

SENATE FILE NO. SF0036

Uniform Child Abduction Prevention Act.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to domestic relations; adopting the Uniform
 2 Child Abduction Prevention Act; authorizing a district
 3 court to order child abduction prevention measures when the
 4 evidence establishes a credible risk of abduction;
 5 providing definitions; and providing for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 20-8-101 through 20-8-112 are created
 10 to read:

11

12

CHAPTER 8

13

CHILD ABDUCTION PREVENTION

14

15

20-8-101. Short title.

16

1 This act shall be known and may be cited as the "Uniform
2 Child Abduction Prevention Act."

3

4 **20-8-102. Definitions.**

5

6 (a) As used in this act:

7

8 (i) "Abduction" means the wrongful removal or
9 wrongful retention of a child;

10

11 (ii) "Child" means an unemancipated person who
12 is less than eighteen (18) years of age;

13

14 (iii) "Child custody determination" means a
15 judgment, decree or other order of a court providing for
16 the legal custody, physical custody or visitation with
17 respect to a child, including a permanent, temporary,
18 initial or modification order;

19

20 (iv) "Child custody proceeding" means a
21 proceeding in which legal custody, physical custody or
22 visitation with respect to a child is at issue, including a
23 proceeding for divorce, dissolution of marriage,

1 separation, neglect, abuse, dependency, guardianship,
2 paternity, termination of parental rights or protection
3 from domestic violence;

4

5 (v) "Court" means an entity authorized under the
6 law of a state to establish, enforce or modify a child
7 custody determination;

8

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

13

14 (vii) "State" means a state of the United
15 States, the District of Columbia, Puerto Rico, the United
16 States Virgin Islands, any territory or insular possession
17 subject to the jurisdiction of the United States or a
18 federally recognized Indian tribe or nation;

19

20 (viii) "Travel document" means a record relating
21 to a travel itinerary, including travel tickets, passes and
22 reservations for transportation or accommodations. "Travel
23 document" does not include a passport or visa;

1

2 (ix) "Wrongful removal" means the taking of a
3 child that breaches rights of custody or visitation given
4 or recognized under the law of this state;

5

6 (x) "Wrongful retention" means the keeping or
7 concealing of a child that breaches rights of custody or
8 visitation given or recognized under the law of this state;

9

10 (xi) "This act" means W.S. 20-8-101 through
11 20-8-112.

12

13 **20-8-103. Cooperation and communication among courts.**

14

15 W.S. 20-5-210 through 20-5-212 shall apply to cooperation
16 and communications among courts in proceedings under this
17 act.

18

19 **20-8-104. Actions for abduction prevention measures.**

20

21 (a) A party to a child custody determination or
22 another person or entity having a right under the law of
23 this state or any other state to seek a child custody

1 determination for the child may file a petition seeking
2 abduction prevention measures to protect the child under
3 this act.

4

5 (b) A prosecutor or public authority designated under
6 W.S. 20-5-415 may seek a warrant to take physical custody
7 of a child under W.S. 20-8-109 or other appropriate
8 prevention measures.

9

10 (c) A court on its own motion or petition under
11 subsection (a) of this section may order abduction
12 prevention measures in a child custody proceeding if the
13 court finds that the evidence establishes a credible risk
14 of abduction of the child.

15

16 **20-8-105. Jurisdiction.**

17

18 (a) A petition under this act may be filed only in a
19 court that has jurisdiction to make a child custody
20 determination with respect to the child at issue under the
21 Uniform Child Custody Jurisdiction and Enforcement Act.

22

1 (b) A court of this state has temporary emergency
2 jurisdiction under W.S. 20-5-304 if the child is present in
3 this state and the court finds a credible risk of
4 abduction.

