an application for United States citizenship denied;
21 (k) Has forged or presented misleading or false evidence on
22 government forms or supporting documents to obtain or attempt to
23 obtain a passport, a visa, travel documents, a social security card,
24 a driver's license, or other government-issued identification card or
25 has made a misrepresentation to the United States government;
26 (l) Has used multiple names to attempt to mislead or defraud; or
27 (m) Has engaged in any other conduct the court considers relevant
28 to the risk of abduction.
29 (2) If the court finds during a hearing on a petition under this
30 chapter that the respondent's conduct was intended to avoid domestic
31 violence or imminent harm to the child or the respondent, the court
32 shall not issue an abduction prevention order.

33 NEW SECTION. **Sec. 8.** (1) If a petition is filed under this
34 chapter, the court may enter an order that must include:

35 (a) The basis for the court's exercise of jurisdiction;
36 (b) The manner in which notice and opportunity to be heard were
37 given to the persons entitled to notice of the proceeding;
38 (c) A detailed description of each party's custody and visitation
39 rights and residential arrangements for the child;

1 (d) A provision stating that a violation of the order may subject
2 the party in violation to civil and criminal penalties; and

3 (e) Identification of the child's country of habitual residence
4 at the time of the issuance of the order.

5 (2) If, at a hearing on a petition under this chapter or on the
6 court's own motion, the court after reviewing the evidence finds a
7 credible risk of abduction of the child, the court shall enter an
8 abduction prevention order. The order must include the provisions
9 required by subsection (1) of this section and measures and
10 conditions, including those in subsections (3), (4), and (5) of this
11 section, that are reasonably calculated to prevent abduction of the
12 child, giving due consideration to the custody and visitation rights
13 of the parties. The court shall consider the age of the child, the
14 potential harm to the child from an abduction, the legal and
15 practical difficulties of returning the child to the jurisdiction if
16 abducted, and the reasons for the potential abduction, including
17 evidence of domestic violence, stalking, or child abuse or neglect.

18 (3) An abduction prevention order may include one or more of the
19 following:

20 (a) An imposition of travel restrictions that require that a
21 party traveling with the child outside a designated geographical area
22 provide the other party with the following:

23 (i) The travel itinerary of the child;

24 (ii) A list of physical addresses and telephone numbers at which
25 the child can be reached at specified times; and

26 (iii) Copies of all travel documents;

27 (b) A prohibition of the respondent directly or indirectly:

28 (i) Removing the child from this state, the United States, or
29 another geographic area without permission of the court or the
30 petitioner's written consent;

31 (ii) Removing or retaining the child in violation of a child
32 custody determination;

33 (iii) Removing the child from school or a child care or similar
34 facility; or

35 (iv) Approaching the child at any location other than a site
36 designated for supervised visitation;

37 (c) A requirement that a party register the order in another
38 state as a prerequisite to allowing the child to travel to that
39 state;

40 (d) With regard to the child's passport:

1 (i) A direction that the petitioner place the child's name in the
2 United States department of state's child passport issuance alert
3 program;

4 (ii) A requirement that the respondent surrender to the court or
5 the petitioner's attorney any United States or foreign passport
6 issued in the child's name, including a passport issued in the name
7 of both the parent and the child; and

8 (iii) A prohibition upon the respondent from applying on behalf
9 of the child for a new or replacement passport or visa;

10 (e) As a prerequisite to exercising custody or visitation, a
11 requirement that the respondent provide:

12 (i) To the United States department of state office of children's
13 issues and the relevant foreign consulate or embassy, an
14 authenticated copy of the order detailing passport and travel
15 restrictions for the child;

16 (ii) To the court:

17 (A) Proof that the respondent has provided the information in
18 (e)(i) of this subsection; and

19 (B) An acknowledgment in a record from the relevant foreign
20 consulate or embassy that no passport application has been made, or
21 passport issued, on behalf of the child;

22 (iii) To the petitioner, proof of registration with the United
23 States embassy or other United States diplomatic presence in the
24 destination country and with the central authority for the Hague
25 Convention on the Civil Aspects of International Child Abduction, if
26 that convention is in effect between the United States and the
27 destination country, unless one of the parties objects; and

28 (iv) A written waiver under the privacy act, 5 U.S.C. Section
29 552a, as amended, with respect to any document, application, or other
30 information pertaining to the child authorizing its disclosure to the
31 court and the petitioner; and

32 (f) Upon the petitioner's request, a requirement that the
33 respondent obtain an order from the relevant foreign country
34 containing terms identical to the child custody determination issued
35 in the United States.

