



**U. S. PARENTAL
CHILD ABDUCTION**



**Information compiled by
The Information Resource Center**

**Embassy of the United States of
America, Madrid**

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1. International Child Abduction. U. S. State Department's Role.

Source: State Department, Office of Children's Issues,
http://travel.state.gov/family/abduction/abduction_580.html

Parental child abduction is a tragedy. When a child is abducted across international borders, the difficulties are compounded for everyone involved. This pamphlet is designed to assist the adult most directly affected by international child abduction, the left-behind parent.

The Department of State considers international parental child abduction, as well as the welfare and protection of U.S. citizen children taken overseas, to be important, serious matters. We place the highest priority on the welfare of children who have been victimized by international abductions.

The Department of State's Office of Children's Issues (CA/OCS/CI) is designated to provide assistance to the left-behind parents of international parental child abduction. Since the late 1970's, we have been contacted in the cases of approximately 16,000 children who were either abducted from the United States or prevented from returning to the U.S. by one of their parents. This part of the website discusses what the Department of State can and cannot do to help you. In addition, because we are only part of the network of resources available to you, we mention other avenues to pursue when your child has been abducted across international borders. For example, you may wish to contact the National Center for Missing and Exploited Children (NCMEC)

The Office of Children's Issues is prepared to assist you as you pursue recovery of your abducted child. Because it can be a bewildering experience, we have prepared both a questionnaire for the left-behind parents of children taken to countries not party to the Hague Abduction Convention and an application for left-behind parents of children taken to Hague Convention member countries

To report an abduction case to CA/OCS/CI, call our office and follow-up with a copy of either the completed questionnaire or the completed application. Likewise, in order for us to provide the best service, we need to be informed of any developments in your case. Every child and every case is unique, and we will work with you to apply this information to your particular situation.

What the State Department Can Do:

- In cases where the Hague Convention on the Civil Aspects of International Child Abduction applies, assist parents in filing an application with foreign authorities for return of the child.
- In other cases, through our embassies and consulates abroad, attempt to locate, visit and report on the child's general welfare
- Provide the left-behind parent with information on the country to which the child was abducted, including its legal system, family laws, and a list of attorneys there willing to accept American clients.

- In all cases, provide a point of contact for the left-behind parent at a difficult time
Monitor judicial or administrative proceedings overseas.
- Assist parents in contacting local officials in foreign countries or contact them on the parents behalf.
- List the child in a passport look-out database to alert the custodial parent to an application for a U.S. passport.
- Alert foreign authorities to any evidence of child abuse or neglect.

What the State Department Cannot Do:

Reabduct the child.

- Help a parent to violate host country laws.
- Pay legal expenses or court fees.
- Act as a lawyer or represent parents in court.
- Give refuge to a parent involved in a re-abduction.

2. Introduction to the U. S. Judicial System.

The United States Constitution, adopted in 1789 and amended only rarely since then, is the supreme law of the United States. It established a republic under which the individual states retain considerable sovereignty and authority. Each state, for example, has its own elected executive (governor), legislature, and court system. The federal, or national, government is one of strong, but limited, powers. It may exercise only the powers specified in the Constitution itself. All other powers are reserved by the Constitution to the states and the people. This system of divided powers between the national and state governments is known as “federalism.”

The Bill of Rights is set forth as the first ten amendments to the Constitution. It guarantees fundamental rights to the people and protects them against improper acts by the government. The rights protected include such matters as free speech, freedom of assembly, freedom to seek redress of grievances, freedom from unreasonable searches and seizures, due process of law, protection against compelled self-incrimination, protection against seizure of property without just compensation, a speedy and public trial in criminal cases, trial by jury in both criminal and civil cases, and assistance of counsel in criminal prosecutions. The Constitution established three separate branches of government—Legislative (Article I), Executive (Article II), and Judicial (Article III). The three branches of the federal government operate within a constitutional system known as “checks and balances.” Each branch is formally separate from the other two, and each has certain constitutional authority to check the actions of the others.

The Legislative Branch

Congress, the national legislature of the United States, is composed of two houses or chambers—the Senate and the House of Representatives. Each state has two Senators who are elected for six-year terms. One-third of the Senate is elected every two years. Members of the House of Representatives are elected from local districts within states. Each state receives a number of Representatives in proportion to its population. The entire House is elected every two years. To become law, proposed legislation must be passed by both houses and approved by the President. If the President does not sign, or vetoes, a bill, it may still be enacted, but only by a two-thirds vote of each house of Congress.

The Constitution did not establish a parliamentary or cabinet system of government, as in the United Kingdom and many other democracies around the world. Under the United States Constitution, the President is both the head of state and the head of the government. The President appoints a cabinet—consisting of the heads of major executive departments and agencies—but neither the President nor any member of the cabinet sits in the Congress. The President’s political party, moreover, does not need to hold a majority of the seats in the Congress to stay in office. In fact, it is not unusual for one or both houses of the Congress to be controlled by the opposition party. Each house of the Congress has committees of its members, organized by subject-matter, that draft laws, exercise general oversight over government agencies and programs, enact appropriation bills to fund government operations, and monitor the operation of federal programs. The federal courts, for example, maintain regular communications with the

Judiciary Committees and the Appropriations Committees of the Senate and the House of Representatives.

The Executive Branch

The President is elected every four years, and under the Constitution may serve no more than two terms in office. Once elected, the President selects a cabinet, each member of which must be confirmed by a majority vote in the Senate. Each cabinet member is the head of a department in the executive branch. The cabinet includes, for example, the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, and the Attorney General. The President, his cabinet, and other members of the President's administration are responsible for operating the executive branch of the federal government and for executing and enforcing the laws. The Attorney General, who is head of the Department of Justice, is responsible for all criminal prosecutions, for representing the government's legal interests in civil cases, and for administration of the Bureau of Prisons, the Federal Bureau of Investigation, the Marshals Service, and certain other law enforcement organizations. At the local level, the chief prosecutor in each of the 94 federal judicial districts is the United States attorney, who is appointed by the President and reports to the Attorney General. The Department of Justice plays no role in administration or budgeting for the federal courts. The judiciary communicates separately and directly to the Congress on legislative and appropriations matters.

The Judicial Branch

The federal judiciary is a totally separate, self-governing branch of the government. The federal courts often are called the guardians of the Constitution because their rulings protect the rights and liberties guaranteed by the Constitution. Through fair and impartial judgments, they determine facts and interpret the law to resolve legal disputes. The courts do not make the laws. That is the responsibility of the Congress. Nor do the courts have the power to enforce the laws. That is the role of the President and the many executive branch departments and agencies. But the judicial branch has the authority to interpret and decide the constitutionality of federal laws and to resolve other disputes over federal laws. The framers of the Constitution considered an independent federal judiciary essential to ensure fairness and equal justice to all citizens of the United States. The Constitution they drafted promotes judicial independence in two principal ways. First, federal judges appointed under Article III of the Constitution can serve for life, and they can be removed from office only through impeachment and conviction by Congress of "Treason, Bribery, or other high Crimes and Misdemeanors." Second, the Constitution provides that the compensation of Article III federal judges "shall not be diminished during their Continuance in Office," which means that neither the President nor Congress can reduce the salaries of most federal judges. These two protections help an independent judiciary to decide cases free from popular passion and political influence.

3. Distinctive Features of the American Judicial System.

THE ADVERSARY SYSTEM

The litigation process in United States courts is referred to as an “adversary” system because it relies on the litigants to present their dispute before a neutral fact-finder. According to American legal tradition, inherited from the English common law, the clash of adversaries before the court is thought most likely to allow the jury or judge to determine the truth and resolve the dispute. In some other legal systems, judges or magistrates conduct investigations to find relevant evidence or obtain testimony from witnesses. In the United States, however, the work of collecting evidence and preparing to present it to the court is accomplished by the litigants and their attorneys, normally without assistance from the court. The essential role of the judge is to structure and regulate the development of issues by the adversaries and to make sure that the law is followed and that fairness is achieved.

THE COMMON LAW SYSTEM

The American judicial process is based largely on the English common law system. Common law is law that is developed and interpreted by judges, rather than a fixed body of legal rules such as the codes of a civil law system. A basic feature of the common law is the doctrine of “precedent,” under which judges use the legal principles established in earlier cases to decide new cases that have similar facts and raise similar legal issues. Judges of the lower courts are required to follow the decisions of the higher courts within their jurisdiction. In most areas of federal law, Congress in this century has passed elaborately detailed statutes, sometimes referred to as “codes,” that establish fundamental legal principles in particular fields of law. These bodies of statutory law include, for example, the Bankruptcy Code, the Internal Revenue Code, the Social Security Act, the Securities Act, and the Securities Exchange Act. In addition, the individual states have adopted various comprehensive codes, such as the Uniform Commercial Code. These statutes are often further developed and interpreted by regulations adopted by federal and state administrative agencies.

Despite the growth of statutory law over the last century, however, American statutes and regulations, even when called “codes,” continue to be interpreted by the courts in common-law, or “precedent” fashion. Thus, for example, a bankruptcy court applying the Bankruptcy Code will consult relevant case law to determine whether there are Supreme Court or court of appeals rulings applying the particular code section in similar factual situations. Lawyers who argue the question before the court will not only dispute whether the situation is governed by a particular section of the statute, but whether it should be governed by an earlier court ruling in a purportedly similar case. All judges in the United States, regardless of the level of the court in which they sit, exercise the power of judicial review. While judges will normally presume the laws or actions that they are reviewing to be valid, they will invalidate statutes, regulations, or executive actions that they find to be clearly inconsistent with the Constitution. They are required to abide by a hierarchy of the

laws that places the United States Constitution above all other laws. Judges will therefore not only abide by precedent in interpreting statutes, regulations, and actions by members of the executive branch, but will seek to interpret them consistently with the Constitution.

