

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1103
Judiciary

(Delegate Cardin, *et al.*)

Maryland Child Abduction Prevention Act

This bill authorizes a court, in any custody or visitation proceeding, to require a party to provide advance written notice to the court and/or the other party of the intent to travel outside the United States with the child. The bill also authorizes a court to order abduction prevention measures in a child custody proceeding if the court finds that the evidence establishes a credible risk of abduction of the child and establishes procedures by which a party or another individual or entity, as specified, may file a petition seeking such measures. The bill applies retroactively and must be applied to and interpreted to affect parents desiring to travel internationally with their children and to require parents desiring to travel internationally to comply with its requirements.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect the workload or finances of the Judiciary.

Local Effect: The bill is not anticipated to materially affect the workload or finances of the circuit courts.

Small Business Effect: None.

Analysis

Bill Summary: “Abduction” is a taking, keeping, or concealing of a child that breaches rights of custody or visitation provided or recognized under State law.

In any custody or visitation proceeding, the court may include as a condition of a custody or visitation order a requirement that either party provide advance written notice of at least 90 days to the court and/or the other party of the intent to travel outside the United States with the child. However, on a showing that notice would expose the child or either party to abuse, as specified, or for any other good cause, the court must waive the notice requirement.

A party to a child custody determination or another individual or entity having standing, as specified, may file a petition seeking abduction prevention measures to protect the child. A petition may be filed only in a court that has jurisdiction to make a child custody determination with respect to the child at issue under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). A petition must (1) be verified and include a copy, if available, of any existing child custody determination; (2) specify the risk factors for abduction and include available information related to the likelihood of abduction or the difficulty of returning the child, and any other relevant information, as specified; and (3) subject to specified exceptions regarding the disclosure of identifying information that jeopardizes the health, safety, or liberty of a child or party, contain specified information, including a statement as to whether a party to the proceeding has been arrested for a crime related to domestic violence, stalking, or child abuse and neglect.

Mediated custody settlements may not be amended to permit international travel unless the amendment is understood and agreed to by the parties or if there has been a significant change of circumstances that makes the amendment in the best interest of the child. The court must consider both documentary and testimonial evidence and consider the difficulty of regaining custody of the child and the risk of abduction.

The court may consider emergency petitions for a rehearing on travel permission if there is a significant change of circumstances. The court must grant petitions for rehearings each year without requiring evidence of a significant change in circumstances. For divorced parents where at least one parent has held foreign citizenship, prior to requesting international travel consent of the other parent, specified items are discoverable and must be presented to the nontraveling parent if requested.

In determining whether travel abroad may be allowed, the court must consider any information related to the likelihood of abduction or the difficulty of returning the child, and any other relevant information as determined by the U.S. Customs and Border Protection's Prevent Abduction Program and the U.S. Department of State. An abduction prevention order remains in effect until the earliest of (1) the time stated in the order; (2) the emancipation of the child; (3) the child attaining age 18; or (4) the time the order is modified, revoked, vacated, or superseded by a court with jurisdiction pursuant to UCCJEA.

Current Law/Background: Unless notice would expose the child or either party to abuse, the court may include as a condition of a custody or visitation order a requirement that either party provide advance written notice of at least 90 days to the court and/or the other party of the intent to relocate the permanent residence of the party.

Federal law prohibits a parent from removing a child from the United States or retaining a child in another country with intent to obstruct another parent's custodial rights. U.S. Customs and Border Protection, in conjunction with the U.S. Department of State and other federal agencies, has established a program that seeks to prevent the departure of a child from the United States when presented with a valid, enforceable court order that prohibits the child's removal from the country (the Prevent Abduction Program).

Some elements of the bill are similar to those within the Uniform Child Abduction Prevention Act (UCAPA), as promulgated by the Uniform Law Commission in 2006. UCAPA is intended to complement and strengthen UCCJEA by providing states with a tool for deterring both domestic and international child abductions by parents and people acting on behalf of the parents by allowing the court to impose measures designed to prevent child abduction both before and after a court has entered a custody decree.

UCCJEA provides interstate enforcement provisions for child custody orders and sets forth provisions for one state to establish jurisdiction in order to eliminate competing custody orders between states.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 924 (Senators Ready and Salling) - Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts); U.S. Department of Homeland Security; National Conference of Commissioners on Uniform State Laws; Department of Legislative Services

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