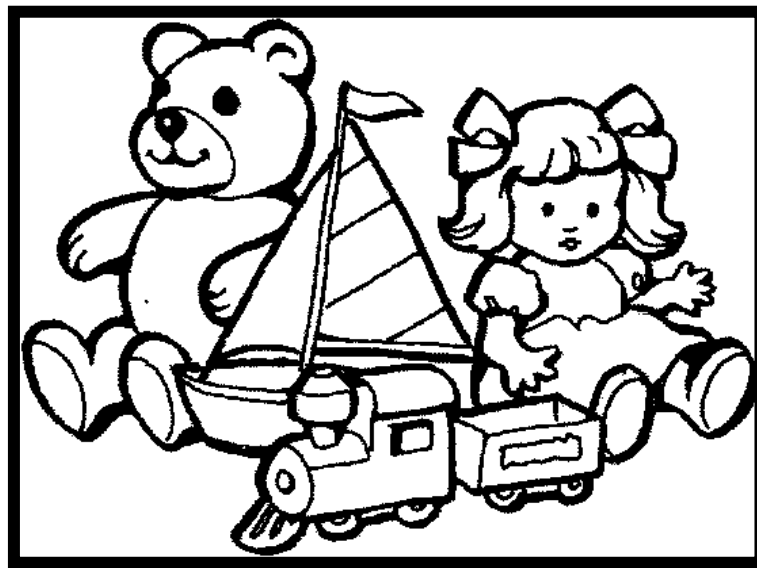


PIMA COUNTY PROTOCOL
FOR THE
MULTIDISCIPLINARY RESPONSE
TO
CUSTODIAL INTERFERENCE



**OFFICE OF THE PIMA COUNTY ATTORNEY
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STATEMENT OF PURPOSE

This protocol is offered as a model for handling custodial interference cases in Pima County. It provides guidelines to assist those who investigate and work with custodial interference.

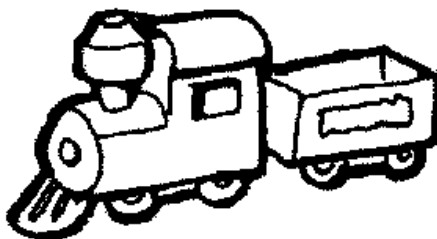
The goals for this document:

1. To recognize that children and parents should be treated with dignity and respect.
2. To promote a system that recognizes the multiple issues and various agencies.
3. To create workable guidelines for investigations of custodial interference.
4. To provide a consistent and efficient approach to the investigation, prosecution and management of custodial interference cases in Pima County.

While protocols are designed as templates with the benefits of guidance, predictability and adherence in mind, individual steps within a particular protocol are certainly not intended to be followed by rote with unthinking or irrational rigidity. For example, technological advances or circumstances belonging uniquely to the moment at hand may justify departure from steps described herein without altering the overall purpose or efficacy of these protocols. It is recognized by the authors that best practices within a particular discipline can encompass variations in, or evolution of, a process while retaining medical or functional integrity.

Where any interagency/jurisdiction conflict exists, the best interests of the child shall be the overriding concern.

NOTE: Although this protocol uses the singular term “Child” throughout, for the purposes of this document the term is to be interpreted as either singular (child) or plural (children).



SECTION I.

BOTH PARENTS AND THE CHILD ARE IN PIMA COUNTY

- 1) The Custodial Parent must make a report to the Pima County Law Enforcement agency responsible for the area from which the child was taken.
 - a) The report is made to a uniformed officer (See Appendix I. Parental Abduction Memo).
 - b) The report should be forwarded to the appropriate unit for assignment to a Detective. Prompt attention and immediate action should be taken in cases that qualify as an emergency.
 - c) A case should be considered an emergency if **any** of the following apply:
 - i) The child has a medical condition that requires treatment/medication to which the Non-Custodial Parent does not have access.
 - ii) The Non-Custodial Parent has a verified history of child maltreatment, *i.e.*, prior arrest/convictions for sex crimes or child abuse.
 - iii) The Non-Custodial Parent has a verified and documented history of mental problems.
 - iv) The Non-Custodial Parent threatened to harm the child or take the child out-of-state at the time he/she took the child.
 - v) The Non-Custodial Parent was intoxicated on drugs or alcohol at the time he/she took the child.
 - vi) The Custodial Parent alleges that the child is in immediate danger as the Non-Custodial Parent sexually or physically abused the child in the past.
- 2) If the report is an emergency, the report should be immediately given to the appropriate unit for assignment to a Detective (See Appendix I. Parental Abduction Memo). If the report is made at a time when no Detective is available (nights or weekends) the uniformed officer should do the following:
 - a) Obtain a copy of the court papers giving the Custodial Parent sole or joint legal custody from the Custodial Parent. If the parents were never married and the child's paternity has never been established, the law provides that the mother is the

legal custodian. In that case, no custody papers are necessary. The custody papers should contain the following information:

- i) That the Custodial Parent has sole or joint legal custody.
 - ii) That the order came from the Pima County Superior Court or has been filed (domesticated) there.
 - iii) That the Non-Custodial Parent was present when the custody order was issued or had counsel present when the order was issued.
- b) If the custody paperwork is in order or the parents were never married and **the location of the Non-Custodial Parent and child is known**, the officer should make personal contact with the Non-Custodial Parent in order to return the child to the Custodial Parent.
- i) If the Non-Custodial Parent has proper and current custodial paperwork, the officer should check on the welfare of the child and make a determination as to whether it is safe to leave the child with the Non-Custodial Parent.
 - (1) If the officer determines that it is not safe to leave the child with the Non-Custodial Parent, the child should be taken into temporary custody. The Non-Custodial Parent should be served with a Temporary Custody Notice when the child is removed. Upon removal of the child, the officer must immediately notify Child Protective Services in order to obtain a shelter placement. Within six hours of removal, the Custodial Parent must also be served by the officer with a Temporary Custody Order. The case should then be forwarded to the appropriate unit for assignment to a Detective.
 - (2) If the child can safely be left with the Non-Custodial Parent, the officer should not remove the child but rather should notify the Custodial Parent that the child is safe, that the Non-Custodial Parent has more recent custody papers, and that the case will be assigned to a Detective for follow-up investigation. The case should then be forwarded to the appropriate unit for assignment.
 - ii) If the Non-Custodial Parent is located with the child and fails to produce custodial paperwork, the officer should take custody of the child and return him/her to the Custodial Parent.
 - (1) The officer must decide whether to arrest the Non-Custodial Parent.