FEES AND COSTS OF LITIGATION

Another characteristic of the American judicial system is that litigants typically pay their own costs of litigation whether they win or lose. The federal courts charge moderate fees that are mostly set by Congress. Other costs of litigation, such as attorneys' and experts' fees, are more substantial. Civil plaintiffs who cannot afford to pay court fees may seek permission from the court to proceed without paying those fees. In some categories of civil cases, including certain civil rights violations, a winning plaintiff may recover attorney costs from the defendant. In criminal cases the government pays the costs of investigation and prosecution. The government also provides a lawyer without cost for any criminal defendant who is unable to afford one.

EXECUTION OF JUDGMENTS

Execution and enforcement of judgments is the responsibility of the parties to the litigation, not the courts. In criminal cases, the United States marshal (an employee of the Department of Justice) is responsible for keeping a prisoner in custody. If the court has ordered the payment of criminal fines, the clerk of court is responsible for receiving money and distributing it as directed by the court. The Department of Justice is responsible, however, for enforcement of the court's order and collection of money and assets if the defendant fails to pay the required fines. In civil cases, the parties themselves are responsible for executing court orders, although the courts maintain a record of all judgments for public inspection. Many money judgments are covered by various forms of insurance, and in those cases the insurance companies resolve the details of enforcement of a civil judgment. A winning party may obtain the assistance of the court in examining the debtor and taking certain actions to protect property in the debtor's possession. A winning party may also apply to a state court for assistance in enforcing a federal court judgment through state law remedies such as garnishing the wages or attaching the assets of the losing party. In general, a civil judgment becomes a lien attached to any real property of the losing party, and the judgment earns interest at a specified rate of return until it is collected.

PROCEDURAL RULES FOR CONDUCTING LITIGATION

In accordance with the Rules Enabling Act of 1934, the federal judiciary itself is responsible for issuing the rules of procedure and evidence that govern all federal court proceedings. Under this authority, the judiciary has established federal rules of evidence, and rules of civil, criminal, bankruptcy and appellate procedure. The rules are designed to promote simplicity, fairness, and the just determination of litigation, and to eliminate unjustifiable expense and delay. They are drafted by committees of judges, lawyers, and professors appointed by the Chief Justice. They are published widely by the Administrative Office for public comment, approved by the Judicial Conference of the United States, and promulgated by the Supreme Court. The rules become law unless the Congress votes to reject or modify them.

REPORTING OF JUDICIAL PROCEEDINGS

All trial and pretrial proceedings conducted in open court are written down by a court reporter or recorded by sound equipment. The court reporter is a person specially trained to record all testimony and produce a word-for-word account called a transcript. A written, word-for-word transcript may be prepared if necessary for an appeal of a court's decision, or upon a request by one of the litigants or another person.

PUBLICATION OF COURT OPINIONS

Because common law courts rely on judicial precedent in interpreting and applying the law, it is vital for judicial opinions on current legal issues to be readily available to courts and lawyers facing similar issues. With the advance of technology in the federal courts, most court orders and opinions are now prepared on personal computers using standard word processing software. Virtually all opinions and orders are on the public record and are available for review and copying at the courthouse. Some opinions are formally published. The production of published opinions for the court is usually accomplished by a private company. In addition, private law book publishing companies and computerized legal research services, such as Westlaw and Lexis/Nexis, make court opinions, statutes, and other legal materials available to the bar and public on a commercial basis. Most courts now have their own Internet site and make their opinions available electronically on the Internet.

THE FEDERAL JUDICIAL PROCESS IN BRIEF

CIVIL CASES

A federal civil case involves a legal dispute between two or more parties. To begin a civil lawsuit in a federal court, the plaintiff files a document called a "complaint" with the court and "serves" a copy of the complaint on the defendant. The complaint is a short statement that describes the plaintiff's injury or other legal claim, explains how the defendant caused the injury, and asks the court to order relief. A plaintiff may seek money to compensate for the injury or ask the court to order the defendant to stop the conduct that is causing the harm. The court may also order other types of relief, such as a declaration of the legal rights of the plaintiff in a particular situation. To prepare a case for trial, the litigants may conduct "discovery." In discovery, the litigants must provide information to each other about the subject matter of the case, such as the identity of witnesses, the expected testimony of the witnesses, and copies of any documents related to the case. The purpose of discovery is to prepare for trial, and to prevent surprise at trial, by requiring the litigants to assemble their evidence and prepare to call witnesses, before the trial begins. The scope of discovery is broad, and discovery is conducted by the parties themselves under the procedural rules of the courts. Judges are involved only to the extent necessary to oversee the process and to resolve disputes brought to their attention by the parties. One common method of discovery is the "deposition." In a deposition, a witness is required to answer under oath questions about the case asked by the lawyers in the presence of a court reporter. A second method of discovery is the

“interrogatory,” which is a written question from one party to another that must be answered under oath. A third method allows a party to require another party to produce documents and other materials within its custody or control, or to enter on another party’s property for inspection or other purposes relating to the litigation.

Each side may file requests, or “motions,” with the court seeking rulings on various legal issues. Some motions ask for a ruling that determines whether the case may proceed as a matter of law. A “motion to dismiss,” for example, may argue that the plaintiff has not stated a claim under which relief may be granted under the law, or that the court does not have jurisdiction over the parties or the claim at issue, and therefore lacks the power to adjudicate. A “motion for summary judgment” argues that there are no disputed factual issues for a jury to resolve, and urges the judge to decide the case based solely on the legal issues. Other motions focus on the discovery process, addressing disputes over what information is subject to the discovery rules, protecting the private or privileged nature of certain information, or urging the court to preserve evidence for use at trial. Other motions address procedural issues such as the proper venue for the case, the schedule for discovery or trial, or the procedures to be followed at trial. To avoid the expense and delay of having a trial, judges encourage the litigants to reach an agreement resolving their dispute. Most judges conduct settlement conferences with the parties, and they may refer a case to a trained mediator or arbitrator to facilitate an agreement. As a result, litigants often decide to resolve a civil lawsuit with an agreement known as a “settlement.” Most civil cases are terminated by settlement or dismissal without a trial.

If a case is not settled, the court will proceed to a trial. In a wide variety of civil cases, either side is entitled under the Constitution to request a jury trial. If the parties waive their right to a jury, the case will be heard by a judge without a jury. If a trial is conducted, witnesses testify under oath and respond to questions asked by the attorneys. Testimony is conducted under the supervision of the judge, and it must comply with formal rules of evidence designed to assure fairness, reliability, and the accuracy of testimony and documents. At the conclusion of the evidence, each side gives a closing argument. If a case is tried before a jury, the judge will instruct the jury on what the law is and will tell the jury what facts and issues it must resolve. If the case is tried by a judge without a jury, the judge will decide both the facts and the law in the case. In a civil case, the burden of proof lies with the plaintiff, who must convince the jury (or the judge if there is no jury) by a “preponderance of the evidence,” i.e., that it is more likely than not that the defendant is legally responsible for any harm that the plaintiff has suffered.

CRIMINAL CASES

The judicial process in a criminal case differs from a civil case in several important ways. The parties in the case are the United States attorney (the prosecutor representing the Department of Justice) and the defendant or defendants. Criminal investigations are conducted by the Department of Justice and other law enforcement agencies, which are both part of the executive branch.

The court plays no role in criminal investigations. Its role in the criminal justice process is to apply the law and make legal and factual decisions. Three main levels of federal criminal offenses have been defined by Congress. Felony offenses are the most serious crimes and may be punished by more than one year in prison. Misdemeanor offenses are

less serious and may be punished by up to one year in prison. The least serious offenses, known as petty offenses, may be punished by up to six months imprisonment. Most petty offenses are addressed through fines rather than a prison sentence. After a person is arrested, a pretrial services officer or probation officer of the court immediately interviews the defendant and conducts an investigation of the defendant's background. The information obtained by the pretrial services officer or probation officer will be used to help a judge decide whether to release the defendant into the community before trial and whether to impose conditions of release. At an initial appearance, a judge (normally a magistrate judge) advises the defendant of the charges filed, considers whether the defendant should be held in custody until trial, and determines whether there is "probable cause" to believe that an offense has been committed and the defendant has committed it. Defendants who are unable to hire their own attorney are advised of their right to a court-appointed attorney. Each district court, by statute, is required to have in place a plan for providing competent attorneys to represent defendants who cannot afford their own attorneys.

The court may appoint a federal public defender (a full-time federal official appointed by the court of appeals), a community public defender (a member of a community-based legal aid organization funded by a grant from the judiciary), or a private attorney who has agreed to accept such appointments from the court. In all these types of appointments, the attorney who represents the defendant is paid by the court from funds appropriated to the judiciary by Congress. Defendants released into the community before trial may be required to obey certain restrictions, such as home confinement or drug testing, and to make periodic reports to a pretrial services officer to ensure appearance at trial.