5

6 **20-8-106. Contents of petition.**

7

8 (a) A petition under this act shall be signed and
9 sworn to be accurate before a person authorized to
10 administer oaths and include a copy of any existing child
11 custody determination, if available. The petition shall
12 specify the risk factors for abduction, including the
13 relevant factors described in W.S. 20-8-107. Subject to
14 W.S. 20-5-309(e), if reasonably ascertainable, the petition
15 shall contain:

16

17 (i) The name, date of birth and gender of the
18 child;

19

20 (ii) The customary address and current physical
21 location of the child;

22

1 (iii) The identity, customary address and
2 current physical location of the respondent;

3

4 (iv) A statement of whether a prior action to
5 prevent abduction or domestic violence has been filed by a
6 party or other person having custody of the child, and the
7 date, location and disposition of the action;

8

9 (v) A statement of whether a party to the
10 proceeding has been arrested for a crime related to
11 domestic violence, stalking or child abuse or neglect, and
12 the date, location and disposition of the case;

13

14 (vi) Any other information required to be
15 submitted to the court for a child custody determination
16 under W.S. 20-5-309.

17

18 **20-8-107. Factors to determine risk of abduction.**

19

20 (a) In determining whether there is a credible risk
21 of abduction of a child, the court shall hold a hearing and
22 consider any evidence that the petitioner or respondent:

23

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

3

4 (ii) Has threatened to abduct the child;

5

6 (iii) Has recently engaged in activities that
7 may indicate a planned abduction, including:

8

9 (A) Abandoning employment;

10

11 (B) Selling a primary residence;

12

13 (C) Terminating a lease;

14

15 (D) Closing bank or other financial
16 management accounts, liquidating assets, hiding or
17 destroying financial documents or conducting any unusual
18 financial activities;

19

20 (E) Applying for a passport or visa or
21 obtaining travel documents for the respondent, a family
22 member or the child; or

23

1 (F) Seeking to obtain the child's birth
2 certificate or school or medical records.

3

4 (iv) Has engaged in domestic violence, stalking
5 or child abuse or neglect;

6

7 (v) Has refused to follow a child custody
8 determination;

9

10 (vi) Lacks strong familial, financial, emotional
11 or cultural ties to the state or the United States;

12

13 (vii) Has strong familial, financial, emotional
14 or cultural ties to another state or country;

15

16 (viii) Is likely to take the child to a country
17 that:

18

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

23

1 (B) Is a party to the Hague Convention on
2 the Civil Aspects of International Child Abduction but:

3

4 (I) The Hague Convention on the Civil
5 Aspects of International Child Abduction is not in force
6 between the United States and that country;

7

8 (II) Is noncompliant according to the
9 most recent compliance report issued by the United States
10 department of state; or

11

12 (III) Lacks legal mechanisms for
13 immediately and effectively enforcing a return order under
14 the Hague Convention on the Civil Aspects of International
15 Child Abduction.

16

17 (C) Poses a risk that the child's physical
18 or emotional health or safety would be endangered in the
19 country because of specific circumstances relating to the
20 child or because of human rights violations committed
21 against children;

22

23 (D) Has laws or practices that would:

1

2

(I) Enable the respondent, without due cause, to prevent the petitioner from contacting the child;

4

5

(II) Restrict the petitioner from freely traveling to or exiting from the country because of the petitioner's gender, nationality, marital status or religion; or

9

10

(III) Restrict the child's ability legally to leave the country after the child reaches the age of majority because of a child's gender, nationality or religion.

14

15

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

18

19

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

21

1 (G) Is engaged in active military action or
2 war, including a civil war, to which the child may be
3 exposed.

4

5 (ix) Is undergoing a change in immigration or
6 citizenship status that would adversely affect the
7 respondent's ability to remain in the United States
8 legally;

9

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

12

13 (xi) Has forged or presented misleading or false
14 evidence on government forms or supporting documents to
15 obtain or attempt to obtain a passport, a visa, travel
16 documents, a Social Security card, a driver's license or
17 other government-issued identification card or has made a
18 misrepresentation to the United States government;

19

20 (xii) Has used multiple names to attempt to
21 mislead or defraud;

22

1 (xiii) Has engaged in any other conduct the
2 court considers relevant to the risk of abduction.