- (2) Whether the Non-Custodial Parent is arrested or not, the case should be forwarded to the appropriate unit for assignment to a Detective.
- 3) If the custody paperwork is in order or the parents were never married and **the location of the Non-Custodial Parent and child is unknown**, the officer should enter the case in National Crime Information Center (NCIC). (NOTE: A waiting period for entering such information is not permitted.) A criminal charge against the abductor is not a prerequisite for listing the child as missing. The National Child Search Assistance Act of 1990, 42 U.S.C. § 5780, mandates:
- a) Each state reporting under the provisions of this title shall:
- i) Ensure that no Law Enforcement agency within the state establishes or maintains any policy that requires the observance of any waiting period before accepting a missing child or unidentified person report;
- ii) Provide that each such report and all available information, with respect to each missing child report, shall include:
- (1) The name, date of birth, sex, race, height, weight, eye and hair colors of the child.
- (2) The date and location of the last known contact with the child.
- (3) The category under which the child is reported missing.
- (4) The information shall be entered immediately into the state law enforcement computer system and the National Crime Information Center computer networks and make available to the Missing Children Information Clearinghouse (1-800-843-5678) with the state or other agency designated within the state to receive such reports. The case should then be forwarded to the appropriate unit for assignment to a Detective.
- 4) If the Custodial Parent does not have a copy of the custody papers or the order does not contain the above information and the location of the Non-Custodial Parent and child is known, **the officer should do a welfare check on the child** to make sure that the child is safe **unless** there is **concern that the Non-Custodial Parent will flee the county if contacted.**
- a) If there is no reason to believe that the Non-Custodial Parent will flee with the child and there is no imminent risk to the child by leaving him/her with the Non-

- Custodial Parent, the officer does not have to remove the child but must immediately forward the case to the appropriate unit for assignment to a Detective.
- b) If a welfare check is done and **the child is in imminent danger**, the Officer should remove the child and serve both parents with a Temporary Custody Notice. Immediately after the removal of the child, the officer must contact Child Protective Services for placement. The case should then be forwarded to the appropriate unit for assignment to a Detective.
- 5) If the report is not an emergency, the case should be forwarded to the appropriate unit for assignment to a Detective (See Appendix I. Parental Abduction Memo).
- a) If the **whereabouts of the Non-Custodial Parent and child are known**, the Detective should conduct the investigation and take the necessary action.
 - i) If the child is located and returned to the Custodial Parent, the case should be brought to the County Attorney's Office for issuing.
 - (1) If the Non-Custodial Parent is arrested, the case must be issued within 70 days of the arrest.
 - (2) If the Non-Custodial Parent is not arrested, a case must be issued within the seven year statute of limitations.
 - (3) At the time of issuing, no statements should be handwritten (this may not always be possible). For the issuing appointment, the custodial interference questionnaire (See Appendix B) must be completed and a copy of the custody papers, if they exist, must be provided.
- 6) If the **whereabouts of the Non-Custodial Parent and child are unknown** and an arrest warrant is needed, the Detective must contact the County Attorney's Office.
- a) The custodial interference questionnaire (See Appendix B) must be completed, but no taped statements or transcripts are required.
 - b) A copy of the custody papers are needed before a warrant will be issued unless the parents were never married, no legal custody determination has been made, or no custody papers exist.
 - c) At the time the warrant is issued, the case should be entered into NCIC if that has not already been done.
 - d) Once the warrant has been executed and the child has been returned to the Custodial Parent, the Detective should contact the County Attorney's Office

regarding extradition if the defendant/Non-Custodial Parent was arrested out-of-state for an issuing appointment. If the defendant/Non-Custodial Parent was arrested in Arizona, the same procedure detailed above for issuing a case is to be followed.

- 7) Child Protective Services should be contacted only if there is an allegation of abuse or neglect. In that case, Law Enforcement should make a report to Child Protective Services via the statewide reporting number, **1-888-767-2445**.
 - a) It is up to Child Protective Services to decide what action, if any, is to be taken.
 - b) If the child is determined to be in imminent danger and is removed by Law Enforcement, and if Child Protective Services provides emergency shelter care, it is up to Child Protective Services to decide what action they will take with respect to the child.

NOTE: All paperwork should be checked by the legal advisor for the Law Enforcement agency or by the County Attorney's Office before the child is returned to the Custodial Parent. Law Enforcement officers have been held liable for returning a child when the custody papers were invalid.



SECTION II.

CHILD TAKEN FROM PIMA COUNTY TO ANOTHER COUNTY/STATE

- 1) In Pima County, the CUSTODIAL PARENT must make a report to the Law Enforcement agency responsible for the area in which he/she lives.
 - a) When the initial report is taken, a copy of the custody papers should be obtained from the Custodial Parent unless the parents were never married and no custody determination has been made. The custody papers should contain the following information:
 - i) That the Custodial Parent has sole or joint legal custody;
 - ii) That the order came from the Pima County Superior Court or has been filed/domesticated) there;
 - iii) That the Non-Custodial Parent was present when the custody order was issued or had counsel present when the order was issued.
- 2) A report should be taken and the case forwarded to the appropriate unit for assignment to a Detective (See Appendix I. Parental Abduction Memo).
 - a) The assigned Detective should conduct the investigation.
 - i) If the case has not already been entered on NCIC, that should be done. (See Section I.(3) above)
 - ii) If an Amber Alert has not already been made, the Detective should place one.
 - b) If the Non-Custodial Parent and child are located in another county/state, the assigned Detective may contact the Non-Custodial Parent towards the goal of a voluntary return of the child or the Detective may seek an arrest warrant from the County Attorney's Office.
 - c) To obtain an arrest warrant, the procedure set forth above in Section I., Item 6 is to be followed.
 - d) If the state to which the Non-Custodial Parent fled is known, the Detective should contact authorities in that state to determine if a pick-up order is needed.
 - e) If a pick-up order is needed, one should be obtained from the County Attorney's Office.

- 3) If the child is returned voluntarily to the Custodial Parent in Pima County, the Detective should make an issuing appointment at the County Attorney's Office. The procedure in Section I.(5)(a) is to be followed.
- 4) If the Non-Custodial Parent is arrested pursuant to the warrant in another state, the case must be brought to the County Attorney's Office as soon as possible so that a decision regarding extradition may be made. The procedure in Section I.(6)(d) is to be followed.
- 5) The National Center for Missing and Exploited Children (**1-800-843-5678**) has a program to assist a Custodial Parent in traveling out-of-state to retrieve his/her abducted child. They have an agreement with American Airlines to fly the Custodial Parent to the other jurisdiction. They can also provide bus tickets. To be eligible for this program, the following criteria must be met:
 - a) There must be a criminal charge pending;
 - b) The child must be listed in NCIC;
 - c) The child must be in the custody of Law Enforcement in the other jurisdiction;
 - d) The National Center for Missing and Exploited Children (**1-800-843-5678**) must receive an OFFICIAL CONFIRMATION from the local Law Enforcement agency verifying the case;
 - e) The Custodial Parent must have custody papers; and
 - f) The Custodial Parent must be indigent.