Under the Constitution, a felony criminal case may only proceed beyond the initial stages if the defendant is indicted by a grand jury. The grand jury reviews evidence presented to it by the United States attorney and decides whether there is sufficient evidence to require a defendant to stand trial. The defendant enters a plea to the charges brought by the United States attorney at a hearing known as an arraignment. Most defendants—more than 90%—plead guilty rather than go to trial. If a defendant pleads guilty in return for the government agreeing to drop certain charges or to recommend a less severe sentence, the agreement often is called a "plea bargain." If the defendant pleads guilty, the judge may impose a sentence at that time, but more commonly will schedule a hearing to determine the sentence at a later date. If the defendant pleads not guilty, the judge will proceed to schedule a trial. Criminal cases include a limited amount of pretrial discovery proceedings similar to those in civil cases, with substantial restrictions to protect the identity of government informants and to prevent intimidation of witnesses. The attorneys also may file motions, which are requests for rulings by the court before the trial. For example, defense attorneys often file a motion to suppress evidence, which asks the court to exclude from the trial evidence that the defendant believes was obtained by the government in violation of the defendant's constitutional rights. In a criminal trial, the burden of proof is on the government. Defendants do not have to prove their innocence. Instead, the government must provide evidence to convince the jury of the defendant's guilt. The standard of proof in a criminal trial is much higher than in a civil case. It must be beyond a reasonable doubt," which means the evidence must be so strong that there is no reasonable doubt that the defendant committed the crime. The judge instructs the jury on the law and the decisions that the jury must make. If a defendant is found not guilty, the

defendant is released and the government may not appeal. Nor can the person be charged again with the same crime in a federal court. The Constitution prohibits “double jeopardy,” or being tried twice for the same offense. In determining the defendant’s sentence, the judge must follow special federal sentencing guidelines issued by the United States Sentencing Commission, an organization within the judicial branch.

The sentencing guidelines are designed to:

- incorporate the purposes of sentencing (i.e., just punishment, deterrence, incapacitation, and rehabilitation);
- provide certainty and fairness in sentencing by avoiding unwarranted disparity among offenders with similar characteristics convicted of similar criminal conduct, while permitting some judicial flexibility to take into account relevant aggravating and mitigating factors;
- reflect, to the extent practicable, advancement in the knowledge of human behavior as it relates to the criminal justice process.

The sentencing guidelines provide federal judges with consistent sentencing ranges that take into account both the seriousness of the criminal conduct and the defendant’s criminal record. Based on the severity of the offense, the guidelines assign most federal crimes to one of 43 “offense levels.” Each offender is also assigned to one of six “criminal history categories” based upon the extent and recency of his or her past misconduct. The point at which the offense level and criminal history category intersect on the Commission’s sentencing table determines an offender’s guideline range. In order to provide flexibility, the top of each guideline range exceeds the bottom by six months or 25 percent (whichever is greater).

Ordinarily, the judge must choose a sentence from within the guideline range unless the court identifies a factor that the Sentencing Commission failed to consider that should result in a different sentence. However, the judge must in all cases provide the reasons for the sentence. Sentences outside the guideline range are subject to review by the courts of appeals for an abuse of discretion, and all sentences can be reviewed for incorrect application of the relevant guidelines or law. In most felony cases the judge waits for the results of a presentence investigation report, prepared by the court’s probation office, before imposing sentence. The presentence investigation report summarizes for the court the background information needed to determine the appropriate sentence, including a thorough exploration of the circumstances of the offense and the defendant’s criminal background and characteristics. The report applies the sentencing guidelines to the individual defendant and the crimes for which he or she has been found guilty.

During sentencing, the court may consider not only the evidence produced at trial, but all relevant information that may be provided by the pretrial services officer, the United States attorney, and the defense attorney. In unusual circumstances, the court may depart from the sentence calculated according to the sentencing guidelines. A sentence may include time in prison, a fine to be paid to the government, community service, and restitution to be paid to crime victims. If the convicted defendant is released, the court’s probation officers assist the court in enforcing any conditions that are imposed as part of a criminal sentence. The supervision of offenders also may involve services such as substance abuse testing and treatment programs, job counseling, and alternative detention options.

JURY SERVICE

Perhaps the most important way individual citizens become involved in the federal judicial process is by serving as jurors. There are two types of juries serving distinct functions in the federal trial courts: trial juries (also known as petit juries), and grand juries. A civil trial jury typically consists of 6 to 12 persons. In a civil case, the role of the jury is to listen to the evidence presented at a trial, to decide whether the defendant injured the plaintiff or otherwise failed to fulfill a legal duty to the plaintiff, and to determine what the compensation or penalty should be. A criminal trial jury is usually made up of 12 members. Criminal juries decide whether the defendant committed the crime as charged. The sentence usually is set by a judge. Verdicts in both civil and criminal cases must be unanimous, although the parties in a civil case may agree to a non-unanimous verdict. A jury's deliberations are conducted in private, out of sight and hearing of the judge, litigants, witnesses, and others in the courtroom.

A grand jury, which normally consists of 16 to 23 members, has a more specialized function. The United States attorney, the prosecutor in federal criminal cases, presents evidence to the grand jury for them to determine whether there is "probable cause" to believe that an individual has committed a crime and should be put on trial. If the grand jury decides there is enough evidence, it will issue an indictment against the defendant. Grand jury proceedings are not open for public observation. Potential jurors are selected from any source that will yield a representative sample of the population at large. Most often jurors are chosen from a jury pool generated by random selection of citizens' names from lists of registered voters, or combined lists of voters and people with drivers licenses, in the judicial district. The potential jurors complete questionnaires to help determine whether they are qualified to serve on a jury. After reviewing the questionnaires, the court randomly selects individuals to be summoned to appear for jury duty. These selection methods help ensure that jurors represent a cross section of the community, without regard to race, gender, national origin, age or political affiliation. Jurors receive modest compensation and expenses from the court for their service. Being summoned for jury service does not guarantee that an individual actually will serve on a jury. When a jury is needed for a trial, the group of qualified jurors is taken to the courtroom where the trial will take place. The judge and the attorneys then ask the potential jurors questions to determine their suitability to serve on the jury, a process called *voir dire*. The purpose of *voir dire* is to exclude from the jury people who may not be able to decide the case fairly. Members of the panel who know any person involved in the case, who have information about the case, or who may have strong prejudices about the people or issues involved in the case, typically will be excused by the judge. The attorneys also may exclude a certain number of jurors without giving a reason.

THE APPEALS PROCESS

The losing party in a decision by a trial court in the federal system is entitled as a matter of right to appeal the decision to a federal court of appeals. Similarly, a litigant who is not satisfied with a decision made by a federal administrative agency in the executive branch

usually may file a petition for review of the agency decision by a court of appeals. Judicial review in cases involving certain federal agencies or programs—for example, disputes over Social Security benefits—may be obtained first in a district court rather than directly to a court of appeals. In a civil case either side may appeal the verdict. In a criminal case, the defendant may appeal a guilty verdict, but the government may not appeal if a defendant is found not guilty. Either side in a criminal case may appeal with respect to the sentence that a judge imposes after a guilty verdict.

In most bankruptcy courts, an appeal of a ruling by a bankruptcy judge may be taken to the district court. In several circuits, a Bankruptcy Appellate Panel consisting of three bankruptcy judges has been established to hear appeals directly from the bankruptcy courts. In either situation, the party that loses in the initial bankruptcy appeal may then appeal further to the court of appeals. Most appeals from decisions of magistrate judges are taken to a district judge. But when a magistrate judge tries a case on consent of the parties, an appeal may be taken directly to the court of appeals.

A litigant who files an appeal, known as an “appellant,” must show that the trial court or administrative agency made a legal error that affected the decision in the case. The court of appeals makes its decision based on the record of the case established by the trial court or agency. It does not receive additional evidence or hear witnesses. The court of appeals also may review the factual findings of the trial court or agency, but typically may only overturn a decision on factual grounds if the findings were “clearly erroneous.” The appellate court may not hear new evidence, but may “remand” the case to the trial court for that purpose.

Appeals are decided by panels of three judges working together. The appellant presents legal arguments to the panel, in writing, in a document called a “brief.” In the brief, the appellant tries to persuade the judges that the trial court made an error, and that its decision should be reversed. On the other hand, the party defending against the appeal, known as the “appellee,” tries in its brief to show why the trial court decision was correct, or why any error made by the trial court was not significant enough to affect the outcome of the case.

Although some cases are decided on the basis of the litigants’ briefs through short written decisions by the court, many cases are selected for an “oral argument” before the court. Oral argument in the court of appeals is a structured discussion between the appellate lawyers and the panel of judges focusing on the legal principles in dispute. Each side is given a short time—usually about 15 minutes—to present arguments to the court. The court will usually state the reasons for its decision in a written opinion. A judge on the panel who disagrees with the majority opinion may write a separate dissenting opinion. The dissenting opinion may help the analysis of the issues if the case is reviewed at a higher level.

The court of appeals decision usually will be the final word in the case, unless it sends the case back to the trial court for additional proceedings, or the parties ask the United States Supreme Court to review the case. In some cases the decision of the three-judge panel of the court may be reviewed en banc, that is, by a larger group of judges (usually all) of the court of appeals for the circuit. A litigant who loses in a federal court of appeals, or in the highest court of a state court system, may petition the United States Supreme Court to

review the case. The Supreme Court, however, does not have to grant review, except in a very small number of cases governed by special statutes. In a given year, the Court will typically receive about 8,000 petitions for certiorari, and it will agree to hear only about 100 cases. The Supreme Court typically will agree to hear a case only when it involves an unusually important legal principle, or when two or more federal appellate courts have interpreted a law differently. There are also a small number of special circumstances in which the Supreme Court is required by law to hear a case or accept an appeal directly from a federal trial court. When the Supreme Court hears a case, the parties are required to file written briefs and the Court may hear oral argument. Additionally, other parties with significant interests in the legal issues raised by a case may ask permission to file briefs as friends of the court (“amicus curiae”). The executive branch, acting through the Solicitor General, will often file such briefs, which may help to define the issues and otherwise affect the outcome of a case.

The Supreme Court, like the lower courts, usually explains the reasons for its decision on a case in a written opinion. Supreme Court opinions are precedent for all other courts in the United States. As with the courts of appeals, justices who disagree with the majority opinion may write dissenting opinions. In some cases, justices who agree with the result in a case but not in the majority’s reasoning will file concurring opinions.

