

ARIF TESTIMONY SB0383.pdf

Uploaded by: ARIF SYED

Position: FAV

Testimony in Favor of SB0383
February 15, 2023

Arif Syed Ahmad
8402 Church Lane Rd, Ellicott City, MD 21043
Phone: 240-457-9337

February 9th, 2023

Dear Honorable Members of the Maryland General Assembly,

My name is Arif Syed Ahmad and I am a proud parent who had the privilege of raising my child as a stay-at-home father, who has experienced the heartbreak and trauma of what is determined as parental abduction, where my child remains at high risk of being abducted internationally.

Parental abduction can be referred to the act of a parent unlawfully taking, retaining, or concealing a child from the other parent, family members custodians with the intention of depriving them of their rightful parental responsibilities and time with the child.

Parental abduction of a child whether domestic or international, is a serious issue affecting countless families across Maryland and the country. It is a selfish, self centered act and should be looked at as a crime.

As a parent, there is nothing more traumatizing and devastating than being separated from your child, and then to face significant difficulties in attempting to secure the child's return, where the child's safety and well-being remains at risk with serious emotional and psychological harm that will have an impact on the rest of their life's.

Almost 3 years ago during the height of Covid pandemic, my child was removed from the state without my knowledge or the court's consent and I have been struggling ever since to locate and regain custody of my child, only to face 03 postponements in the past 2 years. The discretionary and apathetic use of response by authorities is failing families like mine.

There is a lack of clear guidelines and legislation has led to an increase in these cases and placed children at risk and would urge the Maryland General Assembly to take action to better protect the rights and safety of children.

I strongly support the Senate Bill 0383 which aims to improve the response to and prevention of domestic and international parental abduction cases. I urge you to pass this bill and help bring an end to the trauma and uncertainty faced by families like mine.

Thank you for your time and consideration.

Sincerely,
Arif Syed Ahmad

Maryland - UCAPA - Written Testimony 2023 (SB 383)

Uploaded by: Daton Lynch

Position: FAV



BILL NO: Senate Bill 383
TITLE: Maryland Abduction Prevention Act
COMMITTEE: Judicial Proceedings
HEARING DATE: February 15, 2023
POSITION: **SUPPORT**

Chair Smith, Vice Chair Waldstreicher and Members of the Judicial Proceedings Committee:

On behalf of the National Center for Missing & Exploited Children (NCMEC) and the families and children we serve, I am writing to express support for the Maryland Child Abduction Prevention Act pending before the Senate Judicial Proceedings Committee.

Since its inception, NCMEC has been heavily involved in combatting child abductions. NCMEC was born in response to an unthinkable tragedy. In 1981, 6-year-old Adam Walsh was shopping with his mother when he vanished without a trace. His devastated parents, John and Revé Walsh, had nowhere to turn for help in finding Adam. Despite his parents' desperate search, ten days after Adam was abducted, he was found murdered more than 100 miles away. John and Revé channeled the painful experience of losing Adam to create NCMEC in 1984. Over the past 38 years, NCMEC has become the leading private, nonprofit organization to serve as a global resource center and information clearinghouse on issues related to missing and exploited children.

In 2022, NCMEC assisted families and law enforcement agencies with more than 29,000 missing child reports and opened more than 1,000 new cases of family abduction. Unique challenges arise when a child has been taken across state lines or removed from the country, and even more sobering is the fact that international family abductions are often measured by months and years of searching and anguish. Identifying and addressing key risk factors that precede family abductions will prevent these traumatic events from occurring in the first place.

NCMEC understands that family abduction is not a harmless act. When a child is taken or wrongfully retained by their parent or family member, the crime can have serious, long-lasting, and even tragic consequences. While state, federal and international laws enable law enforcement to work across jurisdictional boundaries, borders and even oceans to locate and recover child victims of family abductions, only Child Abduction Prevention legislation, such as the bill being considered before this Committee today, is specifically designed to prevent children from ever experiencing the trauma of a family abduction.¹

¹ See Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), the Parental Kidnapping Prevention Act and the Hague Convention on the Civil Aspects of International Child Abduction.

SB 383 as amended aligns with the statutory sensibilities of Maryland's *Uniform Child Custody Jurisdiction and Enforcement Act* (UCCJEA).² SB 383 provides Maryland family courts with statutory guidelines for family custody disputes and proceedings that will enable family court judges to: **(1) identify children at risk for family abductions**; and **(2) take specific actions to prevent family abductions**. Under the bill, family courts by request of a parent, attorney or officer of the court would consider whether a credible risk for abduction of A child exists, by evaluating key factors, including:

- Abduction planning behaviors, threats or previous abduction attempts;
- Strong familial or other ties to a foreign country;
- Ties to nations not part of or compliant with the Hague Convention on the Civil Aspects of International Child Abduction; and
- Falsifying forms related to travel, committing related fraud, or refusing to follow custody orders.

After assessing abduction risks, family courts would be statutorily empowered under the Maryland Child Abduction Prevention Act to take preventative action, including:

- Impose travel restrictions;
- Supervise visitation;
- Order the surrender of passports;
- Require bonds as a financial deterrent to abduction;
- Order any relief available under state law; and
- In limited emergency circumstances, issue an order for physical custody of the child when an abduction is imminent.

SB 383 incorporates key provisions of the Uniform Child Abduction Prevention Act (UCAPA). UCAPA is model abduction prevention legislation that was developed by the Uniform Law Commission (ULC), endorsed by the Family Law Section of the American Bar Association and has been adopted into the laws of 14 States and the District of Columbia.³

NCMEC is confident that with the leadership of this Committee, Maryland family courts will soon have statutory access to an abduction prevention framework that protects the best interests of children in Maryland and prevents family abductions.

