



General Assembly

January Session, 2007

**Committee Bill No. 595**

LCO No. 4796

\*04796SB00595JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT ADOPTING THE UNIFORM CHILD ABDUCTION PREVENTION ACT.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2007*) Sections 1 to 12,  
2 inclusive, of this act may be cited as the "Uniform Child Abduction  
3 Prevention Act".

4 Sec. 2. (NEW) (*Effective October 1, 2007*) As used in sections 1 to 12,  
5 inclusive, of this act:

6 (1) "Abduction" means the wrongful removal or wrongful retention  
7 of a child.

8 (2) "Child" means an unemancipated individual who is less than  
9 eighteen years of age.

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

14 (4) "Child custody proceeding" means a proceeding in which legal  
15 custody, physical custody or visitation with respect to a child is at  
16 issue. The term includes a proceeding for divorce, dissolution of  
17 marriage, separation, neglect, abuse, dependency, guardianship,  
18 paternity, termination of parental rights or protection from domestic  
19 violence.

20 (5) "Court" means an entity authorized under the law of a state to  
21 establish, enforce or modify a child custody determination.

22 (6) "Petition" includes a motion or its equivalent.

23 (7) "Record" means information that is inscribed on a tangible  
24 medium or that is stored in an electronic or other medium and is  
25 retrievable in perceivable form.

26 (8) "State" means a state of the United States, the District of  
27 Columbia, Puerto Rico, the United States Virgin Islands, or any  
28 territory or insular possession subject to the jurisdiction of the United  
29 States. The term includes a federally recognized Indian tribe or nation.

30 (9) "Travel document" means records relating to a travel itinerary,  
31 including travel tickets, passes, reservations for transportation or  
32 accommodations. The term does not include a passport or visa.

33 (10) "Wrongful removal" means the taking of a child that breaches  
34 rights of custody or visitation given or recognized under the law of  
35 this state.

36 (11) "Wrongful retention" means the keeping or concealing of a child  
37 that breaches rights of custody or visitation given or recognized under  
38 the law of this state.

39 Sec. 3. (NEW) (*Effective October 1, 2007*) Sections 46b-115h, 46b-115i  
40 and 46b-115j of the general statutes apply to cooperation and  
41 communications among courts in proceedings under sections 1 to 12,  
42 inclusive, of this act.

43 Sec. 4. (NEW) (*Effective October 1, 2007*) (a) A court on its own  
44 motion may order abduction prevention measures in a child custody  
45 proceeding if the court finds that the evidence establishes a credible  
46 risk of abduction of the child.

47 (b) A party to a child custody determination or another individual  
48 or entity having a right under the law of this state or any other state to  
49 seek a child custody determination for the child may file a petition  
50 seeking abduction prevention measures to protect the child under  
51 sections 1 to 12, inclusive, of this act.

52 Sec. 5. (NEW) (*Effective October 1, 2007*) (a) A petition under sections  
53 1 to 12, inclusive, of this act may be filed only in a court that has  
54 jurisdiction to make a child custody determination with respect to the  
55 child at issue under chapter 815p of the general statutes.

56 (b) A court of this state has temporary emergency jurisdiction under  
57 section 46b-115n of the general statutes if the court finds a credible risk  
58 of abduction.

59 Sec. 6. (NEW) (*Effective October 1, 2007*) A petition under sections 1  
60 to 12, inclusive, of this act shall be verified and include a copy of any  
61 existing child custody determination, if available. The petition shall  
62 specify the risk factors for abduction, including the relevant factors  
63 described in section 7 of this act. Subject to subsection (e) of section  
64 46b-115s of the general statutes, if reasonably ascertainable, the  
65 petition shall contain:

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

67 (2) The customary address and current physical location of the  
68 child;

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

71 (4) A statement of whether a prior action to prevent abduction or

72 domestic violence has been filed by a party or other individual or  
73 entity having custody of the child, and the date, location and  
74 disposition of the action;

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

78 (6) Any other information required to be submitted to the court for a  
79 child custody determination under section 46b-115s of the general  
80 statutes.