THE STRUCTURE OF THE FEDERAL COURTS

With certain notable exceptions, the federal courts have jurisdiction to hear a broad variety of cases. The same federal judges handle both civil and criminal cases, public law and private law disputes, cases involving individuals and cases involving corporations and government entities, appeals from administrative agency decisions, and law and equity matters. There are no separate constitutional courts, because all federal courts and judges may decide issues regarding the constitutionality of federal laws and other governmental actions that arise in the cases they hear.

TRIAL COURTS

The United States district courts are the principal trial courts in the federal court system. The district courts have jurisdiction to hear nearly all categories of federal cases. There are 94 federal judicial districts, including one or more in each state, the District of Columbia, Puerto Rico, and the overseas territories. Each federal judicial district includes a United States bankruptcy court operating as a unit of the district court. The bankruptcy court has nationwide jurisdiction over almost all matters involving insolvency cases except criminal issues. Once a case is filed in a bankruptcy court, related matters pending in other federal and state courts can be removed to the bankruptcy court. The bankruptcy courts are administratively managed by the bankruptcy judges.

Two special trial courts within the federal judicial branch have nationwide jurisdiction over certain types of cases. The Court of International Trade addresses cases involving international trade and customs issues. The United States Court of Federal Claims has jurisdiction over disputes involving federal contracts, the taking of private property by the federal government, and a variety of other monetary claims against the United States. Trial court proceedings are conducted by a single judge, sitting alone or with a jury of citizens as finders of fact. The Constitution provides for a right to trial by a jury in many

categories of cases, including: (1) all serious criminal prosecutions; (2) those civil cases in which the right to a jury trial applied under English law at the time of American independence; and (3) cases in which the United States Congress has expressly provided for the right to trial by jury.

APPELLATE COURTS

The 94 judicial districts are organized into 12 regional circuits, each of which has a United States court of appeals. A court of appeals hears appeals from the district courts located within its circuit, as well as appeals from certain federal administrative agencies. In addition, the Court of Appeals for the Federal Circuit has nationwide jurisdiction to hear appeals in specialized cases, such as those involving patent laws and cases decided by the Court of International Trade and the Court of Federal Claims. There is a right of appeal in every federal case in which a district court enters a final judgment. The courts of appeals typically sit in panels of three judges. They are not courts of cassation, and they may review a case only if one or more parties files a timely appeal from the decision of a lower court or administrative agency. When an appeal is filed, a court of appeals reviews the decision and record of proceedings in the lower court or administrative agency. The court of appeals does not hear additional evidence, and generally must accept the factual findings of the trial judge. If additional fact-finding is necessary, the court of appeals may remand the case to the trial court or administrative agency. Remand is unnecessary in most cases, however, and the court of appeals either affirms or reverses the lower court or agency decision in a written order or written opinion. In cases of unusual importance, a court of appeals may sit en banc—that is, with all the appellate judges in the circuit present—to review the decisions of a three-judge panel. The full court may affirm or reverse the panel decision.

UNITED STATES SUPREME COURT

The United States Supreme Court is the highest court in the federal judiciary. It consists of the Chief Justice of the United States and eight associate justices. The court always sits en banc, with all nine justices hearing and deciding all cases together. The jurisdiction of the Supreme Court is almost completely discretionary, and, to be exercised, requires the agreement of at least four justices to hear a case. (In a small number of special cases, such as boundary disputes between the states, the Supreme Court acts either as the court of first instance or exercises mandatory appellate review). As a general rule, the Court only agrees to decide cases where there is a split of opinion among the courts of appeals or where there is an important constitutional question or issue of federal law that needs to be clarified.

The United States Federal Courts



RELATIONSHIP BETWEEN THE STATE COURTS AND THE FEDERAL COURTS

Although federal courts are located in every state, they are not the only forum available to litigants. In fact, the great majority of legal disputes in American courts are addressed in the separate state court systems established in each of the 50 states. Most state court systems, like the federal judiciary, have trial courts of general jurisdiction, intermediate appellate courts, and a state supreme court. They may also have specialized lower-level courts, county courts, municipal courts, small claims courts, or justices of the peace to handle minor matters. The state courts have jurisdiction over a wider variety of disputes than the federal courts. State courts, for example, have jurisdiction over virtually all divorce and child custody matters, probate and inheritance issues, real estate questions, and juvenile matters, and they handle most criminal cases, contract disputes, traffic violations, and personal injury cases.

In general, federal courts may decide cases that involve the United States government or its officials, the United States Constitution or federal laws, or controversies between states or between the United States and foreign governments. A case also may be filed in federal court—even if no question arising under federal law is involved—if the litigants

are citizens of different states or the dispute arises between citizens of the United States citizens and those of another country.

In the initial stages of any lawsuit, the plaintiff must assert the legal basis for the court's jurisdiction over the case, and the court must make an independent determination that it has jurisdiction to address the case. If a case is filed initially in a federal court, but the court determines that it lacks jurisdiction to adjudicate, the case must be dismissed. Under certain circumstances, a case that was improperly filed in federal court may be "remanded" to a state court that has jurisdiction to hear the case. Conversely, a case that was filed in a state court may, if certain conditions are met, be "removed" to a federal court. The federal and state courts are required to extend "full faith and credit" to each other's respective judgments. Under the Supremacy Clause of the Constitution, however, a federal law preempts any state law that is in conflict with it.

Jurisdiction of the Federal Courts

The jurisdiction of the federal courts is spelled out in Article III, Section 2, of the United States Constitution. Federal courts are courts of limited jurisdiction because they can hear only two main types of cases:

1. Diversity of Citizenship

Federal courts can have jurisdiction over a case of a civil nature in which parties are residents of different states and the amount in question exceeds the amount set by federal law (currently \$75,000). The federal courts are often required to apply state law when dealing with these cases since the issues concern matters of state law. The fact that the parties are from different states and that the amount in question is high enough is what manages to get such cases into federal court.

2. Federal Question

Federal courts have jurisdiction over cases that arise under the U.S. Constitution, the laws of the United States, and the treaties made under the authority of the United States. These issues are the sole prerogative of the federal courts and include the following types of cases:

Suits between states—Cases in which two or more states are a party.

Cases involving ambassadors and other high-ranking public figures—Cases arising between foreign ambassadors and other high-ranking public officials.

Federal crimes—Crimes defined by or mentioned in the U.S. Constitution or those defined and/or punished by federal statute. Such crimes include treason against the United States, piracy, counterfeiting, crimes against the law of nations, and crimes relating to the federal government's authority to regulate interstate commerce. However, most crimes are state matters.

Bankruptcy—The statutory procedure, usually triggered by insolvency, by which a person is relieved of most debts and undergoes a judicially supervised reorganization or liquidation for the benefit of the person's creditors.

Patent, copyright, and trademark cases —

Admiralty—The system of jurisprudence that has grown out of the practice of admiralty courts: courts that exercise jurisdiction over all maritime contracts, torts, injuries, and offenses.

Antitrust—The body of law designed to protect trade and commerce from restraining monopolies, price fixing, and price discrimination.

Securities and banking regulation—The body of law protecting the public by regulating the registration, offering, and trading of securities and the regulation of banking practices.

Other cases specified by federal statute—Any other cases specified by an applicable federal statute.

In addition, the federal courts have jurisdiction over several other types of cases arising from acts of Congress. For example, the courts have jurisdiction in a wide variety of (1) civil rights, (2) labor relations, and (3) environmental cases. While these laws provide a "floor" for the states, they do not provide a "ceiling." If states regulate more extensively in these areas than the federal government, then state courts also will have jurisdiction in these areas

Jurisdiction of the State Courts

The jurisdiction of the state courts extends to basically any type of case that does not fall within the exclusive jurisdiction of the federal courts. State courts are common-law courts. This means that they not only have the authority to apply or interpret the law, but they often have the authority to create law if it does not yet exist by act of the legislature to create an equitable remedy to a specific legal problem. Examples of cases within the jurisdiction of the state courts usually include the following:

Cases involving the state constitution—Cases involving the interpretation of a state constitution.

State criminal offenses—Crimes defined and/or punished by the state constitution or applicable state statute. Most crimes are state criminal offenses. They include offenses such as murder, theft, breaking and entering, and destruction of property.

Tort and personal injury law—Civil wrongs for which a remedy may be obtained, usually in the form of damages; a breach of duty that the law imposes on everyone in the same relation to one another as those involved in a given transaction.

Contract law—Agreements between two or more parties creating obligations that are either enforceable or otherwise recognized as law.

Probate—The judicial process by which a testamentary document is established to be a valid will, the proving of a will to the satisfaction of a court, the distribution of a

decedent's assets according to the provisions of the will, or the process whereby a decedent's assets are distributed according to state law should the decedent have died intestate.

Family—The body of law dealing with marriage, divorce, adoption, child custody and support, and domestic-relations issues.

Sale of goods—The law concerning the sale of goods (moveable objects) involved in commerce (especially with regards to the Uniform Commercial Code).

Corporations and business organization—The law concerning, among other things, the establishment, dissolution, and asset distribution of corporations, partnerships, limited partnerships, limited liability companies, etc.

Election issues—The law concerning voter registration, voting in general, legislative reapportionment, etc.

Municipal/zoning ordinances—The law involving municipal ordinances, including zoning ordinances that set aside certain areas for residential, commercial, industrial, or other development.

Traffic regulation—A prescribed rule of conduct for traffic; a rule intended to promote the orderly and safe flow of traffic.

Real property—Land and anything growing on, attached to, or erected on it, excluding anything that may be severed without injury to the land.