For the reasons stated, NCMEC strongly supports SB 383 and requests a favorable report.

² The UCCJEA discourages family court forum-shopping and provides a method for recognizing and enforcing child custody orders from another state or country when a child is taken across jurisdictional boundaries.

³ Alabama, Colorado, The District of Columbia, Florida, Kansas, Louisiana, Michigan, Mississippi, Nebraska, Nevada, New Mexico, Pennsylvania, South Dakota, Tennessee and Utah.

Davin Sloan MCAPA testimony - SB0383 - Spoken vers

Uploaded by: Davin Sloan

Position: FAV

Testimony in Support of SB-0383
The Maryland Child Abduction Prevention Act
Spoken Version
February, 2023
Davin Sloan

Good afternoon.

Thank you for the opportunity to speak today.

My name is Davin Sloan.

I am here in support of SB-0383, the Maryland Child Abduction Prevention Act.

I seek your help to create meaningful protections for our children, young Marylanders who are at-risk of international parental child abduction, and to bring awareness to the devastating consequences of “International Parental Child Abduction”.

I am the proud father of a delightful daughter, now nearly 9 years old. She is my only child.

She was born here at Anne Arundel Medical Center. She is a US citizen, a Marylander, and an Annapolitan.

My daughter was, and is, a survivor of International Parental Child Abduction.

In 2016, while married, I travelled with my daughter and foreign-born wife for what I thought was to be a long summer vacation in the Czech Republic.

I discovered, to my horror and anguish that my child’s mother had a different plan, and unbeknownst to me, had no intention of returning home to the United States with our child.

From September 2016, my daughter was unlawfully and wrongfully retained in the Czech Republic for nearly 3 years, 1012 agonizing days.

For the first 2 years, my contact with my daughter was limited to a total of 16 hours.

In 2017, I initiated a Hague proceeding seeking my daughter’s return home.

Pursuing my daughter’s return required 5 separate trips to the Czech Republic, a total of 189 days overseas. Few parents could manage this, much less the tremendous costs.

I have now spent over \$250,000 fighting for my daughters return and well-being. Sadly, most of the cost has been incurred in MD family courts.

Despite the Czech Appeal Court and Constitutional Court rulings requiring my daughter's return to the US, under the Hague treaty, the taking parent would not comply.

In July 2019, the Czech court moved forward with an enforcement action. Police, social workers, and court officials arrived at the house where my daughter was held and had to physically remove her.

This was an extremely traumatic experience for my daughter.

I am one of the lucky ones. On July 04, 2019, I was finally able to return, with my daughter, to our home in Annapolis Maryland, almost three years after our planned return.

However, upon my return to the US with my daughter, I encountered grave and unexpected obstacles.

There is currently no framework in Maryland to prevent re-abduction, or to accept or grant comity to Hague Return Judgments.

Foremost, our family courts must be made aware of the loss of jurisdiction that occurs the moment the airplane wheels leave the runway. From then on, enforcement of US custody orders is not possible. This is paramount in understanding the need for protections for our children.

Family courts should be required to enroll at-risk children into the federal CBP Prevent Abduction Program, which would help to prevent unauthorized departures.

There is an urgent need for uniform and automatic procedures to protect children from abduction and re-abduction, when there are known and credible risks.

Secondly, requiring and facilitating "mirror agreements" with foreign courts and authorities, would help ensure enforcement of a US custody or travel agreement.

My daughter remains at risk. Among well-established risk factors, parents who have previously abducted present the single greatest risk of re-abduction.

The risk factors shared by the State department, US justice Dept., NCMEC and others should be used by our family courts to assess risk.

US Congress and most experts recognize Parental Child Abduction as a form of child abuse.

Incredibly, in Anne Arundel County, abduction is not recognized as a form of child abuse. This must be changed.

Abducted children suffer a multitude of short and long-term psychological damages, not to mention the damage to their future, with parents having to spend a lifetime of savings on legal fees, rather than college tuition.

Clearly, it is a worthy goal to focus on preventing abductions from occurring in the first place.

I ask for your help to pass this legislation so that my daughter, and others like her, can be better protected under the laws of this state, in which she was born.

Davin Sloan MCAPA testimony - SB0383 - Written ver

Uploaded by: Davin Sloan

Position: FAV

Testimony in Support of SB-0383
The Maryland Child Abduction Prevention Act
Written Version
February, 2023
Davin Sloan

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Clearly, it is a worthy goal to focus on preventing abductions from occurring in the first place.

I ask for your help to pass this legislation so that my daughter, and others like her, can be better protected under the laws of this state, in which she was born.

SB 383 Testimony.pdf

Uploaded by: Mike McKay

Position: FAV

MIKE MCKAY
Legislative District 1
Garrett, Allegany, and Washington Counties



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Judicial Proceedings Committee
Executive Nominations Committee

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Senate Bill 383 – Notice of Intent to Travel (Maryland Child Abduction Prevention Act)

February 12, 2023

Dear Chairman Smith, Vice Chairman Waldstreicher, and members of the committee,

There is nothing more important than the well-being and safety of our children. They are the most vulnerable of our society and they deserve nothing more than security and their innocence to be protected. Thus, they should feel the safest with their parents, but what happens when the unthinkable happens and a parent, kidnaps their own child to prevent them from seeing the child's other parent? As of now, it is not seen as a crime, as they are, afterall, the child's parent.

In this bill, a court has the authority to require either parent or guardian of a custody proceeding to provide advanced written notice to the court and the other parent or guardian of the intent to travel outside of the United States with the child or children. The court is also authorized to order abduction prevention measures in a child custody proceeding if there is credible risk with evidence established. This will in turn, establish procedures by which a parent or guardian can take to file such a case. If passed, this will apply retroactively and would be interpreted to affect any parent desiring to travel internationally with their child or children.