NOTE: All paperwork should be checked by the legal advisor for the Law Enforcement agency or by the County Attorney's Office before the child is returned to the Custodial Parent. Law Enforcement officers have been held liable for returning a child when the custody papers were invalid.



SECTION III.

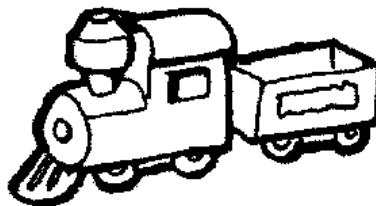
CHILD BROUGHT TO PIMA COUNTY FROM ANOTHER COUNTY/STATE

- 1) If Law Enforcement encounters a child who has been unlawfully removed from another county/state (*i.e.*, during a traffic stop), or NCIC alerts that there is a missing child associated with the person stopped, the child should be taken into custody immediately (See Appendix I, Parental Abduction Memo).
 - a) If there is a warrant for the adult with the child, it should be executed.
 - b) If the person with the child is the parent, a temporary custody notice must be served.
 - c) Law Enforcement should contact the Law Enforcement agency that initiated the "involuntary missing" notice to make arrangements for the child to be picked up.
 - d) Child Protective Services should be notified immediately that the child is in custody so that temporary shelter may be obtained in the event the child cannot be picked up by the Custodial Parent or other agency within six hours.
 - e) It is the responsibility of the Custodial Parent/initiating agency to arrange transportation for the child.
 - f) Child Protective Services has only 48 hours, excluding weekends and holidays, in which to hold a child without filing a dependency petition.
 - g) If the Custodial Parent cannot get to Pima County to pick up the child within 48 hours, Child Protective Services should obtain a voluntary placement agreement to avoid having to file a dependency petition.
- 2) If Law Enforcement is contacted by an out-of-state or out-of-county Custodial Parent or Custodial Parent's attorney regarding a child who is unlawfully in Pima County, a report should be taken and forwarded to the appropriate unit for assignment to a Detective (See Appendix I. Parental Abduction Memo).
 - a) Before the Detective takes any action on the case, the parent must provide the Detective with a copy of the custody decree, as well as evidence that this is the most recent custody order. If the parents were never married and no custody determination has been made, no paperwork is required to begin an investigation.
 - b) If the request is to locate a child who is allegedly in Pima County, Law Enforcement may proceed to locate the child; however, the child should not be

removed until the parent has provided Law Enforcement with a copy of the domesticated custody papers and the Custodial Parent or his/her designee is in Pima County to take custody of the child.

- c) If the child's whereabouts in Pima County are known and the request is to pick up the child, that should not be done until the Custodial Parent or his/her designee is in Pima County to pick up the child and the most recent custody papers have been filed in Pima County Superior Court.
 - d) The UCCJA § 8-475 (A) does not require either a warrant or a pick-up order for a child to be removed from a Non-Custodial Parent. (See Appendix C).
 - e) If the Non-Custodial Parent refuses access, a search warrant should be obtained.
- 3) If Law Enforcement is contacted by another Law Enforcement agency requesting assistance in locating or retrieving a child who is the victim of custodial interference, an arrest warrant for the Non-Custodial Parent should be requested from that other agency.
- a) If there is an arrest warrant for the Non-Custodial Parent, the procedures set forth above in Section III.(1) should be followed; however, if the whereabouts of the Non-Custodial Parent and child are known, someone from the other jurisdiction (Custodial Parent or Law Enforcement) should be in Pima County to take custody of the child when the warrant is executed.
 - b) If there is no arrest warrant, the procedures set forth above in Section III.(2) should be followed.

NOTE: All paperwork should be checked by the legal advisor for the Law Enforcement agency or by the County Attorney's Office before the child is returned to the Custodial Parent. Law Enforcement officers have been held liable for returning a child when the custody papers were invalid.



SECTION IV.

CHILD IS TAKEN FROM CHILD PROTECTIVE SERVICES IN PIMA COUNTY

- 1) Child Protective Services must make a report to the Law Enforcement agency responsible for the location from which the child was taken.
 - a) The report will be made to a uniformed officer (See Appendix I. Parental Abduction Memo).
 - b) That officer should enter the child's name into NCIC.
 - c) The case should then be forwarded to the appropriate unit for assignment to a Detective.
- 2) The assigned Detective should follow the procedures set forth above in Section I.(3).
- 3) If the child is located in a state that requires a pick up order, the Child Protective Services must request that the Attorney General's Office obtain one from the Juvenile Court.
- 4) Once the child is located, it is the responsibility of Child Protective Services to arrange for the child to be returned to Pima County.

NOTE: All paperwork should be checked by the legal advisor for the Law Enforcement agency or by the County Attorney's Office before the child is returned to the Custodial Parent. Law Enforcement officers have been held liable for returning a child when the custody papers were invalid.



SECTION V.

CHILD IS TAKEN FROM CHILD PROTECTIVE SERVICES IN ANOTHER COUNTY/STATE AND BROUGHT TO PIMA COUNTY

- 1) If Arizona Child Protective Services is contacted by the equivalent child protection agency of another state regarding a missing child, Child Protective Services should call Law Enforcement (See Appendix I. Parental Abduction Memo).
- 2) If any Pima County Law Enforcement agency is contacted by the child protection agency of another state regarding a missing child, Law Enforcement should call the Arizona Child Protective Services.
- 3) A FAX or PDF copy of the orders giving custody to Child Protective Services in the other jurisdiction must be obtained by Law Enforcement.
- 4) If the other jurisdiction wants the Non-Custodial Parent arrested, an arrest warrant must be obtained from the other jurisdiction.
- 5) Child Protective Services and Law Enforcement should go together to pick up the child.
 - a) A Temporary Custody Notice (TCN) must be served on the person from whom the child is taken.
 - b) It is the responsibility of Child Protective Services to obtain permission from the other jurisdiction to place the child.
- 6) If Law Enforcement encounters a child who has been taken from Child Protective Services in another jurisdiction, the procedures set forth in Section III.(1) should be followed.