TYPES OF CASES THAT MAY BE FILED IN THE FEDERAL AND STATE COURTS

The table gives some examples of the cases that may be addressed exclusively in the state courts or in the federal courts, as well as some examples of concurrent jurisdiction (cases that may be heard in either state or federal court).

EXAMPLES OF JURISDICTION IN THE FEDERAL AND STATE COURTS

State Courts	Federal Courts	State or Federal Courts
crimes under state legislation	crimes under statutes enacted by Congress	crimes punishable under both federal or state law
state constitutional issues and cases involving state laws or regulations	most cases involving federal laws or regulations (for example: tax, Social Security, broadcasting, civil rights)	federal constitutional issues certain civil rights claims
family law issues	matters involving interstate and international commerce, including airline and railroad regulation	"class action" cases
real property issues	cases involving securities and commodities regulation, including takeovers of publicly held corporations	environmental regulation
landlord and tenant disputes	admiralty cases	certain disputes involving federal law
most private contract disputes (except those resolved under bankruptcy law)	international trade law matters	
most issues involving the regulation of trades and professions	patent, copyright, and other intellectual property issues	
most professional malpractice issues	cases involving rights under treaties, foreign states, and foreign nationals	
most issues involving the internal governance of business associations such as partnerships and corporations	state law disputes when "diversity of citizenship" exists	
most personal injury lawsuits	bankruptcy matters	
most workers' injury claims	disputes between states	
probate and inheritance matters	habeas corpus actions	
most traffic violations and registration of motor vehicles	traffic violations and other misdemeanors occurring on certain federal property	

Sources:

- ***The Federal Court System in the United States***. Administrative Office of the U.S. Courts, 2001. <http://www.uscourts.gov/library/internationalbook-fedcts2.pdf>
- ***Understanding the Federal Courts***. Administrative Office of the U.S. Courts, 2003. <http://www.uscourts.gov/understand03/>
- Excerpts from ***Reinventing American Federalism***, Electronic Journal of the U.S. Information Agency, Vol. 2, No. 2, April 1997. <http://usinfo.state.gov/journals/itdhr/0497/ijde/toc.htm>

4. Annotated Web Sites on the U. S. Judicial System.

United States Federal Judiciary

<http://www.uscourts.gov>



This site is maintained by the Administrative Office of the U.S. Courts on behalf of the U.S. Courts and offers information from and about the Judicial Branch of the U.S. Government.

Federal Judicial Center

<http://www.fjc.gov/>



This is the research and education agency of the federal judicial system. It was established by Congress in 1967, on the recommendation of the Judicial Conference of the United States. Conducts and promotes orientation and continuing education and training for federal judges, court employees, and others; developing recommendations about the operation and study of the federal courts. It also promotes research on federal judicial procedures, court operations, and history.

U.S. Department of Justice Criminal Division

<http://www.usdoj.gov/criminal/>



The Criminal Division develops, enforces, and supervises the application of all federal criminal laws except those specifically assigned to other divisions. Criminal Division attorneys prosecute many nationally significant cases. In addition to its direct litigation responsibilities, the Division formulates and implements criminal enforcement policy and provides advice and assistance. For example, the Division approves or monitors sensitive areas of law enforcement such as participation in the Witness Security Program and the use of electronic surveillance; advises the Attorney General, Congress, the Office of Management Budget and the White House on matters of criminal law; provides legal advice and assistance to federal prosecutors and investigative agencies; and provides leadership for coordinating international as well as federal, state, and local law enforcement matters.

National Center for State Courts

<http://www.ncsconline.org/Juries/index.html>



NCSC is an independent, nonprofit, tax-exempt organization. For more than 30 years, court leaders have called on the NCSC for up-to-date information and hands-on assistance that helps them better serve the public. Through original research, consulting services, publications, and national educational programs, NCSC offers solutions that enhance court operations with the latest technology; collects and interprets the latest data on court operations nationwide; and provides information on proven "best practices" for improving court operations in many areas.

American Bar Association Criminal Justice Section

<http://www.abanet.org/crimjust/home.html>



The Criminal Justice Section has primary responsibility for the American Bar Association's work on solutions to issues involving crime, criminal law, and the administration of criminal and juvenile justice. The Section plays an active leadership role in bringing the views of the ABA to the attention of federal and state courts, Congress, and other federal and state judicial, legislative, and executive policy-making bodies. The Section also serves as a resource to its members on issues in the forefront of change in the criminal justice arena. Founded in 1920, the Criminal Justice Section of the American Bar Association has over 9,000 members including prosecutors, private defense counsel, appellate and trial judges, law professors, correctional and law enforcement personnel, law students, public defenders, and other criminal justice professionals.

American Judicature Society

<http://www.ajs.org/>



The American Judicature Society (AJS), founded in 1913, is an independent, national, nonpartisan organization of judges, lawyers, and other members of the public who seek to improve the justice system. AJS has the mission to secure and promote an independent and qualified judiciary and fair system of justice.

Association of Trial Lawyers of America

<http://www.atla.org/>



Balancing the
Scales of Justice

As the world's largest trial bar, ATLA promotes justice and fairness for injured persons, safeguards victims' rights--particularly the right to trial by jury--and strengthens the civil justice system through education and disclosure of information critical to public health and safety. With more than 56,000 members worldwide, and a network of U.S. and Canadian affiliates involved in diverse areas of trial advocacy, ATLA provides lawyers with the information and professional assistance needed to serve clients successfully and protect the democratic values inherent in the civil justice system.

United States Sentencing Commission

<http://www.ussc.gov>



United States Sentencing Commission

The United States Sentencing Commission is an independent agency in the judicial branch of government. Its principal purposes are: (1) to establish sentencing policies and practices for the federal courts; (2) to advise and assist Congress and the executive branch in the development of effective and efficient crime policy; and (3) to collect, analyze, research, and distribute a broad array of information on federal crime and sentencing issues, serving as an information resource for Congress, the executive branch, the courts, criminal justice practitioners, the academic community, and the public. The Commission is charged with the ongoing responsibilities of evaluating the effects of the sentencing guidelines on the criminal justice system, recommending to Congress appropriate modifications of substantive criminal law and sentencing procedures, and establishing a research and development program on sentencing issues.

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5. International Child Custody Disputes. A Summary of Relevant Statutes and Treaties. Uniform State and Federal Laws on Custody, Parental Child Abduction, and Missing Children.

1. - International Child Custody Disputes. A Summary of Relevant Statutes and Treaties

Source: State Department, Office of Children's Issues,
http://travel.state.gov/family/abduction/resources/resources_546.html

I. Uniform State Laws

A. Uniform Child Custody Jurisdiction Act (UCCJIA), 9(1A) U.L.A. 271 (1999)

1. As of 1997, adopted in all fifty states, Washington D.C., and the Virgin Islands. Replaced in some states by UCCJEA (see B below).
2. Provides basic framework for determining initial jurisdiction to make child custody orders ("home state" and "significant connection" jurisdiction) and provides for recognition of custody orders made consistently with these jurisdictional standards.
3. Most states, but not all, have included Section 23, which extends the general policies of the Act to international cases.

B. Uniform Child Custody Jurisdiction and Enforcement Act, 9(1A) U.L.A. 657 (1999).

1. Adopted in twenty-one states and pending in others.
2. "Home state" jurisdiction to be the exclusive basis of jurisdiction (if a "home state" exists), making it consistent with the federal Parental Kidnapping Prevention Act, 28 U.S.C. §1738A.
3. State that makes a decree has continuing exclusive jurisdiction to modify.
4. Clarifies that jurisdiction and enforcement provisions apply in international cases.

II. Parental Kidnapping Prevention Act, (PKPA) 28 U.S.C. §1 738A, enacted in 1980

A. Requires as a matter of full faith and credit that sister states enforce and not modify any child custody determination made consistently with standards set forth in the statute.

1. Home state of the child (if there is one) has jurisdiction to hear a custody case and retains jurisdiction to modify that order (with limited exceptions).

B. PKPA is a "full faith and credit" provision only, and does not give jurisdiction to the lower federal courts.

C. PKPA does not apply in international cases.

III. International Parental Kidnapping Crime Act, 18 U.S.C. §1204 ("IPKCA")

A. Federal criminal statute, enacted in December 1993, imposing penalties for removal or retention of child from the U.S. with intent to obstruct lawful exercise of parental rights.

IV. Hague Convention on the Civil Aspects of International Child Abduction ("Hague Abduction Convention"), 19 I.L.M. 1501 (1980)

A. Adopted by unanimous vote of member states of the Hague Conference on October 25, 1980, and entered into force in the U.S. on July 1, 1988, with the enactment of implementing legislation, see International Child Abduction Remedies Act, 42 U.S. C. §~11601-11610 (1989)("ICARA").

B. Offers expeditious remedy of return of child to country of habitual residence so that authorities in that State may adjudicate the custody dispute between the parties.

1. Under ICARA, Hague application may be brought in state or federal court in place where child is located.

C. Convention sets forth limited defenses, on which bases a court can refuse to return a child.

1. Defenses are to be construed narrowly in order to achieve objective of return of child to habitual residence.

D. Convention does not provide for jurisdiction to hear custody matters. If return of the child to another Contracting State is not required by the Convention, then power to hear custody case will be determined under that state's own jurisdictional rules.

V. Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children, adopted October 19, 1996 (Hague Convention on the Protection of Minors)

A. Signed by five countries -- Monaco, Morocco, the Netherlands, The Czech Republic and Slovakia -- but ratified only by Monaco and the Czech Republic, the Convention is not yet in force. The U.S. has expressed interest in becoming party to the Convention, but one can expect that it will take several years before implementing legislation is put together.

B. This Convention is the international corollary to the UCCJA and UCCJEA in that it establishes international standards for the exercise of custody jurisdiction and the enforcement of custody orders.