3

4 (b) In the hearing on a petition under this act, the
5 court shall consider any evidence showing that the
6 respondent believed in good faith that the respondent's
7 conduct was necessary to avoid imminent harm to the child
8 or respondent and any other evidence that may be relevant.

9

10 **20-8-108. Provisions and measures to prevent**
11 **abduction.**

12

13 (a) If a petition is filed under this act, the court
14 may enter an order that shall include:

15

16 (i) The basis for the court's exercise of
17 jurisdiction;

18

19 (ii) The manner in which notice and opportunity
20 to be heard were given to the persons entitled to notice of
21 the proceeding;

22

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

4

5 (iv) A provision stating that a violation of the
6 order may subject the party in violation to civil and
7 criminal penalties;

8

9 (v) Identification of the child's country of
10 habitual residence at the time of the issuance of the
11 order.

12

13 (b) If, at a hearing on a petition under this act or
14 on the court's own motion, the court after reviewing the
15 evidence finds a credible risk of abduction of the child,
16 the court shall enter an abduction prevention order. The
17 order shall include the information required by subsection
18 (a) of this section and measures and conditions, including
19 those specified in subsections (c) through (e) of this
20 section, that are reasonably calculated to prevent
21 abduction of the child, giving due consideration to the
22 custody and visitation rights of the parties. The court
23 shall consider the age of the child, the potential harm to

1 the child from an abduction, the legal and practical
2 difficulties of returning the child to the jurisdiction if
3 abducted and the reasons for concluding that there is a
4 credible risk of abduction of the child, including evidence
5 of domestic violence, stalking or child abuse or neglect.

6

7 (c) An abduction prevention order may include one (1)
8 or more of the following:

9

10 (i) An imposition of travel restrictions that
11 require that a party traveling with the child outside a
12 designated geographical area provide the other party with
13 the following:

14

15 (A) The travel itinerary of the child;

16

17 (B) A list of physical addresses and
18 telephone numbers at which the child can be reached at
19 specified times; and

20

21 (C) Copies of all travel documents.

22

1 (ii) A prohibition of the respondent directly or
2 indirectly:

3

4 (A) Removing the child from this state, the
5 United States or another geographic area without permission
6 of the court or the petitioner's written consent;

7

8 (B) Removing or retaining the child in
9 violation of a child custody determination;

10

11 (C) Removing the child from school or a
12 child care or similar facility;

13

14 (D) Approaching the child at any location
15 other than a site designated for supervised visitation.

16

17 (iii) A requirement that a party register the
18 order in another state as a prerequisite to allowing the
19 child to travel to that state;

20

21 (iv) With regard to the child's passport:

22

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

4

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

10

11 (C) A prohibition upon the respondent from
12 applying on behalf of the child for a new or replacement
13 passport or visa.

14

15 (v) As a prerequisite to exercising custody or
16 visitation, a requirement that the respondent provide:

17

18 (A) To the United States department of
19 state office of children's issues and the relevant foreign
20 consulate or embassy, an authenticated copy of the order
21 detailing passport and travel restrictions for the child;

22

23 (B) To the court:

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(I) Proof that the respondent has provided the information specified in subparagraph (A) of this paragraph; and

(II) An acknowledgment in a record from the relevant foreign consulate or embassy that no passport application has been made, or passport issued, on behalf of the child.

(C) To the petitioner, proof of registration with the United States embassy or other United States diplomatic presence in the destination country and with the Central Authority for the Hague Convention on the Civil Aspects of International Child Abduction, if that Convention is in effect between the United States and the destination country, unless one of the parties objects; and

(D) A written waiver under the federal Privacy Act, 5 U.S.C. § 552a as amended, with respect to any document, application or other information pertaining to the child authorizing its disclosure to the court and the petitioner.