NOTE: All paperwork should be checked by the legal advisor for the Law Enforcement agency or by the County Attorney's Office before the child is returned to the Custodial Parent. Law Enforcement officers have been held liable for returning a child when the custody papers were invalid.



SECTION VI.

PARENTS ARE MARRIED AND ONE TOOK THE CHILD

- 1) The parent who was left behind must make a report to the Pima County Law Enforcement agency responsible for the area from which the child was taken.
 - a) The report is made to a uniformed officer (See Appendix I. Parental Abduction Memo).
 - b) If there is no emergency, the whereabouts of the child are unknown, or the child is in a shelter, the report should be forwarded to the appropriate unit for assignment to the Detective. Prompt attention and immediate action should be taken in all cases that qualify as an emergency.
 - c) A case should be considered an emergency if the whereabouts of the child are known and **any** of the following apply:
 - i) The child has a medical condition that requires treatment/medication to which the abductor does not have access.
 - ii) The abductor has a verified history of child maltreatment, *i.e.* prior arrests/convictions for sex crimes or child abuse.
 - iii) The abductor has a documented and verified history of mental problems.
 - iv) When the abductor took the child, he/she threatened to harm the child or take the child out of state.
 - v) The abductor was intoxicated on drugs or alcohol at the time he/she took the child.
 - vi) The parent left behind alleges that the child is in immediate danger as the abductor sexually or physically abused the child in the past.
- 2) If the report is an emergency, the report should immediately be given to the appropriate unit for assignment to a Detective (See Appendix I. Parental Abduction Memo). If the report is made at a time when no Detective is available (nights or weekends), the uniformed officer should do the following:
 - a) If the child's whereabouts are known and the child is in Pima County, the officer should make personal contact with the abducting parent to check on the welfare of the child.

- i) If the abducting parent alleges that he/she is a victim of domestic violence or that the parent left behind posed a threat of immediate danger to the child and the child can safely be left with the abducting parent, the child should not be removed. The parent left behind should be notified that the child is safe and that the case will be assigned to a Detective. The case should then be forwarded to the appropriate unit for assignment.
 - ii) If the abducting parent alleges that he/she is a victim of domestic violence or that the parent left behind posed a threat of immediate danger to the child, but the officer determines that it is not safe to leave the child with the abducting parent, the child should be taken into temporary custody. The abducting parent should be served with a Temporary Custody Notice when the child is removed. Upon removal of the child, the officer must immediately notify Child Protective Services in order to obtain a shelter placement. Within six hours of removal, the parent left behind must also be served by the officer with a Temporary Custody Order. The case should then be forwarded to the appropriate unit for assignment to a Detective.
 - iii) If the abducting parent does not allege domestic violence or that the child is in immediate danger, the officer should take custody of the child and return him/her to the parent who was left behind.
- b) The officer must decide whether to arrest the abducting parent.
 - c) Whether the abducting parent is arrested or not, the case should be forwarded to the appropriate unit for assignment to a Detective.
 - d) If the location of the abducting parent and child is unknown, the officer should enter the case in NCIC and issue an Amber Alert. **(NOTE: A waiting period for entering such information is not permitted.)** A criminal charge against the abductor is not a prerequisite for listing the child as missing. The National Child Search Assistance Act of 1990, 42 US. C. § 5780, mandates that:
 - i) Each state reporting under the provisions of this title shall:
 - (1) Ensure that no Law Enforcement agency within the state establishes or maintains any policy that requires the observance of any waiting period before accepting a missing child or unidentified person report;

- (2) Provide that each such report and all necessary information, with respect to each missing child report, shall include:
- ii) The name, date of birth, sex, race, height, weight, eye and hair colors of the child;
 - iii) The date and location of the last known contact with the child; and
 - iv) The category under which the child is reported missing.
 - (1) Enter the information immediately into the state law enforcement computer system and the National Crime Information Center computer networks and make available to the Missing Children Information Clearinghouse (**1-800-843-5678**) with the state or other agency designated within the state to receive such reports.
 - v) The case should then be forwarded to the appropriate unit for assignment to a Detective.
 - vi) If the report is not an emergency, the case should be forwarded to the appropriate unit for assignment to a Detective.
 - (1) If the whereabouts of the abducting parent and child are known, the Detective should conduct the investigation and take the actions he/she feels are necessary.
 - vii) If the abducting parent alleges that he/she is a victim of domestic violence and that the child was in immediate danger at the time of abduction, or that the child was taken because the child was in immediate danger by the parent left behind, the abducting parent should be advised to obtain an order of protection or file for temporary custody of the child. If, **within a reasonable period of time under the circumstances**, the abducting parent begins process of obtaining an order of protection and/or files for temporary custody, the case should be closed.
 - viii) If the abducting parent and child are located in another county/state, the Detective **may** contact the abducting parent towards the goal of a voluntary return of the child and/or the Detective **may** seek an arrest warrant from the Pima County Attorney's Office.
 - ix) If the abducting parent is located, the case should be brought to the Pima County Attorney's Office for issuing.

- x) If the abducting parent is arrested, the case must be issued within 70 days of the arrest.
 - xi) If the abducting parent is not arrested, there is no time-frame for issuing.
 - xii) At the time of issuing, no statements should be handwritten (this may not always be possible).
 - (1) For the issuing appointment, the custodial interference questionnaire must be completed (See Appendix B). If the abducting parent alleges domestic violence or immediate danger to the child, a check of the court records in the county in which the child was located must be conducted to ascertain whether the abducting parent applied for an order of protection or filed for temporary custody. If the whereabouts of the abducting parent and child are unknown and an arrest warrant is needed, the Detective must contact the Pima County Attorney's Office.
- 3) The Custodial Interference Questionnaire (See Appendix B) must be completed, but no taped or recorded transcripts are required
 - 4) At the time the warrant is issued, the case should be entered into NCIC and an Amber Alert issued, if not already done.
 - 5) Once the warrant has been executed, the Detective should contact the Pima County Attorney's Office for an issuing appointment.

NOTE: All paperwork should be checked by the legal advisor for the Law Enforcement agency or by the County Attorney's Office before the child is returned to the Custodial Parent. Law Enforcement officers have been held liable for returning a child when the custody papers were invalid.



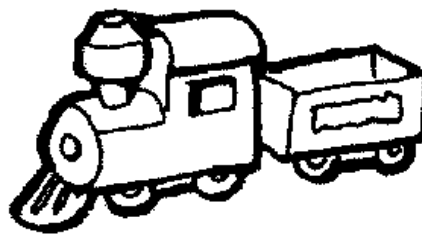
SECTION VII.