1. Child's habitual residence to have jurisdiction to take necessary protective measures with respect to a child (Article 5).

2. Additional provisions for transfer of jurisdiction by habitual residence when other states are better placed to act.
3. Special provision for exercise of jurisdiction in connection with divorce and for "urgent measures".
4. Measures and orders of Contracting States will be recognized and enforced if made consistently with the Convention.
5. Provisions for cooperation among authorities of Contracting States are included.

2. - Uniform State and Federal Laws on Custody, Parental Child Abduction, and Missing Children

Source: State Department, Office of Children's Issues
http://travel.state.gov/family/abduction/resources/resources_546.html

Uniform Child Custody Jurisdiction Act (UCCJA) (9 ULA at 123): Determines when a state has jurisdiction to make a custody order and provides procedures for interstate enforcement of orders in custody conflicts.

Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)

(9 ULA at 115 (Part 1): Enhances the UCCJA by awarding priority to the child's home state, clarifies the limits of emergency jurisdiction, and grants exclusive jurisdiction to the state making the original custody determination.

MISSING CHILDREN ACT (28 USC 534): Requires law enforcement to enter complete descriptions of missing children into the National Crime Information Center's (NCIC) Missing Person File, even if the abductor has not been charged with a crime.

NATIONAL CHILD SEARCH ASSISTANCE ACT (42 USC 5779 & 5780): Mandates elimination of waiting periods before law enforcement takes a missing child report, including family abduction cases; Requires immediate entry of information into the NCIC Missing Person file; Requires close liaison with the National Center for Missing and Exploited Children (NCMEC).

INTERNATIONAL CHILD ABDUCTION REMEDIES ACT (42 USC 11601 et seq.): Establishes procedures to implement the Hague Convention. Empowers state and federal courts to hear cases under the Convention and allows the Central Authority access to information in certain American records regarding the location of a child and abducting parent.

PARENTAL KIDNAPPING PREVENTION ACT (PKPA)(28 USC 1738A): Requires authorities of every state to enforce and not modify orders made by the state court exercising proper jurisdiction. Authorizes the use of the Unlawful Flight to Avoid

Prosecution (UFAP) warrant and the Federal Parent Locator Service (FPLS) in family abductions.

INTERNATIONAL PARENTAL KIDNAPPING CRIME ACT (IPKCA)(18 USC 1204): Makes it a federal felony to remove a child under 16 from the United States, or to retain a child outside the United States with the intent to obstruct the lawful exercise of parental rights.

FUGITIVE FELON ACT (18 USC 1073): Enhances the ability of states to pursue abductors beyond state and national borders; Permits the FBI to investigate cases that would otherwise be under state jurisdiction and authorizes use of UFAP warrants in parental kidnapping cases.

EXTRADITION TREATIES INTERPRETATION ACT of 1998 (Note 18 USC 3181): Authorizes the United States to interpret extradition treaties listing "kidnapping" as encompassing the offense of parental kidnapping.

6. International Child Abduction Remedies Act (ICARA).

United States Code. Title 42, Chapter 121

CHAPTER 121—INTERNATIONAL CHILD ABDUCTION REMEDIES

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Sec. 11601. Findings and declarations

(a) Findings

The Congress makes the following findings:

(1) The international abduction or wrongful retention of children is harmful to their well-being.

(2) Persons should not be permitted to obtain custody of children by virtue of their wrongful removal or retention.

(3) International abductions and retentions of children are increasing, and only concerted cooperation pursuant to an international agreement can effectively combat this problem.

(4) The Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, establishes legal rights and procedures for the prompt return of children who have been wrongfully removed or retained, as well as for securing the exercise of visitation rights. Children who are wrongfully removed or retained within the meaning of the Convention are to be promptly returned unless one of the narrow exceptions set forth in the Convention applies. The Convention provides a sound treaty

framework to help resolve the problem of international abduction and retention of children and will deter such wrongful removals and retentions.

(b) Declarations

The Congress makes the following declarations:

(1) It is the purpose of this chapter to establish procedures for the implementation of the Convention in the United States.

(2) The provisions of this chapter are in addition to and not in lieu of the provisions of the Convention.

(3) In enacting this chapter the Congress recognizes -

(A) the international character of the Convention; and

(B) the need for uniform international interpretation of the Convention.

(4) The Convention and this chapter empower courts in the United States to determine only rights under the Convention and not the merits of any underlying child custody claims.

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act" meaning Pub. L. 100-300, Apr. 29, 1988, 102 Stat. 437, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

SHORT TITLE

Section 1 of Pub. L. 100-300 provided that: "This Act (enacting this chapter and amending section 663 of this title) may be cited as the 'International Child Abduction Remedies Act'."

Sec. 11602. Definitions

For the purposes of this chapter -

(1) the term "applicant" means any person who, pursuant to the Convention, files an application with the United States Central Authority or a Central Authority of any other party to the Convention for the return of a child alleged to have been wrongfully removed or retained or for arrangements for organizing or securing the effective exercise of rights of access pursuant to the Convention;

(2) the term "Convention" means the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980;

(3) the term "Parent Locator Service" means the service established by the Secretary of Health and Human Services under section 653 of this title;

(4) the term "petitioner" means any person who, in accordance with this chapter, files a petition in court seeking relief under the Convention;

(5) the term "person" includes any individual, institution, or other legal entity or body;

(6) the term "respondent" means any person against whose interests a petition is filed in court, in accordance with this chapter, which seeks relief under the Convention;

(7) the term "rights of access" means visitation rights;

(8) the term "State" means any of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

(9) the term "United States Central Authority" means the agency of the Federal Government designated by the President under section 11606(a) of this title.

Sec. 11603. Judicial remedies

(a) Jurisdiction of courts

The courts of the States and the United States district courts shall have concurrent original jurisdiction of actions arising under the Convention.

(b) Petitions

Any person seeking to initiate judicial proceedings under the Convention for the return of a child or for arrangements for organizing or securing the effective exercise of rights of access to a child may do so by commencing a civil action by filing a petition for the relief sought in any court which has jurisdiction of such action and which is authorized to exercise its jurisdiction in the place where the child is located at the time the petition is filed.

(c) Notice

Notice of an action brought under subsection (b) of this section shall be given in accordance with the applicable law governing notice in interstate child custody proceedings.

(d) Determination of case

The court in which an action is brought under subsection (b) of this section shall decide the case in accordance with the Convention.

(e) Burdens of proof

(1) A petitioner in an action brought under subsection (b) of this section shall establish by a preponderance of the evidence -

(A) in the case of an action for the return of a child, that the child has been wrongfully removed or retained within the meaning of the Convention; and

(B) in the case of an action for arrangements for organizing or securing the effective exercise of rights of access, that the petitioner has such rights.

(2) In the case of an action for the return of a child, a respondent who opposes the return of the child has the burden of establishing -

(A) by clear and convincing evidence that one of the exceptions set forth in article 13b or 20 of the Convention applies; and

(B) by a preponderance of the evidence that any other exception set forth in article 12 or 13 of the Convention applies.

(f) Application of Convention

For purposes of any action brought under this chapter -

(1) the term "authorities", as used in article 15 of the Convention to refer to the authorities of the state of the habitual residence of a child, includes courts and appropriate government agencies;

(2) the terms "wrongful removal or retention" and "wrongfully removed or retained", as used in the Convention, include a removal or retention of a child before the entry of a custody order regarding that child; and

(3) the term "commencement of proceedings", as used in article 12 of the Convention, means, with respect to the return of a child located in the United States, the filing of a petition in accordance with subsection (b) of this section.

(g) Full faith and credit

Full faith and credit shall be accorded by the courts of the States and the courts of the United States to the judgment of any other such court ordering or denying the return of a child, pursuant to the Convention, in an action brought under this chapter.

(h) Remedies under Convention not exclusive

The remedies established by the Convention and this chapter shall be in addition to remedies available under other laws or international agreements.

Sec. 11604. Provisional remedies

(a) Authority of courts

In furtherance of the objectives of article 7(b) and other provisions of the Convention, and subject to the provisions of subsection (b) of this section, any court exercising jurisdiction of an action brought under section 11603(b) of this title may take or cause to be taken measures under Federal or State law, as appropriate, to protect the well-being of the child involved or to prevent the child's further removal or concealment before the final disposition of the petition.

(b) Limitation on authority

No court exercising jurisdiction of an action brought under section 11603(b) of this title may, under subsection (a) of this section, order a child removed from a person having physical control of the child unless the applicable requirements of State law are satisfied.

Sec. 11605. Admissibility of documents

With respect to any application to the United States Central Authority, or any petition to a court under section 11603 of this title, which seeks relief under the Convention, or any other documents or information included with such application or petition or provided after such submission which relates to the application or petition, as the case may be, no authentication of such application, petition, document, or information shall be required in order for the application, petition, document, or information to be admissible in court.

Sec. 11606. United States Central Authority

(a) Designation

The President shall designate a Federal agency to serve as the Central Authority for the United States under the Convention.

(b) Functions

The functions of the United States Central Authority are those ascribed to the Central Authority by the Convention and this chapter.

(c) Regulatory authority

The United States Central Authority is authorized to issue such regulations as may be necessary to carry out its functions under the Convention and this chapter.

(d) Obtaining information from Parent Locator Service

The United States Central Authority may, to the extent authorized by the Social Security Act (42 U.S.C. 301 et seq.), obtain information from the Parent Locator Service.

Sec. 11607. Costs and fees

(a) Administrative costs

No department, agency, or instrumentality of the Federal Government or of any State or local government may impose on an applicant any fee in relation to the administrative processing of applications submitted under the Convention.