I thank you for your time and I ask for a favorable vote.

Sincerely,

Senator Mike McKay

Representing the Appalachia Region of Maryland

Garrett, Allegany, and Washington Counties

Testimony in favor of HB0383.pdf

Uploaded by: NICOLE PRIOLA

Position: FAV

Testimony testify in favor of SB0383

Nicole Priola Ph. (410)790-0066 Woodbine, MD

My name is Nicole Priola and I am here to testify **in favor** of SB0383 the Maryland Child Abduction Prevention Act. I would like to explain a small portion of what my brother has had to go through trying to have his son returned after being Internationally Abducted.

My Nephew August Priola was abducted from Hawaii to Greece on September 5, 2017 by his biological mother Manto Nikolaidou. His now ex-wife, a Greek Citizen, used the U.S. courts making false allegations against my brother, filing a temporary Protective Order to have him removed from the home so she could leave the country with their then 2-year-old son. Anthony informed the local police and courts she was planning to abduct his son, and requested that his son's passport be turned over to the courts, but they refused. The Protective Order was dismissed, He along with my mother and brother went back to his home, found it ransacked, his wife and son missing. He found that she had left Hawaii and was at LAX. The Hawaii Police department in Hilo refused his request to enter his child into the National Crime Information Center Missing Persons File. Due to this negligence by law enforcement she was able to leave the country with their son.

Anthony has Full Physical and Legal Custody of his son who is now 7. There are U.S. return orders, and warrants for her arrest and still receiving no help. **Although Greece is a signatory of the Hague Convention of International Parental Abduction**, we have not found one documented case where Greece has returned a child. Greece, like many other countries who have violated the Hague treaty, are still on the compliance list with the US Department of State.

Anthony has been in Greece for court several times since the Abduction of his son. He has limited virtual communication. In one Skype call Anthony noticed marks on his son's neck and a bruise on his collarbone. When he asked August about the markings he Tried to cover them and then said the man upstairs did it. Immediately his mother turned off the computer. Anthony was able to get a photo before she turned off the computer and reported the abuse to the FBI, US Embassy in Greece, The US State Department, His attorneys ,and child services in Greece. Nothing was done. During his last visit to Greece visiting his son He saw bruises once again. He attempted to report it to the local police in Greece and The US Embassy in Greece, but of course nothing was done. As any parent would do He attempted to rescue his son. He ended up being arrested and wrongfully retained in Greece for 7 days before being released and was not charged. His son at the police station informed the police officers that he was afraid of his mother and the man she brought with her. He kicked and screamed and cried that he did not want to go with her and he wanted his daddy. Anthony has not been able to return to Greece and visit his son since November of 2020. Every Hague decision made in this case has been a clear violation of the treaty.

We, like so many other left behind parents and families, have to go through so many obstacles to get help to return our children. I had no idea how common parental abduction was until it happened to our family. We had to educate ourselves, and realized most information given to parents by law enforcement regarding Parental Abduction is incorrect. Currently over 1000 children have been parentally abducted from the US taken to another country and as you have Heard today the struggles we face to return them. It all starts with prevention. Passing this bill and providing education on Parental Abduction to Judges, lawyers, and Law enforcement will not help bring my nephew home but will be a step in preventing future parental abductions. Thank you

Testimony testify in favor of SB0383

Aiden Priola Ph. (410)790-0066 Woodbine, MD

My name is Aiden Priola. I am 13 and August is my cousin. Unfortunately I only met him when he was a baby because he was abducted by his mother. His mother does not allow any of us to see him or talk to him. When my Uncle comes to visit us and has Skype calls with Oggy if his mother sees anyone else on the call she hangs it up.

I have watched my mom & Nana many times up all night trying to get help from anyone. My Uncle does not deserve this And neither does my cousin. Parental Abduction is child abuse and anything you can do to prevent any other child from being abducted Needs to be done now! Thank you!

SB 383 - FWA - Women's Law Center of MD.pdf

Uploaded by: Laure Ruth

Position: FWA

BILL NO: Senate Bill 383
TITLE: Family Law - Custody and Visitation - Notice of Intent to Travel (Maryland Child Abduction Prevention Act)
COMMITTEE: Judicial Proceedings
HEARING DATE: February 15, 2023
POSITION: **SUPPORT WITH AMENDMENTS**

Senate Bill 383 would assist families who are faced with the possibility of one parent taking a child out of the country without their knowledge or permission. The Women's Law Center (WLC) supports Senate Bill 383 as it would allow that concerned parent to seek relief through the court to obtain protective measures if removing the child is a credible possibility. The House Sponsor of the cross file of this bill is amendable to recommended amendments.

Under current law, 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.

Senate Bill 383 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.

Under SB 383, a party to a child custody determination may file a petition seeking abduction prevention measures to protect the child. They must allege 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. Using a best interests of the child analysis, the court must consider both documentary and testimonial evidence and consider the difficulty of regaining custody of the child and the risk of abduction.

We understand that as drafted, if this bill becomes law, it will not offer the strength of protections, or guidance to the courts that are in the existing Uniform Law Commission's Uniform Child Abduction Prevention Act. We therefore suggest this bill be amended to enact that Act.

We have long heard from clients and callers to our statewide Family Law Hotline of situations where their child has been taken out of the country with the intent to deprive the remaining parent or custodian from ever seeing their child again. It is especially challenging if the country the child is

taken to is not in the Hague Convention. There is really almost no hope at all. Preventing this possibility in the right circumstances would be an improvement in our laws.

Therefore, the Women's Law Center of Maryland, Inc. urges a favorable report on Senate Bill 383 with amendments.