CHILD TAKEN FROM PIMA COUNTY TO ANOTHER COUNTRY

- 1) The Custodial Parent in Pima County must make a report to the Law Enforcement agency responsible for the area in which they live (See Appendix I. Parental Abduction Memo).
 - a) When the initial report is taken, a copy of the custody papers should be obtained from the Custodial Parent unless the parents were never married and no custody determination has been made. The custody papers should contain the following information:
 - i) That the Custodial Parent has sole or joint legal custody;
 - ii) That the order came from the Pima County Superior Court or has been filed (domesticated) there;
 - iii) That the Non-Custodial Parent was present when the custody order was issued or had counsel present when the order was issued.
- 2) A report should be taken and the case forwarded to the appropriate unit for assignment to a Detective.
 - a) The assigned Detective should conduct the investigation. If the case has not already been entered on NCIC, that should be done. (See Section I.(C) above).
 - b) If the Non-Custodial Parent and child are located in another country, the Detective **may** contact the country's Consulate/Embassy towards the goal of a voluntary return of the child. The Detective **may** also seek an arrest warrant for the abductor from the Pima County Attorney's Office.
 - c) To obtain an arrest warrant, the procedure set forth in Section I.(3)(d) is to be followed.
- 3) If the child is returned voluntarily to the Custodial Parent in Pima County, the Detective should make an issuing appointment at the County Attorney's Office. The procedure above in Section I.(5)(a)(1) is to be followed.
- 4) If the Non-Custodial Parent is arrested pursuant to the warrant in another country, the case must be brought to the County Attorney's Office as soon as possible so that a decision regarding international extradition can be made. Follow the procedure in Section I.(5)(a).

- 5) The National Center for Missing and Exploited Children (**1-800-843-5678**) has a program to assist a Custodial Parent in traveling out of state to retrieve the abducted child. They have an agreement with American Airlines to fly the Custodial Parent to the other jurisdiction. They can also provide bus tickets. To be eligible for this program, the following criteria must be met. If the criteria exist, call **1-800-843-5678** and ask for technical assistance.
- a) At one point the child must have been listed in NCIC;
 - b) The child must be in the custody of Law Enforcement or Social Services in the other jurisdiction;
 - c) The National Center must receive official confirmation from the local Law Enforcement agency verifying the case;
 - d) The Custodial Parent must have custody papers; and
 - e) The Custodial Parent must be indigent.

NOTE: All paperwork should be checked by the legal advisor for the Law Enforcement agency or by the County Attorney's Office before the child is returned to the Custodial Parent. Law Enforcement officers have been held liable for returning a child when the custody papers were invalid.



SECTION VIII.

CHILD BROUGHT TO PIMA COUNTY FROM ANOTHER COUNTRY

- 1) If Law Enforcement encounters a child who has been unlawfully removed from another country (*i.e.*, during a traffic stop), or there is an NCIC alert that there is an involuntarily missing child associated with the person stopped, the child should be taken into custody immediately (See Appendix I. Parental Abduction Memo).
 - a) If there is a warrant for the adult, it should be executed.
 - b) If the person is the parent, a temporary custody notice must be served.
 - c) Law Enforcement should contact the Consulate/Embassy of the country that initiated the “involuntary missing” notice to make arrangements for the child to be picked up.
 - d) Child Protective Services should be notified immediately that the child is in custody to obtain temporary shelter, in the event that the child cannot be picked up by the Custodial Parent or other authorized custodial international representative within six hours.
 - e) It is the responsibility of the Custodial Parent/Consulate/Embassy of the foreign country to arrange transportation for the child.
 - f) Child Protective Services has 48 hours, excluding weekends and holidays, in which to hold a child without filing a dependency petition.
 - g) If the Custodial Parent or other authorized custodial international representative cannot get to Pima County to pick up the child within 48 hours, Child Protective Services should obtain a voluntary placement agreement to avoid having to file a dependency petition.
- 2) If Law Enforcement is contacted by an out-of-country Custodial Parent or other authorized custodial international representative regarding a child who is unlawfully in Pima County, a report should be taken and forwarded to the appropriate unit for assignment to a Detective (See Appendix I. Parental Abduction Memo).
 - a) Before the Detective takes any action on the case, the reporting Custodial Parent or other authorized custodial international representative must provide the Detective with a copy of the custody decree as well as evidence that this is the most recent

custody order. If the parents were never married and no custody determination has been made, no paperwork is required to begin an investigation.

- b) If the request is to locate a child who is allegedly in Pima County, Law Enforcement **may** locate the child; however, the child should not be removed until the Custodial Parent or other authorized custodial international representative has provided Law Enforcement with a copy of the domesticated custody papers and the Custodial Parent or his/her designee is in Pima County to take custody of the child
 - c) If the child's whereabouts in Pima County are known and the request is to pick up the child, that should not be done until the Custodial Parent or his/her designee is in Pima County to pick up the child and the most recent custody papers have been filed in Pima County Superior Court.
 - d) The UCCJA § 8-475 (A) does not require a warrant or a pick up order for a child to be removed from a Non-Custodial Parent (See Appendix C).
 - e) If the Non-Custodial Parent refuses access, a search warrant should be obtained.
- 3) If Law Enforcement is contacted by a Consulate/Embassy/or foreign Law Enforcement agency requesting assistance in locating or retrieving a child who is the victim of custodial interference, an arrest warrant for the Non-Custodial Parent should be requested from that other agency (See Appendix I. Parental Abduction Memo).
- a) If there is an arrest warrant for the Non-Custodial Parent, the procedures set forth in Section III.(1). should be followed; however if the whereabouts of the Non-Custodial Parent and child are known, someone from the other jurisdiction (Custodial Parent or authorized custodial international representative) should be in Pima County to take custody of the child when the warrant is executed.
 - b) If there is no arrest warrant, the procedures set forth in Section III.(3) should be followed.

NOTE: All paperwork should be checked by the legal advisor for the Law Enforcement agency or by the County Attorney's Office before the child is returned to the Custodial Parent. Law Enforcement officers have been held liable for returning a child when the custody papers were invalid.