81 Sec. 7. (NEW) (*Effective October 1, 2007*) (a) In determining whether  
82 there is a credible risk of abduction of a child, the court shall consider  
83 any evidence that the petitioner or respondent:

84 (1) Has previously abducted or attempted to abduct the child;

85 (2) Has threatened to abduct the child;

86 (3) Has recently engaged in activities that may indicate a planned  
87 abduction, including: (A) Abandoning employment; (B) selling a  
88 primary residence; (C) terminating a lease; (D) closing bank or other  
89 financial management accounts, liquidating assets, hiding or  
90 destroying financial documents or conducting any unusual financial  
91 activities; (E) applying for a passport or visa or obtaining travel  
92 documents for the respondent, a family member or the child; or (F)  
93 seeking to obtain the child's birth certificate or school or medical  
94 records;

95 (4) Has engaged in domestic violence, stalking or child abuse or  
96 neglect;

97 (5) Has refused to follow a child custody determination;

98 (6) Lacks strong familial, financial, emotional or cultural ties to this  
99 state or the United States;

100 (7) Has strong familial, financial, emotional or cultural ties to  
101 another state or country;

102 (8) Is likely to take the child to a country that:

103 (A) Is not a party to the Hague Convention on the Civil Aspects of  
104 International Child Abduction and does not provide for the extradition  
105 of an abducting parent or for the return of an abducted child;

106 (B) Is a party to the Hague Convention on the Civil Aspects of  
107 International Child Abduction, but (i) the Hague Convention on the  
108 Civil Aspects of International Child Abduction is not in force between  
109 the United States and that country, (ii) is noncompliant according to  
110 the most recent compliance report issued by the United States  
111 Department of State, or (iii) lacks legal mechanisms for immediately  
112 and effectively enforcing a return order under the Hague Convention  
113 on the Civil Aspects of International Child Abduction;

114 (C) Poses a risk that the child's physical or emotional health or  
115 safety would be endangered in the country because of specific  
116 circumstances relating to the child or because of human rights  
117 violations committed against children;

118 (D) Has laws or practices that would (i) enable the respondent,  
119 without due cause, to prevent the petitioner from contacting the child,  
120 (ii) restrict the petitioner from freely traveling to or exiting from the  
121 country because of the petitioner's gender, nationality, marital status  
122 or religion, or (iii) restrict the child's ability legally to leave the country  
123 after the child reaches the age of majority because of a child's gender,  
124 nationality or religion;

125 (E) Is included by the United States Department of State on a  
126 current list of state sponsors of terrorism;

127 (F) Does not have an official United States diplomatic presence in  
128 the country; or

129 (G) Is engaged in active military action or war, including a civil war,  
130 to which the child may be exposed;

131 (9) Is undergoing a change in immigration or citizenship status that  
132 would adversely affect the respondent's ability to remain in the United  
133 States legally;

134 (10) Has had an application for United States citizenship denied;

135 (11) Has forged or presented misleading or false evidence on  
136 government forms or supporting documents to obtain or attempt to  
137 obtain a passport, a visa, travel documents, a Social Security card, a  
138 driver's license or other government-issued identification card or has  
139 made a misrepresentation to the United States government;

140 (12) Has used multiple names to attempt to mislead or defraud; or

141 (13) Has engaged in any other conduct the court considers relevant  
142 to the risk of abduction.

143 (b) In the hearing on a petition under sections 1 to 12, inclusive, of  
144 this act, the court shall consider any evidence that the respondent  
145 believed in good faith that the respondent's conduct was necessary to  
146 avoid imminent harm to the child or respondent and any other  
147 evidence that may be relevant to whether the respondent may be  
148 permitted to remove or retain the child.

149 Sec. 8. (NEW) (*Effective October 1, 2007*) (a) If a petition is filed under  
150 sections 1 to 12, inclusive, of this act, the court may enter an order that  
151 shall include:

152 (1) The basis for the court's exercise of jurisdiction;

153 (2) The manner in which notice and opportunity to be heard were  
154 given to the persons entitled to notice of the proceeding;

155 (3) A detailed description of each party's custody and visitation  
156 rights and residential arrangements for the child; and

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

159 (b) If, at a hearing on a petition under sections 1 to 12, inclusive, of  
160 this act or on the court's own motion, the court after reviewing the  
161 evidence finds a credible risk of abduction of the child, the court shall  
162 enter an abduction prevention order. The order shall include the  
163 provisions required by subsection (a) of this section and measures and  
164 conditions, including those in subsections (c), (d) and (e) of this  
165 section, that are reasonably calculated to prevent abduction of the  
166 child, giving due consideration to the custody and visitation rights of  
167 the parties. The court shall consider the age of the child, the potential  
168 harm to the child from an abduction, the legal and practical difficulties  
169 of returning the child to the jurisdiction if abducted, and the reasons  
170 for the potential abduction, including evidence of domestic violence,  
171 stalking or child abuse or neglect.