The Women's Law Center of Maryland is a private, non-profit, membership organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change.

SB 383_FJSLC_FWA.pdf

Uploaded by: Laure Ruth

Position: FWA

To: Members of the Senate Judicial Proceedings Committee

From: Family & Juvenile Law Section Council (FJLSC)

Date: February 15, 2023

Subject: Senate Bill 383:
Family Law - Custody and Visitation - Notice of Intent to Travel (Maryland Child Abduction Prevention Act)

Position: FAVORABLE WITH AMENDMENT

The Maryland State Bar Association (MHBA) FJLSC **supports with amendment Senate Bill 383:** Family Law - Custody and Visitation - Notice of Intent to Travel (Maryland Child Abduction Prevention Act).

This testimony is submitted on behalf of the Family and Juvenile Law Section Council (“FJLSC”) of the Maryland State Bar Association (“MHBA”). The FJLSC is the formal representative of the Family and Juvenile Law Section of the MHBA, which promotes the objectives of the MHBA by improving the administration of justice in the field of family and juvenile law and, at the same time, tries to bring together the members of the MHBA who are concerned with family and juvenile laws and in reforms and improvements in such laws through legislation or otherwise. The FJLSC is charged with the general supervision and control of the affairs of the Section and authorized to act for the Section in any way in which the Section itself could act. The Section has over 1,200 attorney members.

The FJLSC supports the concept of SB383 if amended to be consistent with the Uniform Child Abduction Prevention Act & to remove proposed section 9.7-105(f) restricting travel of parents with foreign citizenship. The FJLSC is in communication with SB383’s sponsor and welcomes the opportunity to collaborate on amendments.

Should you have any questions, please contact Michelle Smith by telephone at 410-280-1700 or by e-mail at msmith@lawannapolis.com or Lindsay Parvis by telephone at 240-399-7900 or lparvis@jgllaw.com.

LaBrie favorable testimony SB0383.pdf

Uploaded by: Laurent La Brie

Position: FWA

Testimony in favor of HB0383
February 15, 2023
Laurent La Brie, Ph. 914-419-4253, Sunapee, NH

I am Laurent La Brie, and I present this testimony **in favor** of SB0383 the Maryland Child Abduction Prevention Act. Although I live in New Hampshire, I moved here a year ago and my custody case remains in Baltimore County Circuit Court.

We in Maryland have welcomed and integrated citizens from all over the globe. Our welcoming hearts and vibrant economy have attracted 911,000 people born in other countries.¹ Tragically, an annual divorce rate of 2.7 per thousand means there are 2,500 divorces per year involving foreigners. There is an international abduction from Maryland every two weeks, which ranks us 11th among the 50 United States. ² The District of Columbia and fourteen states including Pennsylvania have passed forms of the Uniform Child Abduction Prevention Act. The time has come for Maryland to protect its children like its neighbors do.

Parents attempting to recover an abducted child or trying to prevent an abduction live in a painful world. From the characteristics and red flags the Justice Department ascribes to abductors we can paint the following picture of the marriage and partner that left behind parents have endured before they begin preventing abduction. He or she has endured some or most of the following: high conflict marriage to a spouse who may have a sociopathic personality, a criminal record, paranoia, and/or a distorted view of reality who likely has abducted and/or threatened to abduct their children and accused him or her of abusing

1 https://www.americanimmigrationcouncil.org/sites/default/files/infographics/maryland_infographic_2018.png

2 (Estimation based on 1,250 per year reported from 2010-2013 multiplied by 24 years since The U.S. Department of State's Office of Children's Issue's was created. Outgoing Case Reports are available at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/data.html>)

spouse and/or children. Almost all wear a scarlet letter because the stigma of being accused of abuse doesn't go away even after the charges have been dismissed.

Anxiety over the potential abduction adversely affects their job performance and personal relationships including those with their children. One parent I know hasn't been able to hold a job since the abduction. If the feared abduction occurs, they often blame themselves despite being the victims themselves. They carry scars from legal systems that have not safeguarded what is most dear to them while at the same time draining them of their resources.

It was difficult to find people who would testify before this honorable body today because their custody cases are open. Many others who recover their children don't have the emotional energy to discuss it.

I will present three cases that I personally know of.

David and Joshua were abducted from Maryland to Japan on May 13th 2007. After many attempts to reunite with his children, the only thing their father Doug Gessleman has received is a few photos and emails. He wrote me, "They abducted my children, changed their names and blame me for abandoning them without any financial support. Kids are grown will more than likely never reach out to me." With this bill, judges will be informed that Japan is not enforcing Japanese family orders for returns or providing both parents access to kidnapped children. Travel restraints for children and entry into the federal Prevent Abduction Program are the best way to save them.

WJZ reported on Stan Hunkovich, a Maryland firefighter whose children were abducted to Trinidad & Tobago. The children have not been recovered despite intervention of Secretary

of State John Kerry and Congressmen Dutch Ruppersberger and Andy Harris. The bill we are proposing contains provisions which would have encouraged the use of the federal Prevent Abduction Program to prevent their kidnapping.

Another father is an Army veteran from Baltimore County. His case is open, so he couldn't testify publicly. His ex-wife has most of the red flags of an abductor including having abducted and absconded with their children both domestically and internationally. His lawyer with 40 years of experience didn't know what the Hague Convention was. His judge rejected any travel precautions or getting his custody orders registered in the country of potential refuge because the judge couldn't believe that the mother "*would transport them to a country with a repressive government, a poor economy, uncertain educational possibilities, and uncertain health care availability, potentially on the run for the rest of their childhood lives so as to escape the authorities.*" Contrary to the Judge's belief, 80% of the children abducted from Maryland go to non-first world countries because the lower cost of living allows divorce settlements to go further. There is no need for a life on the run from the authorities when the authorities have never returned an abducted child. Another judge told his lawyer there is no judge in Baltimore County who will restrict travel without a written threat from the prospective kidnapper. Thus, many judges unknowingly don't base their decisions on the risk factors for abduction established by their own U.S. Department of Justice. If this bill passes, parents' cases will be presented based on the true risk of abduction.