SECTION IX.
MISCELLANEOUS ISSUES

1. **Jurisdiction:** The facts of the case are not at issue until all parties are in the jurisdiction of the parent who was left behind (per the Hague Convention, see Appendix D)
2. **Age of Child:** As a general rule, if a report is made on a child age 12 or older who leaves the home of the Custodial Parent voluntarily and is or is alleged to be with the Non-Custodial Parent, the report should be taken and handled as a runaway juvenile, not a custodial interference case. This does not apply if there are children younger than 12 who are also involved. The Hague Convention (see Appendix D) applies to any child under age 16; however, it does not determine custody until the jurisdiction of the parent left behind is determined. (Per Hague 16).
3. **Tribal Jurisdiction:** If the custody determination was made by a tribal court, the reporting party should be referred to the appropriate tribal court for assistance.
 - a. If tribal court is not involved (*i.e.*, parents never married, or if a state court made the custody determination), but the Non-Custodial Parent has taken the child to a reservation, the reporting party should be referred to the appropriate tribal law enforcement agency.
 - b. The Indian Child Welfare Act (see Appendix E) is the controlling statute with Indian children.
4. **Military Issues:** If the Custodial Parent or the Non-Custodial Parent is currently in the military, the Soldiers and Sailors Act may apply. Law Enforcement should contact the County Attorney's Office for assistance in such cases. (Note: The Hague Convention applies, see Appendix D).
5. **Failure to Return Child After Visitation:** On cases where the Non-Custodial Parent fails to return the child following a visit, Law Enforcement may contact the Non-Custodial Parent to seek a voluntary return. If appropriate, the County Attorney's Office will send a letter to the Non-Custodial Parent requesting the child's return. If the child is out of state, the County Attorney may issue an arrest warrant if the Non-Custodial Parent fails or refuses to promptly return the child.

**APPENDIX A:
STATUTES**

§ 13-1302 Custodial interference; child born out wedlock; classification

A. A person commits custodial interference if, knowing or having reason to know that the person has no legal right to do so, the person does one of the following:

1. Takes, entices or keeps from lawful custody any child or any person who is incompetent, and who is entrusted by authority of law to the custody of another person or institution.
2. Before the entry of a court order determining custodial rights, takes, entices or with holds any child who is less than eighteen years of age from the other parent denying that parent access to any child.
3. If the person is one or two persons who have joint legal custody of a child takes, entices or with holds from physical custody the child from the other custodian.
4. At the expiration of access rights outside the state, intentionally fails or refuses to return or impedes the return of a child to the lawful custodian.

B. If a child is born out of wedlock, the mother is the legal custodian of the child for the purposes of this section until paternity is established and custody or access is determined by a court.

C. It is a defense to a prosecution pursuant to subsection A, paragraph 2 if both of the following apply:

1. The defendant has begun the process to obtain an order of protection or files a petition for custody within a reasonable period of time and the order of protection or petition states the defendant's belief that the child was at risk if left with the other parent.
2. The defendant is the child's parent and has the right of custody and the defendant either:
 - A.** Has a good faith and reasonable belief that the taking, enticing or with holding is necessary to protect the child from immediate danger.
 - B.** Is a victim of domestic violence by the other parent and has a good faith and reasonable belief that the child will be in immediate danger if the child is left with the other parent.

D. If the child taken, enticed or kept from lawful custody is taken out of this state, custodial interference is a class 4 felony. If committed by a parent or agent of a parent of

the child taken, enticed or kept, custodial interference is a class 6 felony. If the child is returned voluntarily by the defendant with out physical injury prior to arrest or the issuance of an arrest warrant custodial interference it is a class 1 misdemeanor. If committed by a person other than a parent or agent of a parent of the child taken, custodial interference is a class 3 felony.

§13-1305 Access interference; classification; definitions

A. A person commits access interference if, knowing or having reason to know that he has no legal right to do so, the person knowingly engages in a pattern of behavior that prevents, obstructs or frustrates the access rights of a person who is entitled to access to a child pursuant to a court order

B. If the child is removed from this state, access interference is a class 5 felony. Otherwise access interference is a class 2 misdemeanor.

C. The enforcement of this section is not limited by the availability of other remedies for access interference.

D. For the purpose of this section "Access order" means a court order that is issued pursuant to title 25 and that allows a person to have direct access to a child or incompetent person.



APPENDIX B:
CUSTODIAL INTERFERENCE QUESTIONNAIRE

Date: _____ Case No. _____

The following questionnaire must be completed before a warrant or case will be issued. The victim's parent is to complete sections 1 through 5. The Detective is to complete section 6. The questionnaire must be accompanied by a copy of the most recent court order(s) that relate to child custody and/or visitation.

.....

1. VICTIM'S PARENT

Full name: _____
 First Middle Last Maiden/Alias

Home address: _____

Home phone: _____

Message phone: _____

Business name: _____

Business address: _____

Business phone: _____

Business hours: _____

Date of birth: _____ SSN: _____

Citizenship/immigration status: _____

Relationship to child: _____

Relationship to abductor/violating parent: _____

.....

2. INFORMATION REGARDING MISSING CHILD

Child 1:

Full name: _____
 First Middle Last (Nickname)

SSN: _____ Passport #: _____ Fingerprint card: _____

Date of birth: _____ Age: _____ Place of birth: _____

Sex: ____ Height: _____ Weight: _____ Hair: _____ Eyes: _____

School name: _____ Grade: _____

Disabilities: _____

Regularly taken medications: _____

Language child speaks: _____

Childcare provider: _____

Address: _____

Phone #: _____

.....

Child 2:

Full name: _____
 First Middle Last (Nickname)
 SSN: _____ Passport #: _____ Fingerprint card: _____
 Date of birth: _____ Age: _____ Place of birth: _____
 Sex: ___ Height: _____ Weight: _____ Hair: _____ Eyes: _____
 School name: _____ Grade: _____
 Disabilities: _____
 Regularly taken medications: _____
 Language child speaks: _____
 Childcare provider: _____
 Address: _____
 Phone #: _____
 Additional Information: _____

.....

Child 3:

Full name: _____
 First Middle Last (Nickname)
 SSN: _____ Passport #: _____ Fingerprint card: _____
 Date of birth: _____ Age: _____ Place of birth: _____
 Sex: ___ Height: _____ Weight: _____ Hair: _____ Eyes: _____
 School name: _____ Grade: _____
 Disabilities: _____
 Regularly taken medications: _____
 Language child speaks: _____
 Childcare provider: _____
 Address: _____
 Phone #: _____
 Additional Information: _____

.....