36 (4) In an abduction prevention order, the court may impose
37 conditions on the exercise of custody or visitation that:

38 (a) Limit visitation or require that visitation with the child by
39 the respondent be supervised until the court finds that supervision

1 is no longer necessary and order the respondent to pay the costs of
2 supervision;

3 (b) Require the respondent to post a bond or provide other
4 security in an amount sufficient to serve as a financial deterrent to
5 abduction, the proceeds of which may be used to pay for the
6 reasonable expenses of recovery of the child, including reasonable
7 attorneys' fees and costs if there is an abduction; and

8 (c) Require the respondent to obtain education on the potentially
9 harmful effects to the child from abduction.

10 (5) To prevent imminent abduction of a child, a court may:

11 (a) Issue a warrant to take physical custody of the child under
12 section 9 of this act or other laws of this state;

13 (b) Direct the use of law enforcement to take any action
14 reasonably necessary to locate the child, obtain return of the child,
15 or enforce a child custody determination under this chapter or other
16 laws of this state; or

17 (c) Grant any other relief allowed under the law of this state
18 other than this chapter.

19 (6) The remedies provided in this chapter are cumulative and do
20 not affect the availability of other remedies to prevent abduction.

21 NEW SECTION. **Sec. 9.** (1) If a petition under this chapter
22 contains allegations, and the court finds that there is a credible
23 risk that the child is imminently likely to be wrongfully removed,
24 the court may issue an ex parte warrant to take physical custody of
25 the child.

26 (2) The respondent on a petition under subsection (1) of this
27 section must be afforded an opportunity to be heard at the earliest
28 possible time after the ex parte warrant is executed, but not later
29 than the next judicial day unless a hearing on that date is
30 impossible. In that event, the court shall hold the hearing on the
31 first judicial day possible.

32 (3) An ex parte warrant under subsection (1) of this section to
33 take physical custody of a child must:

34 (a) Recite the facts upon which a determination of a credible
35 risk of imminent wrongful removal of the child is based;

36 (b) Direct law enforcement officers to take physical custody of
37 the child immediately;

38 (c) State the date and time for the hearing on the petition; and

1 (d) Provide for the safe interim placement of the child pending
2 further order of the court.

3 (4) If feasible, before issuing a warrant and before determining
4 the placement of the child after the warrant is executed, the court
5 may order a search of the relevant databases of the national crime
6 information center system and similar state databases to determine if
7 either the petitioner or respondent has a history of domestic
8 violence, stalking, or child abuse or neglect.

9 (5) The petition and warrant must be served on the respondent
10 when or immediately after the child is taken into physical custody.

11 (6) A warrant to take physical custody of a child, issued by this
12 state or another state, is enforceable throughout this state. If the
13 court finds that a less intrusive remedy will not be effective, it
14 may authorize law enforcement officers to enter private property to
15 take physical custody of the child. If required by exigent
16 circumstances, the court may authorize law enforcement officers to
17 make a forcible entry at any hour.

18 (7) If the court finds, after a hearing, that a petitioner sought
19 an ex parte warrant under subsection (1) of this section for the
20 purpose of harassment or in bad faith, the court may award the
21 respondent reasonable attorneys' fees, costs, and expenses.

22 (8) This chapter does not affect the availability of relief
23 allowed under other laws of this state.

24 NEW SECTION. **Sec. 10.** An abduction prevention order remains in
25 effect until the earliest of:

- 26 (1) The time stated in the order;
27 (2) The emancipation of the child;
28 (3) The child's attaining 18 years of age; or
29 (4) The time the order is modified, revoked, vacated, or
30 superseded by a court with jurisdiction under RCW 26.27.201,
31 26.27.211, and 26.27.221.

32 NEW SECTION. **Sec. 11.** In applying and construing this uniform
33 act, consideration must be given to the need to promote uniformity of
34 the law with respect to its subject matter among states that enact
35 it.

36 NEW SECTION. **Sec. 12.** This act modifies, limits, and supersedes
37 the federal electronic signatures in global and national commerce

1 act, 15 U.S.C. Sec. 7001, et seq., but does not modify, limit, or
2 supersede section 101(c) of the act, 15 U.S.C. Sec. 7001(c) of that
3 act, or authorize electronic delivery of any of the notices described
4 in section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

5 NEW SECTION. **Sec. 13.** Sections 1 through 12 of this act
6 constitute a new chapter in Title 26 RCW.

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