In my case, changing the mind of the judge to order safeguards took appointing a Best Interest Attorney to allow the children to voice their concern. That took hundreds of thousands of dollars and two rejected motions for a BIA before one of their therapists assisted in getting him appointed.

Recovery from some countries is difficult if not impossible. The US government is afraid of assessing penalties on countries not respecting the Hague Convention because it angers big business.

The ubiquitous Internet and webcams in the 21st Century reduces the need to travel. The multinational family can participate in all family events 24/7 through Skype if so desired.

This bill will give parents, lawyers, and judges knowledge necessary to assess the true risk factors and true understanding of the chance to return a child so they can take whatever steps are merited to safeguard the children. Modifying paragraph 9.7-104 (B) (2) to read the US Department of Office of Juvenile Justice and Delinquency Prevention instead of Department of State, will give them the source of risk factors.

Therefore, this testimony pleads with the Maryland legislature to enact this bill so that children may not be denied a return to their home, their American identities, and their sustaining contact with both parents and preempting the paramount risk of experiencing all the developmental and emotional problems of kidnapping. When risk factors are remedied, a travel restriction can be reversed. A child abduction (and the damage thereof) cannot.

Letter to Chairperson in Support (Senate) (23.02.1

Uploaded by: Leah Ramirez

Position: FWA



MARKHAM
LAW FIRM

TELEPHONE: 240-396-4373
WWW.MARKHAMLEGAL.COM

February 14, 2023

Honorable William C. Smith, Jr.
Senate Committee on Judicial Proceedings

Re: Statement for February 15, 2023 Hearing in Support of Senate Bill 0383, as amended.

Dear Chair Smith:

I write to support the enactment of the Uniform Child Abduction Prevention Act (“UCAPA”) as set forth in Senate Bill 0383, as amended, and corresponding House Bill 267, as amended, in Maryland. I commend Senator McKay and Delegate Bartlett for putting forward legislation to capture international and domestic child abductions. The Uniform Act addresses important facets of assessing and preventing the risk of child abduction.

I am a family law attorney in Maryland and Washington, DC. I have been in private practice for 8 years. My focus is domestic and international family law litigation. I am barred in Maryland, the District of Columbia, Florida, and England & Wales (not practicing as a qualified solicitor). I have represented left-behind and taking parents in international child abduction cases in federal courts across the United States pursuant to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. I have represented parents in emergency *ne exeat* (“no exit”) proceedings to prevent domestic and international child abductions. I have engaged experts in abduction-risk cases. I have been court-appointed as a Best Interest Attorney for children.

I fully support the legislature considering UCAPA, which is a well-reasoned Uniform Act to address child abduction prevention. UCAPA was finalized by the Uniform Law Commission in 2006. Since its adoption, fifteen (15) states have adopted the Uniform Act in its entirety or with modest amendments. Importantly, two surrounding jurisdictions, the District of Columbia and Pennsylvania, have adopted UCAPA. Two additional states have introduced the legislation. It is my sincere hope that many other states will soon consider UCAPA in light of its immense benefit to the public and to the court and to provide consistency across the nation.

UCAPA, as stated in the Prefatory Note, is premised on the general principle that preventing an abduction is in a child’s best interests. It establishes a comprehensive framework to impose abduction prevention measures at any time either before or after a child custody determination. As drafted, UCAPA fulfills its intended purpose.

Over the past decades, child abduction prevention has been an important topic particularly with the increasingly transient nature of families. Many family law practitioners routinely advise their clients about the risk of child abduction and the preventive measures custodians can take. Separating families often memorialize preventative measures in their written settlement agreements. However, without intervention from the court, it is unlikely that preventive measures or written agreements alone will minimize or prevent the occurrence of child abductions.

UCAPA allows judges to be proactive rather than reactive. Courts have specially assigned dockets for emergency family matters. The risk of removal of a child from a court's jurisdiction is frequently identified as an emergency matter in internal operating procedures. However, without guidance on how and what to address for largely non-routine issues, court intervention leads to inconsistent and unpredictable results.

If UCAPA is adopted in Maryland, judges will be bound to apply the uniform law in this family law context and the parties will have predictability for the process. Parents can feel secure in knowing that Maryland is not a haven for potential abductors because there is no legislation addressing this important issue. Attorneys and litigants will have guidance on what the court will consider so that evidence can be streamlined and presented in a useful way. Judges will review objective facts and apply the risk factor guidance (based on years of research) set forth in UCAPA. Courts will retain discretion in what remedies to impose depending on the facts of the case.

Importantly, UCAPA addresses both domestic and international child abductions. UCAPA is fair in its approach to both foreign and non-foreign parties. Bringing awareness to the risk of child abduction and the available remedies is a huge first step. Oftentimes these issues are addressed too late and the opportunity to recover a child at risk of abduction is lost.

UCAPA legislation undoubtedly serves the public interest. The advantages and benefits are clear. The adoption of UCAPA will bring much desired clarity to the court process and to litigants who have genuine concerns about international and domestic child abduction. I respectfully urge this Committee to strongly consider supporting the enactment of UCAPA in Maryland.