(b) Costs incurred in civil actions

(1) Petitioners may be required to bear the costs of legal counsel or advisors, court costs incurred in connection with their petitions, and travel costs for the return of the child involved and any accompanying persons, except as provided in paragraphs (2) and (3).

(2) Subject to paragraph (3), legal fees or court costs incurred in connection with an action brought under section 11603 of this title shall be borne by the petitioner unless they are covered by payments from Federal, State, or local legal assistance or other programs.

(3) Any court ordering the return of a child pursuant to an action brought under section 11603 of this title shall order the respondent to pay necessary expenses incurred by or on behalf of the petitioner, including court costs, legal fees, foster home or other care during the course of proceedings in the action, and transportation costs related to the return of the child, unless the respondent establishes that such order would be clearly inappropriate.

Sec. 11608. Collection, maintenance, and dissemination of information

(a) In general

In performing its functions under the Convention, the United States Central Authority may, under such conditions as the Central Authority prescribes by regulation, but subject to subsection (c) of this section, receive from or transmit to any department, agency, or instrumentality of the Federal Government or of any State or foreign government, and receive from or transmit to any applicant, petitioner, or respondent, information necessary to locate a child or for the purpose of otherwise implementing the Convention with respect to a child, except that the United States

Central Authority -

(1) may receive such information from a Federal or State department, agency, or instrumentality only pursuant to applicable Federal and State statutes; and

(2) may transmit any information received under this subsection notwithstanding any provision of law other than this chapter.

(b) Requests for information

Requests for information under this section shall be submitted in such manner and form as the United States Central Authority may prescribe by regulation and shall be accompanied or supported by such documents as the United States Central Authority may require.

(c) Responsibility of government entities

Whenever any department, agency, or instrumentality of the United States or of any State receives a request from the United States Central Authority for information authorized to be provided to such Central Authority under subsection (a) of this section, the head of such department, agency, or instrumentality shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality in order to determine whether the information requested is contained in any such files or records. If such search discloses the information requested, the head of such department, agency, or instrumentality shall immediately transmit such information to the United States Central

Authority, except that any such information the disclosure of which -

(1) would adversely affect the national security interests of the United States or the law enforcement interests of the United States or of any State; or

(2) would be prohibited by section 9 of title 13; shall not be transmitted to the Central Authority. The head of such department, agency, or instrumentality shall, immediately upon completion of the requested search, notify the Central Authority of the results of the search, and whether an exception set forth in paragraph (1) or (2) applies. In the event that the United States

Central Authority receives information and the appropriate Federal or State department, agency, or instrumentality thereafter notifies the Central Authority that an exception set forth in paragraph (1) or (2) applies to that information, the Central Authority may not disclose that information under subsection (a) of this section.

(d) Information available from Parent Locator Service

To the extent that information which the United States Central Authority is authorized to obtain under the provisions of subsection (c) of this section can be obtained through the Parent Locator Service, the United States Central Authority shall first seek to obtain such information from the Parent Locator Service, before requesting such information directly under the provisions of subsection (c) of this section.

(e) Recordkeeping

The United States Central Authority shall maintain appropriate records concerning its activities and the disposition of cases brought to its attention.

Sec. 11609. Interagency coordinating group

The Secretary of State, the Secretary of Health and Human Services, and the Attorney General shall designate Federal employees and may, from time to time, designate private citizens to serve on an interagency coordinating group to monitor the operation of the Convention and to provide advice on its implementation to the United States Central Authority and other Federal agencies. This group shall meet from time to time at the

request of the United States Central Authority. The agency in which the United States Central Authority is located is authorized to reimburse such private citizens for travel and other expenses incurred in participating at meetings of the interagency coordinating group at rates not to exceed those authorized under subchapter I of chapter 57 of title 5 for employees of agencies.

Sec. 11610. Authorization of appropriations

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the purposes of the Convention and this chapter.

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7. Hague Convention Abduction Issues.

Source: State Department, Office of Children's Issues,
http://travel.state.gov/family/abduction/hague_issues/hague_issues_578.html

One Possible Solution – The Hague Convention

One of the most difficult and frustrating elements for a parent of a child abducted abroad is that United States laws and court orders are not automatically recognized abroad and therefore are not directly enforceable abroad. Each country has jurisdiction within its own territory and over people present within its borders. No country can tell another country how to decide cases or enforce laws. Just as foreign court orders are not automatically enforceable in the United States, United States court orders are not automatically enforceable abroad.

At the Hague Conference on Private International Law in 1976, 23 nations agreed to draft a treaty to deter international child abduction. Between 1976 and 1980, the United States was a major force in preparing and negotiating the Hague Convention on the Civil Aspects of International Child Abduction (Hague Convention or the Convention). The Convention was incorporated into U.S. law and came into force for the United States on July 1, 1988. As of July 2001, the Convention is in force between the United States and 50 other countries. The Convention applies to wrongful removals or retentions that occurred on or after the date the treaty came into force between those two countries. The dates vary for each country and more countries are considering signing on to the Convention all the time. Check the most recent list prepared by the Office of Children's Issues to learn whether the Convention was in force in a particular country at the time of the wrongful removal or retention.

You can find the list [here](http://travel.state.gov/family/abduction/hague_issues/hague_issues_1487.html)
http://travel.state.gov/family/abduction/hague_issues/hague_issues_1487.html.

What Is Covered by the Convention

The Hague Convention is a civil legal mechanism available to parents seeking the return of, or access to, their child. As a civil law mechanism, the parents, not the governments, are parties to the legal action.

The countries that are party to the Convention have agreed that a child who is habitually resident in one party country, and who has been removed to or retained in another party country in violation of the left-behind parent's custodial rights, shall be promptly returned to the country of habitual residence. The Convention can also help parents exercise visitation rights abroad.

There is a treaty obligation to return an abducted child below the age of 16 if application is made within one year from the date of the wrongful removal or retention, unless one of the exceptions to return apply. If the application for return is made after one year, the court may use its discretion to decide that the child has become resettled in his or her new country and refuse return of the child. In any case, a court may refuse to order a child returned if there is:

A grave risk that the child would be exposed to physical or psychological harm or otherwise placed in an intolerable situation in his or her country of habitual residence; If the child objects to being returned and has reached an age and degree of maturity at which the court can take account of the child's views (the treaty does not establish at what age children reach this level of maturity: that age and the degree of weight given to children's views varies from country to country); or

If the return would violate the fundamental principles of human rights and freedoms of the country where the child is being held.

Note: Interpretation of these exceptions varies from country to country.

How to Use the Hague Convention

The Convention provides a legal mechanism for you to seek return of your child or exercise your visitation rights. You do not need to have a custody decree to use the Convention. However, to apply for the return of your child, you must have had and been actually exercising a "right of custody" at the time of the abduction, and you must not have given permission for the child to be removed or, in the case of a retention, to be retained beyond a specified, agreed-upon period of time. The Convention defines "rights of custody" as including "rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence." This right need not be sole custody. If there was no court order in effect at the date of the abduction, these "rights of custody" may be established by the law in the state in which your child was living before his or her removal. In some cases it may be advisable to get a determination (as per Article 15 of the Convention) in your local court that 1) you have a right of custody to your child, and 2) the removal or retention was wrongful. Use of the Convention is not restricted to U.S. citizens.

An application should be submitted as soon as possible after an abduction or wrongful retention has taken place. As stated above, there is a time factor of one year involved. Do not wait until you get a custody order. That order would be irrelevant anyway.

Each country that is party to the Convention has designated a Central Authority to carry out specialized duties under the Convention. The Central Authority for the United States is the Department of State's Office of Children's Issues (CA/OCS/CI). You may submit your application directly to the Central Authority or foreign court of the country where the child is believed to be held, but, in order to ensure that you receive all available assistance it is best to submit your application to the U.S. Central Authority.

The Role of the United States Central Authority

The responsibilities of the Central Authority for the Hague Abduction Convention are set forth in Articles 7-12 and 21 of the Convention. The United States Central Authority is prohibited from acting as an agent or attorney in legal proceedings arising under the Convention. The United States Central Authority was not intended to be and has never been a party to such proceedings.

Although article 7(f) of the Convention and 22 C.F.R. 94.6(d) and (h) refer to legal proceedings under the Convention, they do not assign the U.S. Central Authority a direct role in such proceedings.

22 C.F.R. 94.4

The United States Central Authority's role in proceedings in the United States under the Convention is that of an active facilitator. We seek to promote cooperation among the relevant parties and institutions and act as a source of information about proper procedures under the Convention and the contents and status of applications for assistance. The Central Authority in the country where your child is located, however, has the primary responsibility for processing your application.

The Office of Children's Issues will review your application to ensure that it is complete and that your request complies with the requirements of the Convention. If it does, we will forward it to the foreign Central Authority and work with that authority until your case is resolved. If the abducting parent does not voluntarily agree to the return of your child, you may be required to retain an attorney abroad to present your case under the Hague Convention to the foreign court. If you need to retain an attorney abroad, see Using the Civil [Justice System](http://travel.state.gov/family/abduction/hague_issues/hague_issues_564.html) http://travel.state.gov/family/abduction/hague_issues/hague_issues_564.html .

The Office of Children's Issues works with the applicant and the other Central Authority to facilitate communication between the parties involved and work toward resolving the case as quickly as possible. While specific operations and procedures under the Convention differ in each country party to the treaty, we stand ready to help applicants understand the process and monitor all cases in which assistance is sought.

Immigration and the Hague Convention

The Hague Convention on the Civil Aspects of International Child Abduction focuses on issues of residency, not citizenship. It is important to note that the Convention does not confer any immigration benefit. Anyone seeking to enter the United States who is not a United States citizen must fulfill the appropriate entry requirements, even if that person was ordered by a court to return to the United States. This applies to children and parents involved in any child abduction case including a Hague Convention case.