172 (c) An abduction prevention order may include one or more of the  
173 following:

174 (1) An imposition of travel restrictions that require that a party  
175 traveling with the child outside a designated geographical area  
176 provide the other party with the following: (A) The travel itinerary of  
177 the child; (B) a list of physical addresses and telephone numbers at  
178 which the child can be reached at specified times; and (C) copies of all  
179 travel documents;

180 (2) A prohibition on the respondent directly or indirectly: (A)  
181 Removing the child from this state, the United States or another  
182 geographical area without permission of the court or the petitioner's  
183 written consent; (B) removing or retaining the child in violation of a  
184 child custody determination; (C) removing the child from school or a  
185 child-care or similar facility; or (D) approaching the child at any  
186 location other than a site designated for supervised visitation;

187 (3) A requirement that a party register the order in another state as a

188 prerequisite to allowing the child to travel to that state;

189 (4) With regard to the child's passport: (A) A direction that the  
190 petitioner place the child's name in the United States Department of  
191 State's Child Passport Issuance Alert Program; (B) a requirement that  
192 the respondent surrender to the court or the petitioner's attorney any  
193 United States or foreign passport issued in the child's name, including  
194 a passport issued in the name of both the parent and the child; and (C)  
195 a prohibition on the respondent applying on behalf of the child for a  
196 new or replacement passport or visa;

197 (5) As a prerequisite to exercising custody or visitation, a  
198 requirement that the respondent provide: (A) To the United States  
199 Department of State Office of Children's Issues and the relevant  
200 foreign consulate or embassy, an authenticated copy of the order  
201 detailing passport and travel restrictions for the child; (B) to the court,  
202 (i) proof that the respondent has provided the information in  
203 subparagraph (A) of this subdivision, and (ii) an acknowledgment in a  
204 record from the relevant foreign consulate or embassy that no passport  
205 application has been made, or passport issued, on behalf of the child;  
206 (C) to the petitioner, proof of registration with the United States  
207 Embassy or other United States diplomatic presence in the destination  
208 country and with the Central Authority for the Hague Convention on  
209 the Civil Aspects of International Child Abduction, if that convention  
210 is in effect between the United States and the destination country,  
211 unless one of the parties objects; and (D) a written waiver under the  
212 Privacy Act of 1974, 5 USC 552a, as from time to time amended, with  
213 respect to any document, application or other information pertaining  
214 to the child authorizing its disclosure to the court and the petitioner;  
215 and

216 (6) Upon the petitioner's request, a requirement that the respondent  
217 obtain an order from the relevant foreign country containing terms  
218 identical to the child custody determination issued in the United  
219 States.

220 (d) In an abduction prevention order, the court may impose  
221 conditions on the exercise of custody or visitation that:

222 (1) Limit visitation or require that visitation with the child by the  
223 respondent be supervised until the court finds that supervision is no  
224 longer necessary and order the respondent to pay the costs of  
225 supervision;

226 (2) Require the respondent to post a bond or provide other security  
227 in an amount sufficient to serve as a financial deterrent to abduction,  
228 the proceeds of which may be used to pay for the reasonable expenses  
229 of recovery of the child, including reasonable attorney's fees and costs  
230 if there is an abduction; and

231 (3) Require the respondent to obtain education on the potentially  
232 harmful effects to the child from abduction.

233 (e) To prevent imminent abduction of a child, a court may:

234 (1) Issue a warrant to take physical custody of the child under  
235 section 9 of this act or the law of this state other than sections 1 to 12,  
236 inclusive, of this act;

237 (2) Direct the use of law enforcement to take any action reasonably  
238 necessary to locate the child, obtain return of the child or enforce a  
239 custody determination under sections 1 to 12, inclusive, of this act or  
240 the law of this state other than said sections; or

241 (3) Grant any other relief allowed under the law of this state other  
242 than sections 1 to 12, inclusive, of this act.

243 (f) The remedies provided in sections 1 to 12, inclusive, of this act  
244 are cumulative and do not affect the availability of other remedies to  
245 prevent abduction.