Very truly yours,



Leah Ramirez

UCAPA MD Senate Testimony 2023.pdf

Uploaded by: Libby Snyder

Position: FWA



**Statement of Libby Snyder, Legislative Counsel at the Uniform Law Commission, to the
Senate Judicial Proceedings Committee in Support of Senate Bill 383, as amended –
Enacting the Uniform Child Abduction Prevention Act.**

Public Hearing of February 15, 2023

Chair Smith, Vice Chair Waldstreicher, and Members of the Committee:

Thank you for considering Senate Bill 383, as amended, enacting the Uniform Child Abduction Prevention Act, promulgated by the Uniform Law Commission (ULC) in 2006. The ULC is a non-profit organization formed in 1892 to draft non-partisan model legislation in the areas of state law for which uniformity among the states is advisable.

Maryland has a long history of enacting ULC acts, including the Uniform Child Custody Jurisdiction and Enforcement Act, the Uniform Commercial Code, the Uniform Anatomical Gifts Act, the Uniform Trade Secrets Act, and the Uniform Transfers to Minors Act, as well as others.

The Uniform Child Abduction Prevention Act (UCAPA) was drafted in the careful, lengthy manner typical of ULC acts. The drafting of UCAPA involved ULC commissioners as well as family law experts, child advocates, family court judges, and domestic violence victim advocates. UCAPA has been enacted in 14 states and the District of Columbia. If the committee substitute is accepted, Maryland will be one of several states pursuing enactment of UCAPA in 2023.¹

The overarching viewpoint under which UCAPA was drafted is that preventing abduction is always going to be in a child’s best interest. The act provides states with a valuable tool for deterring domestic and international child abduction—both serious and growing problems.

While the Uniform Child Custody Jurisdiction and Enforcement Act (“UCCJEA”) provides well-established tools for the return of children abducted within the United States, and the Hague Convention on the Civil Aspects of International Child Abduction facilitates the return of children abducted internationally, these laws presume that a child can be located and, in the case of the Hague Convention, that the child is located in a country which is a signatory to the agreement. **UCAPA is intended to provide courts and parties with tools to prevent an unlawful abduction from occurring in the first place, and thus is crucial to ensuring the well-being and safety of children.**

UCAPA anticipates the need for cooperation and communication among the courts of different states. Because abduction situations often involve more than one state, it is vital that courts have

¹ Bills to enact UCAPA have also been introduced in Missouri, South Carolina, and Washington.

the ability to communicate effectively. The Act accomplishes this goal by building on the interstate jurisdiction and enforcement mechanisms of the UCCJEA, including provisions on temporary emergency jurisdiction.

Generally speaking, UCAPA does five important things aimed at preventing parental abductions:

- 1) **Under UCAPA, parties can seek abduction prevention measures at any time,** including before a custody order is in place. This provides an opportunity for parents who are fearful that their child might be wrongfully removed or retained a chance to seek preventative measures from the court.
- 2) **UCAPA provides clear guidance regarding the warning signs of and risk factors for a potential child abduction.** This evidence-based guidance helps judges identify children who are at risk for abduction. The warning signs and risk factors provided in UCAPA include overt signs such as previous abductions, attempts to abduct the child, or threats of abduction, as well as signs of general abuse including domestic violence, negligence, or refusal to obey a child-custody determination. The Act also includes a wide range of activities that may indicate a planned abduction including abandoning employment, liquidating assets, obtaining travel documents or travel tickets, or requesting the child's school or medical records. The more factors that are present, the higher the probability of abduction.
- 3) **UCAPA addresses problems involved with international child abduction.** The Act includes several risk factors specifically related to international abduction. In particular, UCAPA requires courts to consider whether the party in question is likely to take a child to a country that isn't a party to the Hague Convention on the Civil Aspects of International Child Abduction, or to a country that places the child at risk, has laws that would restrict access to the child, that is on the current list of state sponsors of terrorism, or is engaged in an active military action or war. In addition, courts are directed to consider issues related to citizenship as potential risk factors for abduction, such as a recent change in citizenship status or a denial of United States Citizenship.
- 4) **UCAPA provides a catalogue of possible remedies and guidance for issuing those preventative measures.** If a court determines that a credible risk exists that the child will be abducted, it may then enter an order containing provisions and measures designed to prevent abduction. UCAPA lists a number of specific measures that a court may order. These include imposing travel restrictions, prohibiting the individual from removing the child from the state or other set geographic area, placing the child's name in the United States Department of State's Child Passport Issuance Alert Program, or requiring the individual to obtain an order from a foreign country containing identical terms to the child-custody determination. The remedies listed in UCAPA are not exclusive.
- 5) **UCAPA includes provisions for emergency relief.** When there is a credible risk of imminent wrongful removal, the court can issue an ex parte warrant to take physical custody of the child, direct law enforcement to take any action reasonably necessary to locate and return the child or exercise other appropriate powers under existing state laws.

This provision of UCAPA authorizes the issuance of a warrant in an emergency situation, such as an allegation that the respondent is preparing to abduct the child to a foreign country and is on the way to the airport. The harm is the credible risk of imminent removal. If the court finds such a risk, the court should temporarily waive the notice requirements and issue a warrant to take physical custody of the child. Immediately after the warrant is executed, the respondent is to receive notice of the proceedings. This section mirrors Section 311 of the Uniform Child Custody Jurisdiction and Enforcement Act on warrants to pick up a child which are available when there is an existing child-custody determination.²

If passed, Senate Bill 383, as amended, will provide Maryland with a powerful tool to combat the threat of child abduction. I ask for your support to advance this important legislation. Thank you for your time and consideration.

Libby Snyder
Legislative Counsel
Uniform Law Commission

² MD Family Code § 9.5-311.