When a taking parent in a Hague Abduction Convention case is ineligible to enter the United States under United States immigration laws, the parent may be paroled for a limited time into the United States through the use of a Significant Public Benefit Parole in order to participate in custody or other related proceedings in a United States court.

Good News for Applicants Under the Hague Convention

The Hague Convention on International Child Abduction has improved the likelihood and speed of return of abducted or wrongfully retained children from countries that are party to the Convention. The Convention's success is encouraging more countries to become party to the Convention. As of July 2001, fifty-five countries have joined since the United States became the 10th country in July 1988. In addition, the reputation of the

Hague Convention is such that, when an abducting or retaining parent learns that a Hague application has been or will be filed, he or she may return the child voluntarily and no further civil action will be taken. The majority of Hague cases still, however, require the left behind parent to retain an attorney in the country where the child is located and petition the court for return.

A note of caution: Criminal charges may have an unintended negative effect on the operation of the Hague Convention. With the Hague Convention, the emphasis is on the swift return of a child to his or her place of habitual residence where the custody dispute can then be resolved, if necessary, in the courts of that jurisdiction. Courts in some countries, including the United States, have denied return of children solely because the taking parent would be arrested if they accompanied the child home. Many of these courts, United States and foreign, have held that the arrest of the parent would expose the child to psychological harm under Article 13(b) of the Convention. This varies by country and the type of criminal charge. Please contact CI to discuss this matter further.

Children Abducted to the United States

The Hague Convention applies to children abducted to and from countries party to the Convention. If a child is abducted to the United States from one of our Hague treaty partners the parent left behind in the country may apply for return under the Convention. Even if the child was born in the United States, if the child is now found to be "habitually resident" in another country the child may be ordered to return to that country under the Convention. the U.S., provided the case meets the requirements of the Hague and the child's country of habitual residence is a signatory to the Hague Convention.

As of September 5, 1995, by agreement between the National Center for Missing and Exploited Children (NCMEC), the Department of State, and the Department of Justice, applications seeking return of or access to children in the United States are processed on behalf of the Office of Children's Issues by the NCMEC.

8. Further Reference.

Directory - Where to Go for Assistance

Consular Assistance
Department of State
Office of Children's Issues
SA-29
2201 C Street, NW
U.S. Department of State
Washington, DC 20520
Phone: 202 736-7000
Fax: 202-736-9133
After hours: 202 647-5225
Web Site: http://travel.state.gov/family/about/about_605.html

Children's Passport Issuance Alert Program

Department of State
Office of Children's Issues
SA-29
2201 C Street, NW
U.S. Department of State
Washington, DC 20520
Phone: 202 736-7000
Fax: 202-736-9133
Web Site: http://travel.state.gov/family/abduction/resources/resources_554.html

National Center for Missing and Exploited Children (NCMEC)

699 Prince Street
Alexandria, VA 22314-3175
Phone: 703 522-9320
Fax: 703 235-4067
Web Site: <http://www.missingkids.org>
24-hour hot line for emergencies: 1-800-THE-LOST
TTD: 1-800-826-7653

For American Bar Association Publications

American Bar Association (ABA)
750 North Lake Shore Drive
Chicago, IL 60611
Phone: 312 988-5555
Web Site: www.abanet.org/store/catalog.htm

Federal Parent Locator Service (FPLS)

Note: The FPLS can be accessed through local and state Child Support Enforcement offices. The names of those offices are available in telephone books and from the address below.

Department of Health and Human Services

<http://www.acf.dhhs.gov/programs/cse>

Federal Parent Locator Service (FPLS)

370 L'Enfant Promenade, S.W.

Washington, D.C. 20447

Phone: 202 401-9267

Web Site: <http://www.acf.hhs.gov/programs/cse/>

Office of Victims of Crime (OVC)

United States Department of Justice

633 Indiana Ave., N.W.

Washington, D.C. 20531

Phone: 1-800-627-6872

Web Site: <http://www.ojp.usdoj.gov/ovc/>

International Social Services/American Branch

700 Light Street

Baltimore, MD 21230

Phone: 410 230-2734

Web Site: <http://www.iss-usa.org/>

9. Reading List.

This list is intended to give some idea of the relevant literature, but should not be regarded as complete or authoritative.

Atwood, "Child Custody Jurisdiction and Territoriality," 52 Ohio St. L.J. 369 (1991)

Charlow, "Jurisdictional Gerrymandering and the Parental Kidnapping Prevention Act," 25 Fam. L.Q. 299 (1991)

Coburn, *Runaway Father: One Man's Odyssey from Revenge to Love*. Red Fox Publishing. Bellevue, WA. (1998)

Copertino, "Hague Convention on the Civil Aspects of International Child Abduction: An Analysis of its Efficacy," 6 Conn. J. Int'l L. 715 (1991)

Crawford, "Habitual Residence of the Child as the Connecting Factor in Child Abduction Cases: A Consideration of Recent Cases," *Jurid. Rev.* 177 (1992)

Crouch, "Use, Abuse, and Misuse of the UCCJA and PKPA," 6 Am. J. Fam. L. 147 (1992)

Davis, "The New Rules on International Child Abduction: Looking Forward to the Past," 3 Aust'l J. Fam. L. 31 (1990)

De Hart, *International Child Abduction: A Guide to Applying the 1988 Hague Convention, with Forms* (A publication of the Section of Family Law, American Bar Association) (1993)

Edwards, "The Child Abduction Agony," 140 New L.J. 59 (1990)

Evans, "International Child Abduction," 142 New L.J. 232 (1992)

Frank, "American and International Responses to International Child Abductions," 16 N.Y.U. J. Int'l L. & Pol. 415 (1984)

Girdner, "Obstacles to the Recovery and Return of Parentally Abducted Children," 13 *Children's Legal Rts J.* 2 (1992)

Hilton, "Handling a Hague Trial," 6 Am. J. Fam. L. 211 (1992)

Hoff, *Parental Kidnapping: How to Prevent an Abduction and What to Do If your Child Is Abducted* (A publication of the National Center for Missing and Exploited Children. No charge.)

Kindall, "Treaties - Hague Convention on Child Abduction - Wrongful Removal - Grave Risk or Harm to Child" 83 Am. J. Int'l L. 586 (1989)

Marks, "Fighting Back: The Attorney's Role in a Parental Kidnapping Case," 64 Fla. B.J. 23 (1990)

Murray, "One Child's Odyssey Through the Uniform Child Custody Jurisdiction and Parental Kidnapping Prevention Acts," 1993 Wis. L. Rev. 589

Oberdorfer, "Toward a Reasoned Response to Parental Kidnapping," 75 Minn. L. Rev. 1701 (1991)

Pfund, "The Hague Convention on International Child Abduction, the International Child Abduction Remedies Act, and the Need for Availability of Counsel for All Petitioners," 24 Fam. L.Q. 35 (1990)

Rutherford, "Removing the Tactical Advantages of International Parental Child Abductions under the 1980 Hague Convention on the Civil Aspects of International Child Abductions," 8 Ariz. J. Int'l & Comp. L. 149 (1991)

Sagatun, "Parental Child Abduction: The Law, Family Dynamics, and Legal System Responses," 18 Journal of Crim. Just. (1990)

Sharpless, "The Parental Kidnapping Prevention Act: Jurisdictional Considerations Where There are Competing Child Custody Orders," 13 J. Juv. L. 54 (1992)

Shirman, "International Treatment of Child Abduction and the 1980 Hague Convention," 15 Suffolk Transnat'l L.J. 222 (1991)

Stotter, "The Light at the End of the Tunnel: The Hague Convention on International Child Abduction Has Reached Capitol Hill," 9 Hastings Int'l and Comp. L. Rev. 285 (1986)

Stranko, "International Child Abduction Remedies," The Army Lawyer 28 (Department of the Army pamphlet 27-50-248, July 1993)

Family Advocate, A Practical Journal of the American Bar Association Family Law Section, Spring 1987. (Special issue on divorce law around the world and international parental child abduction.)

Family Advocate, A Practical Journal of the American Bar Association Family Law Section, Spring 1993. (Special issue on international family law.)

Family Law Quarterly, Spring 1994. (Special issue on international family law.)

"The Hague International Child Abduction Convention and the International Child Abduction Remedies Act: Closing Doors to the Parent Abductor," 2 Transnat'l Law 589 (1989)

"The Hague Convention on International Child Abduction: A Practical Application," 10 Loy. L.A. Int'l & Comp. L.J. 163 (1988)

"International Child Abduction and the Hague Convention: Emerging Practice and Interpretation of the Discretionary Exception," 25 Tex. Int'l L.J. 287 (1990)

"International Parental Child Abduction: The Need for Recognition and Enforcement of Foreign Custody Decrees," 3 Emory J. Int'l Dispute Resolution 205 (1989)

"More Than Mere Child's Play: International Parental Abduction of Children," 6 Dick. L. Rev. 283 (1988)

"You Must Go Home Again: Friedrich v. Friedrich, The Hague Convention and the International Child Abduction Remedies Act," 18 N.C. J. Int'l L. & Com. Reg. 743 (1993)

United States Government Documents on the Hague Convention

Department of State notice in the Federal Register of March 26, 1986, pp. 10494-10516.

Senate Treaty Doc. 99-11, 99th Congress, 1st Session.

For the legislative history of the International Child Abduction Remedies Act, Public Law 100-300, see S.1347 and H.R. 2673, and H.R. 3971- 3972, 100th Congress, and related hearing reports.



The Information Resource Center

Embassy of the United States of America

Tel. 91 5872526 – E-mail: blazquezja@state.gov

<http://www.embusa.es/irc>

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