246 Sec. 9. (NEW) (*Effective October 1, 2007*) (a) If a petition under  
247 sections 1 to 12, inclusive, of this act contains allegations, and the court

248 finds that there is a credible risk, that the child is imminently likely to  
249 be wrongfully removed, the court may issue an ex parte warrant to  
250 take physical custody of the child.

251 (b) The respondent on a petition under subsection (a) of this section  
252 shall be afforded an opportunity to be heard at the earliest possible  
253 time after the ex parte warrant is executed, but not later than the next  
254 court day unless a hearing on that date is impossible. In that event, the  
255 court shall hold the hearing on the first court day possible.

256 (c) An ex parte warrant under subsection (a) of this section to take  
257 physical custody of a child shall:

258 (1) Recite the facts upon which a determination of a credible risk of  
259 imminent wrongful removal of the child is based;

260 (2) Direct law enforcement officers to take physical custody of the  
261 child immediately;

262 (3) State the date and time for the hearing on the petition; and

263 (4) Provide for the safe interim placement of the child pending  
264 further order of the court.

265 (d) If feasible, before issuing a warrant and before determining the  
266 placement of the child after the warrant is executed, the court may  
267 order a search of the relevant databases of the National Crime  
268 Information Center system and similar state databases to determine if  
269 either the petitioner or respondent has a history of domestic violence,  
270 stalking or child abuse or neglect.

271 (e) The petition and warrant shall be served on the respondent  
272 when or immediately after the child is taken into physical custody.

273 (f) A warrant to take physical custody of a child, issued by this state  
274 or another state, is enforceable throughout this state. If the court finds  
275 that a less intrusive remedy will not be effective, it may authorize law

276 enforcement officers to enter private property to take physical custody  
277 of the child. If required by exigent circumstances, the court may  
278 authorize law enforcement officers to make a forcible entry at any  
279 hour.

280 (g) If the court finds, after a hearing, that a petitioner sought an ex  
281 parte warrant under subsection (a) of this section for the purpose of  
282 harassment or in bad faith, the court may award the respondent  
283 reasonable attorney's fees, costs and expenses.

284 (h) This section does not affect the availability of relief allowed  
285 under the law of this state other than sections 1 to 12, inclusive, of this  
286 act.

287 Sec. 10. (NEW) (*Effective October 1, 2007*) An abduction prevention  
288 order remains in effect until the earliest of: (1) The time stated in the  
289 order; (2) the emancipation of the child; (3) the child's attaining  
290 eighteen years of age; or (4) the time the order is modified, revoked,  
291 vacated or superseded by a court with jurisdiction under sections 46b-  
292 115k to 46b-115m, inclusive, of the general statutes.

293 Sec. 11. (NEW) (*Effective October 1, 2007*) In applying and construing  
294 the uniform provisions of sections 1 to 12, inclusive, of this act,  
295 consideration must be given to the need to promote uniformity of the  
296 law with respect to its subject matter among states that enact such  
297 uniform provisions.

298 Sec. 12. (NEW) (*Effective October 1, 2007*) Sections 1 to 12, inclusive,  
299 of this act modify, limit and supersede the federal Electronic  
300 Signatures in Global and National Commerce Act, 15 USC 7001 et seq.,  
301 but does not modify, limit or supersede Section 101(c) of said act, 15  
302 USC 7001(c), or authorize electronic delivery of any of the notices  
303 described in Section 103(b) of said act, 15 USC 7003(b).

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2007</i>	New section
Sec. 2	<i>October 1, 2007</i>	New section
Sec. 3	<i>October 1, 2007</i>	New section
Sec. 4	<i>October 1, 2007</i>	New section
Sec. 5	<i>October 1, 2007</i>	New section
Sec. 6	<i>October 1, 2007</i>	New section
Sec. 7	<i>October 1, 2007</i>	New section
Sec. 8	<i>October 1, 2007</i>	New section
Sec. 9	<i>October 1, 2007</i>	New section
Sec. 10	<i>October 1, 2007</i>	New section
Sec. 11	<i>October 1, 2007</i>	New section
Sec. 12	<i>October 1, 2007</i>	New section

**Statement of Purpose:**

To adopt the Uniform Child Abduction Prevention Act, providing courts with guidelines to follow during custody disputes and divorce proceedings to help identify families at risk for abduction, and providing methods to prevent the abduction of children.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*

Co-Sponsors: SEN. HARRIS, 5th Dist.

S.B. 595