



Statement of Libby Snyder, Legislative Counsel at the Uniform Law Commission, to the House Judiciary Committee in Support of House Bill 267, as amended – Enacting the Uniform Child Abduction Prevention Act.

Public Hearing of February 9, 2023

Chair Clippinger, Vice Chair Moon, and Members of the Committee:

Thank you for considering House Bill 267, 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, House Bill 267, 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.

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² MD Family Code § 9.5-311.