1

2 (vi) Upon the petitioner's request, a
3 requirement that the respondent obtain an order from the
4 relevant foreign country containing terms identical to the
5 child custody determination issued in the United States.

6

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

10

11 (i) Limit visitation or require that visitation
12 with the child by the respondent be supervised until the
13 court finds that supervision is no longer necessary and
14 order the respondent to pay the costs of supervision;

15

16 (ii) Require the respondent to post a bond or
17 provide other security in an amount sufficient to serve as
18 a financial deterrent to abduction, the proceeds of which
19 may be used to pay for the reasonable expenses of recovery
20 of the child, including reasonable attorneys fees and costs
21 if there is an abduction;

22

1 (iii) Require the respondent to obtain education
2 on the potentially harmful effects to the child from
3 abduction.

4

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

7

8 (i) Issue a warrant to take physical custody of
9 the child under W.S. 20-8-109 or the law of this state;

10

11 (ii) Direct the use of law enforcement to take
12 any action reasonably necessary to locate the child, obtain
13 return of the child or enforce a custody determination
14 under this act or the law of this state;

15

16 (iii) Grant any other relief allowed under the
17 law of this state.

18

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

22

23 **20-8-109. Warrant to take physical custody of child.**

1

2 (a) If a petition under this act contains
3 allegations, and the court finds that there is a credible
4 risk that the child is imminently likely to be abducted,
5 the court may issue an ex parte warrant to take physical
6 custody of the child.

7

8 (b) The respondent on a petition under subsection (a)
9 of this section shall be afforded an opportunity to be
10 heard at the earliest possible time after the ex parte
11 warrant is executed, but not later than the next judicial
12 day unless a hearing on that date is impossible. In that
13 event, the court shall hold the hearing on the first
14 judicial day possible.

15

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

18

19 (i) Recite the facts upon which a determination
20 of a credible risk of imminent abduction of the child is
21 based;

22

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

3

4 (iii) State the date and time for the hearing on
5 the petition; and

6

7 (iv) Provide for the safe interim placement of
8 the child pending further order of the court.

9

10 (d) If feasible, before issuing a warrant and before
11 determining the interim placement of the child after the
12 warrant is executed, the court may order a search of the
13 relevant databases of the national crime information center
14 system and similar state databases to determine if either
15 the petitioner or respondent has a history of domestic
16 violence, stalking or child abuse or neglect.

17

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

21

22 (f) A warrant to take physical custody of a child,
23 issued by this state or another state, is enforceable

1 throughout this state. If the court finds that a less
2 intrusive remedy will not be effective, the court may
3 authorize law enforcement officers to enter private
4 property to take physical custody of the child. If required
5 by exigent circumstances, the court may authorize law
6 enforcement officers to make a forcible entry at any hour.

7

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

13

14 **20-8-110. Duration of abduction prevention order.**

15

16 (a) An abduction prevention order remains in effect
17 until the earliest of:

18

19 (i) The time stated in the order;

20

21 (ii) The emancipation of the child;

22

1 (iii) The child's attaining eighteen (18) years
2 of age;

3
4 (iv) The time the order is modified, revoked,
5 vacated or superseded by a court with jurisdiction under
6 W.S. 20-5-301 through 20-5-303.

7

8 **20-8-111. Uniformity of application and construction.**

9

10 In applying and construing this uniform act, consideration
11 shall be given to the need to promote uniformity of the law
12 with respect to its subject matter among states that enact
13 it.

14

15 **20-8-112. Relation to electronic signatures in global
16 and national commerce act.**

17

18 This act modifies, limits and supersedes the federal
19 Electronic Signatures in Global and National Commerce Act,
20 15 U.S.C. § 7001 et seq., but does not modify, limit or
21 supersede Section 101(c) of that act, 15 U.S.C. § 7001(c),
22 or authorize electronic delivery of any of the notices

1 described in § 103(b) of that act, 15 U.S.C. Section
2 7003(b).

3

4 **Section 2.** This act is effective July 1, 2024.

5

6

(END)