 Add more copies of this page as needed for additional children

3. INFORMATION REGARDING SUSPECT/ABDUCTOR/TAKING PARENT:

Full name: _____
First Middle Last (Nickname)
 SSN: _____ Passport #: _____ Fingerprint card: _____
 Date of birth: _____ Age: _____ Place of birth: _____
 Sex: ___ Height: _____ Weight: _____ Hair: _____ Eyes: _____
 Driver's License #: _____ State: _____
 Last known address: _____
 Last known phone: _____
 Occupation: _____
 Last known address: _____
 Last known phone: _____
 Last known place of employment: _____
 Date of birth: _____
 Citizenship/immigration status: _____
 Relationship to child: _____
 Vehicle description: _____
 License No. _____ State: _____
 Other states suspect has frequented or lived: _____
 When: _____
 Education Level: _____
 Military Service? Yes ___ No ___ Unknown ___
 Branch: _____ Military Status: _____
 Physical disabilities: _____
 Scars, Marks, Tattoos: _____
 Language(s) spoken: _____
 Does suspect have history of mental problems? Yes ___ No ___ Unknown ___
 Does suspect take medication? Yes ___ No ___ Unknown ___
 Does suspect have drug/alcohol problem? Yes ___ No ___ Unknown ___
 Describe: _____
 Has suspect ever harmed the child? Yes ___ No ___ Unknown ___
 Describe: _____
 Has suspect ever committed acts of domestic violence? Yes ___ No ___ Unknown ___
 Describe: _____

If suspect is the biological father, has paternity been established?

Yes ___ No ___ Unknown ___

Has a custody determination been made by a court?

Yes ___ No ___ Unknown ___

Is suspect ordered to pay child support for the child ?

Yes ___ No ___ Unknown ___

Date last payment received? _____ Amount: _____

4. COURT ORDER INFORMATION (answer only if parents are/were married)

Status of Custody: _____

No order, parents still married? Yes ___ No ___ Unknown ___

Joint legal custody: Yes ___ No ___ Unknown ___

Primary physical custodian: _____

Sole custody awarded to: _____

Out-of-state visitation with: _____

Date order entered: _____ County & State: _____

Has the original order ever been modified? Yes ___ No ___ Unknown ___

If yes, when? _____ County & State: _____

What changes were made? _____

Is there any court action regarding custody pending now? Yes ___ No ___

If yes, explain: _____

Victim's parents' lawyer: _____

Suspect's parents' lawyer: _____

If the custody order is from another jurisdiction, has it been domesticated in Pima County?

Yes ___ No ___ Unknown ___

5. INFORMATION REGARDING ABDUCTION:

When was the child taken? _____

From where? _____

Describe circumstances: _____

Date of last contact with child: _____

Circumstances of contact: _____

Date of last contact with suspect: _____

Circumstances of contact: _____

Are whereabouts of suspect and child known? Yes ___ No _____

If yes, where are they? _____

Did anyone help the suspect take the child? Yes ___ No _____ Unknown ___

Who? _____

Address/phone: _____

How did this person help? _____

When were police first contacted? _____

If reporting was delayed, explain: _____

Has the suspect been asked to return the child? Yes _ No _____

If yes, what was his/her response? _____

If no, why not? _____

If visitation was out-of-state, dates of arranged visit: _____

If suspect's whereabouts are unknown, list relatives/friends suspect might have gone to:

1. Name/Address/Phone/Relationship:

2. Name/Address/Phone/Relationship:

3. Name/Address/Phone/Relationship:

6. CRIMINAL HISTORY OF SUSPECT (to be completed by Law Enforcement)

Suspect name: _____

First Middle Last Alias/Nickname

Prior arrests:

Crime _____ Date _____

Crime _____ Date _____

Crime _____ Date _____

Prior Convictions:

Crime _____ Date _____

Crime _____ Date _____

Crime _____ Date _____

FBI No: _____

.....

7. PRIOR CUSTODIAL PARENT'S REPORTS:

Victim/Parent: _____

First Middle Last Alias/Nickname

Prior arrests:

Crime _____ Date _____

Crime _____ Date _____

Crime _____ Date _____

Prior Convictions:

Crime _____ Date _____

Crime _____ Date _____

Crime _____ Date _____

FBI No: _____

.....

8. FURTHER INFORMATION AS NEEDED:

APPENDIX C:

UNIFORM CHILD CUSTODY JURISDICTION ACT

Sec. 75-a. Short title. This article shall be known as the "Uniform Child Custody Jurisdiction Act."

Sec. 75-b. Purposes of article; construction of provisions.

1. The general purposes of this article are to:

- (a) avoid jurisdictional competition and conflict with courts of other states in matters of child custody which have in the past resulted in the shifting of children from state to state with harmful effects on their well-being;
- (b) promote cooperation with the courts of other states to the end that a custody decree is rendered in that state which can best decide the case in the interest of the child;
- (c) assure that litigation concerning the custody of a child take place ordinarily in the state with which the child and his family have the closest connection and where significant evidence concerning his care, protection, training, and personal relationships is most readily available, and that courts of this state decline the exercise of jurisdiction when the child and his family have a closer connection with another state;
- (d) discourage continuing controversies over child custody in the interest of greater stability of home environment and of secure family relationships for the child;
- (e) deter abductions and other unilateral removals of children undertaken to obtain custody awards;
- (f) avoid re-litigation of custody decisions of other states in this state insofar as feasible;
- (g) facilitate the enforcement of custody decrees of other states;
- (h) promote and expand the exchange of information and other forms of mutual assistance between the courts of this state and those of other states concerned with the same child; and
- (i) make uniform the law of those states which enact it.

2. This article shall be construed to promote the general purposes stated in this section.

Sec. 75-c. Definitions. As used in this article, the following terms have the following meanings:

1. "Contestant" means a person, including a parent, who claims a right to custody or visitation rights with respect to a child.
2. "Custody determination" means a court decision and court orders and instructions providing for the temporary or permanent custody of a child, including visitation rights.
3. "Custody proceeding" includes proceedings in which a custody determination is at issue or is one of several issues including any action or proceeding brought to annul a marriage or to declare the nullity of a void marriage, or for a separation, or for a divorce, but not including proceedings for adoption, child protective proceedings or proceedings for permanent termination of parental custody, or proceedings involving the guardianship and custody of neglected or dependent children, or proceedings initiated pursuant to section three hundred fifty-eight-a of the social services law.
4. "Decree" or "custody decree" means a custody determination contained in a judicial decree or order made in a custody proceeding, and includes an initial decree and a modification decree.
5. "Home state" means the state in which the child at the time of the commencement of the custody proceeding, has resided with his parents, a parent, or a person acting as parent, for at least six consecutive months. In the case of a child less than six months old at the time of the commencement of the proceeding, home state means the state in which the child has resided with any of such persons for a majority of the time since birth.
6. "Initial decree" means the first custody decree concerning a particular child.
7. "Modification decree" means a custody decree which modifies or replaces a prior decree, whether made by the court which rendered the prior decree or by another court.
8. "Physical custody" means actual possession and control of a child.