SB 383 - FWA - Women's Law Center of MD.pdf

Uploaded by: Michelle Siri

Position: FWA

BILL NO: Senate Bill 383
TITLE: Family Law - Custody and Visitation - Notice of Intent to Travel (Maryland Child Abduction Prevention Act)
COMMITTEE: Judicial Proceedings
HEARING DATE: February 15, 2023
POSITION: **SUPPORT WITH AMENDMENTS**

Senate Bill 383 would assist families who are faced with the possibility of one parent taking a child out of the country without their knowledge or permission. The Women's Law Center (WLC) supports Senate Bill 383 as it would allow that concerned parent to seek relief through the court to obtain protective measures if removing the child is a credible possibility. The House Sponsor of the cross file of this bill is amendable to recommended amendments.

Under current law, 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.

Senate Bill 383 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.

Under SB 383, a party to a child custody determination may file a petition seeking abduction prevention measures to protect the child. They must allege 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. Using a best interests of the child analysis, the court must consider both documentary and testimonial evidence and consider the difficulty of regaining custody of the child and the risk of abduction.

We understand that as drafted, if this bill becomes law, it will not offer the strength of protections, or guidance to the courts that are in the existing Uniform Law Commission's Uniform Child Abduction Prevention Act. We therefore suggest this bill be amended to enact that Act.

We have long heard from clients and callers to our statewide Family Law Hotline of situations where their child has been taken out of the country with the intent to deprive the remaining parent or custodian from ever seeing their child again. It is especially challenging if the country the child is

taken to is not in the Hague Convention. There is really almost no hope at all. Preventing this possibility in the right circumstances would be an improvement in our laws.

Therefore, the Women's Law Center of Maryland, Inc. urges a favorable report on Senate Bill 383 with amendments.

The Women's Law Center of Maryland is a private, non-profit, membership organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change.

sb383.pdf

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Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 383
Family Law – Custody and Visitation – Notice of Intent to Travel
(Maryland Child Abduction Prevention Act)
DATE: February 2, 2023
(2/15)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 383. This bill would amend Md. Code, Family Law Art., § 9-106 to give the court discretion to require a party in a custody or visitation proceeding to provide certain notice before traveling outside of the United States with his or her child. The bill would also establish the Maryland Child Abduction Prevention Act, which could authorize the court to order and a party to petition for certain measures to prevent abduction of a child in a custody proceeding where certain risk factors exist and specifies procedures and limitations under the Act.

The Maryland Judiciary appreciates the goal of the legislation, but the drafting raises a number of concerns.

The title of the bill suggests its intention – to prevent child abduction, which is an important and laudable goal. Unfortunately, the bill’s language casts a much wider net and likely will have some significant unintended consequences. At the outset, the term “abduction” is defined to include the “keeping ... of a child that breaches rights of custody or visitation provided.” This definition is so broad that it would capture a parent who arrived a few minutes late to drop-off. That parent would have kept a child in breach of the other’s parent’s access rights. However, it is hard to imagine that anyone would want traffic congestion to result in a parent being accused of abduction and subjecting that parent to the requirements of this legislation.

Moreover, although abduction is defined in the bill, the only addition or change to Section 9-106 for an expedited hearing is for travel out of the country. There does not seem to be any provision in the bill for an expedited hearing in abduction cases without travel out of the country. It is unclear whether that omission is intentional.

It is also unclear how to read the provisions of 9.7-105 (D) and (E) in pari materia. It appears to read that the Court may consider emergency petitions if there is a significant change in circumstances but shall grant a petition for rehearing without requiring evidence of a significant change in circumstances. Those provisions are hard to understand when read together. Moreover, it is unclear how to define what a rehearing is and whether Section (E) mandates an annual review without request. That would be unusual, difficult to track and schedule, and likely a waste of valuable resources.

Moreover, on page 2, in line 19, the bill mandates a hearing any time a parent intends to travel outside of the United States with a child. While there may be times when such a hearing is necessary, there are also many times when it is not. The bill leaves no room for such discretion nor for the consent or agreement of the parties. There should be no reason to mandate a hearing unless there is an actual issue in controversy. Such a requirement would only burden the parties and take valuable court resources away from other litigants in actual need.

Additionally, on page 6, lines 30-31, the bill mandates that a court consider the likelihood of abduction even if there is no concern from either parent – and potentially even when the parties themselves are in agreement. It is hard to imagine that the legislation intends to require a Court to consider the potential for abduction in cases in which both parents agree that their child should benefit from study or travel abroad – and when neither parent has any concerns about abduction.

Finally, 9.7-106 provides that “the Court shall consider..any other relevant information as determined by the U.S. Customs and Border Protections Prevent Abduction Program and the U.S. Department of State.” This provision appears to require the Court to admit all manner of hearsay, without allowing objection of any party. This conflicts with current Maryland Rules designed to ensure the reliability of evidence. Under Maryland Rule 5-902(5), certain documents *may* be self-authenticating and the statements contained therein *may* be admissible under Maryland Rule 5-803(8). However, 9.7-106 thwarts these evidentiary procedures, requiring these hearsay statements to be admitted, and precluding any argument to the contrary.

cc. Hon. Mike McKay
Judicial Council
Legislative Committee
Kelley O'Connor

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Position: UNF



Melissa A. Kucinski
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Admitted in DC, MD, NY, VA

February 6, 2023

Senate Committee on Judicial Proceedings
Honorable William C. Smith, Jr.
House Committee on Judiciary
Honorable Luke Clippinger

Re: Senate Bill 383, House Bill 267

Dear Chair Smith and Chair Clippinger:

My name is Melissa Kucinski. I am an attorney in private practice. I have been licensed to practice law in the State of Maryland since 2006. My entire practice focuses on working with international families, and most of my cases involve one parent's abducting their child into or out of the United States. I have qualified as an expert on international parental child abduction on numerous occasions in Maryland Circuit Courts, testifying on parental child abduction risk factors and prevention measures. Last year, I taught a course in the Maryland Judicial College on the topic of international custody, relocation, and abduction matters.

I support well-drafted, reasoned legislation that helps judges enact measures to prevent parental child abduction and provide stability for children while their parents resolve their underlying custody dispute, and beyond. Neither Senate Bill 383, introduced on February 1, 2023, nor the House Bill 267, introduced on January 25, 2023, will serve to prevent parental child abduction. Neither bill should proceed any further than these committees in their current forms. I hope that either this legislation will be amended or better drafted legislation, aimed at preventing parental child abduction, will be introduced at a future date.

In reviewing each bill, it is immediately evident that the number of cases that may be impacted by the language is small. In fact, neither bill addresses domestic parental child abduction. Neither bill gives judges the tools needed to adequately assess whether a parent may be a risk of abducting their child domestically or internationally. Neither bill gives judges the tools to put in place prevention

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measures tailored to the actual risk found for a particular family, if any. There are presumptions written into the law that are inaccurate and one-sided, that would lead judges to absurd results, and not account for each family's unique situation.

A proper assessment of whether a parent presents a risk of abducting their child involves looking at three separate spheres of risk factors and weighing those risk factors against the family's unique situation. These spheres include: (1) assessing what laws are in place, or not, between the two jurisdictions; what laws are in place in the other jurisdiction (not Maryland); how these laws operate and function, and whether, despite laws actually existing, they work as intended; (2) examining a parent's characteristics, such as their connections to another jurisdiction, their lack of connections to Maryland, their upbringing, their access to resources in another jurisdiction, and their familial connections outside of Maryland versus inside; and, (3) assessing, most importantly, a parent's behaviors and whether they indicate a plan for unilaterally removing their child from Maryland and taking them to another jurisdiction, such as having done so in the past, threatening to do so, closing bank accounts, buying one-way tickets, quitting jobs, selling property, refusing to adhere to court orders, refusing to accept Maryland's jurisdiction over the person, committing domestic violence, among a variety of other factors. These factors are best weighed by a judge to make a proper and complete assessment of whether a parent may be a risk of abducting their child. Furthermore, there are a wide range of prevention measures to consider, based on each family's circumstances. While preventing travel is one option, a blanket travel prohibition for the child's minority may be short-sighted for a particular family. For some families, it may simply be appropriate to register the Maryland court order in the other jurisdiction prior to traveling with the child. There may be need for certain restrictions on issuing or holding the child's passports, ensuring parentage and parental rights are guaranteed in the other jurisdiction, limited travel authorizations, posting of financial bonds, or even supervised or no access in the most severe circumstances. There is no one-size-fits-all for these families or their children.

These risk factors and prevention measures are not just anecdotal. They have been studied and put forth as proper considerations by the U.S. Department of Justice,



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the National Center for Missing and Exploited Children, the American Bar Association, and the Uniform Law Commission.

Two neighboring jurisdictions, Pennsylvania, and the District of Columbia, have enacted the Uniform Law Commission's Uniform Child Abduction Prevention Act. This legislation includes a comprehensive list of risk factors that guide judges in using their discretion to assess whether a parent's behaviors and circumstances, as well as the country with which they have connections, and the laws that exist or are absent between or in the other country, could contribute to the abduction of a minor child. The legislation enacted in both neighboring jurisdictions also provides a comprehensive list of prevention measures, that judges may weigh, and choose from, if the judge concludes that a parent may be of a certain risk in abducting their child. By enacting legislation that falls far short of the comprehensive legislation adopted in our neighboring jurisdictions, Maryland is left prone to becoming a more sympathetic and attractive forum to abducting parents, not a venue for preventing abduction. In fact, a total of 15 jurisdictions in the United States have already enacted this same piece of legislation from the Uniform Law Commission, with several more proposing it this calendar year. In the few states that have enacted their own abduction prevention statutes (namely, California and Texas), each has included a much more comprehensive analysis for judges than exists in either the Senate or House bill presented in Maryland. Maryland should not be an outlier.

The existing pieces of legislation presented to the Senate and the House can be read to be xenophobic. They create a situation where any parent may, as a strategy in a custody case, use the fact that the other parent is foreign-born, to intrude on a variety of facets of their life, and ultimately, not serve any purpose but to prevent a child from potentially knowing their familial heritages. Other states, in adopting more comprehensive statutes, outlining many factors for courts to weigh in assessing the risk of an abduction, have refused to adopt bright-line rules or singular tests to impose abduction prevention measures, instead choosing more measured approaches. (See *e.g.*, *In re Marriage of Badawiyeh*, 2023 COA 4 (Colo. App. 2023), *Moshen v. Moshen*, 08-1703, (La.App. 1 Cir. 12/23/08), *In re Rix*, 20 A.3d 326 (N.H. 2011), *MacKinnon v. MacKinnon*, 922 A.2d 1252 (N.J. 2007), *Long v. Ardestani*, 624 NW 2d 405 (2001), *Davis v. Ewalefo*, 352 P.3d 1139 (Nev. 2015)). More risk factors and



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more options for prevention measures can lead to more nuanced and properly tailored prevention orders for specific children and families. It gives judges more guidance. It will not allow parents to manipulate the process, on either side of the argument for or against international travel.

Thank you for exploring the important topic of preventing domestic and international parental child abduction. I also thank you for understanding the need for a more comprehensive piece of legislation that is better tailored to families, provides judges more guidance, and is more consistent with our sister-states.

Sincerely,

/s/ Melissa A. Kucinski

Melissa A. Kucinski