9. "Person acting as parent" means a person, other than a parent, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody.

10. "State" means any state, territory, or possession of the United States, the Commonwealth of Puerto Rico, and the District of Columbia.

Sec. 75-d. Jurisdiction to make child custody determinations.

1. A court of this state which is competent to decide child custody matters has jurisdiction to make a child custody determination by initial or modification decree only when:

(a) this state

(i) is the home state of the child at the time of commencement of the custody proceeding, or

(ii) had been the child's home state within six months before commencement of such proceeding and the child is absent from this state because of his removal or retention by a person claiming his custody or for other reasons, and a parent or person acting as parent continues to live in this state; or

(b) it is in the best interest of the child that a court of this state assume jurisdiction because

(i) the child and his parents, or the child and at least one contestant, have a significant connection with this state, and

(ii) there is within the jurisdiction of the court substantial evidence concerning the child's present or future care, protection, training, and personal relationships; or

(c) the child is physically present in this state and

(i) the child has been abandoned or

(ii) it is necessary in an emergency to protect the child; or

(d) (i) it appears that no other state would have jurisdiction under prerequisites substantially in accordance with paragraph (a), (b), or (c), or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine the custody of the child, and

(ii) it is in the best interest of the child that this court assume jurisdiction.

2. Except under paragraphs (c) and (d) of subdivision one of this section, physical presence in this state of the child, or of the child and one of the contestants, is not alone sufficient to confer jurisdiction on a court of this state to make a child custody determination.

3. Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine his custody.

Sec. 75-e. Notice and opportunity to be heard. Before making a decree under this article, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated, and any person who has physical custody of the child. If any of these persons is outside the state, notice and opportunity to be heard shall be given pursuant to section seventy-five-f of this article. Any person who is given notice and an opportunity to be heard pursuant to this section shall be deemed a party to the proceeding for all purposes under this article.

Sec. 75-f. Notice to persons outside the state.

1. If a person cannot be personally served with notice within the state, the court shall require that such person be served in a manner reasonably calculated to give actual notice, as follows:

(a) by personal delivery outside the state in the manner prescribed in section three hundred thirteen of the civil practice law and rules;

(b) by any form of mail addressed to the person and requesting a receipt; or

(c) in such manner as the court, upon motion, directs, including publication, if service is impracticable under paragraph (a) or (b) of subdivision one of this section.

2. Notice under this section shall be served, mailed, delivered, or last published at least twenty days before any hearing in this state.

3. Proof of service outside the state shall be by affidavit of the individual who made the service, or in the manner prescribed by the order pursuant to which the service is made. If service is made by mail, proof may be a receipt signed by the addressee or other evidence of delivery to the addressee.

4. Notice is not required if a person submits to the jurisdiction of the court.

Sec. 75-g. Simultaneous proceedings in other states.

1. A court of this state shall not exercise its jurisdiction under this article if at the time of filing the petition a proceeding concerning the custody of the child was pending in a court of another state exercising jurisdiction substantially in conformity with this article, unless the proceeding is stayed by the court of the other state because this state is a more appropriate forum or for other reasons.
2. Before hearing the petition in a custody proceeding the court shall examine the pleadings and other information supplied by the parties under section seventy-five-j of this article. If the court has reason to believe that proceedings may be pending in another state it shall direct an inquiry to the state court administrator or other appropriate official of the other state.
3. If the court is informed during the course of the proceeding that a proceeding concerning the custody of the child was pending in another state before the court assumed jurisdiction it shall stay the proceeding and communicate with the court in which the other proceeding is pending to the end that the issue may be litigated in the more appropriate forum and that information be exchanged in accordance with sections seventy-five-s through seventy-five-v of this article. If a court of this state has made a custody decree before being informed of a pending proceeding in a court of another state, it shall immediately inform that court of the fact. If the court is informed that a proceeding was commenced in another state after it assumed jurisdiction, it shall likewise inform the other court to the end that the issues may be litigated in the more appropriate forum.

Sec. 75-h. Inconvenient forum.

1. A court which has jurisdiction under this article to make an initial or modification decree may decline to exercise its jurisdiction any time before making a decree if it finds that it is an inconvenient forum to make a custody determination under the circumstances of the case and that a court of another state is a more appropriate forum.
2. A finding of inconvenient forum may be made upon the court's own motion or upon motion of a party or a guardian ad litem or other representative of the child.
3. In determining if it is an inconvenient forum, the court shall consider if it is in the interest of the child that another state assume jurisdiction. For this purpose it may take into account the following factors, among others, whether:
 - (a) another state is or recently was the child's home state;
 - (b) another state has a closer connection with the child and his family or with the child and one or more of the contestants;
 - (c) substantial evidence concerning the child's present or future care, protection, training, and personal relationships is more readily available in another state;
 - (d) the parties have agreed on another forum which is no less appropriate; and
 - (e) the exercise of jurisdiction by a court of this state would contravene any of the purposes stated in section seventy-five-b of this article.
4. Before determining whether to decline or retain jurisdiction the court may communicate with a court of another state and exchange information pertinent to the assumption of jurisdiction by either court with a view to assuring that jurisdiction will be exercised by the more appropriate court and that a forum will be available to the parties.
5. If the court finds that it is an inconvenient forum and that a court of another state is a more appropriate forum, it may dismiss the proceedings, or it may stay the proceedings upon condition that a custody proceeding be promptly commenced in another named state or upon any other conditions which may be just and proper, including the condition that a moving party stipulate his consent and submission to the jurisdiction of the other forum.
6. Where the court has jurisdiction of an action or proceeding brought to annul a marriage or to declare the nullity of a void marriage or for a separation or for a divorce, the court may decline to exercise jurisdiction of an application for a custody determination made therein while retaining jurisdiction of the matrimonial action.
7. If it appears to the court that it is clearly an inappropriate forum it may require the party who commenced the proceedings to pay, in addition to the costs of the proceedings in this state, necessary travel and other expenses, including attorneys' fees, incurred by other parties or their witnesses. Payment shall be made to the clerk of the court for remittance to the proper party.
8. Upon dismissal or stay of proceedings under this section the court shall inform the court found to be the more appropriate forum of such dismissal or stay, or if the court which would have jurisdiction in the other state is not certainly known, shall transmit the information to the court administrator or other appropriate official for forwarding to the appropriate court.

9. Any communication received from another state to the effect that its courts have made a finding of inconvenient forum because a court of this state is the more appropriate forum shall be filed with the clerk of the appropriate court. Upon assuming jurisdiction the court of this state shall inform the original court of this fact.

Sec. 75-i. Jurisdiction declined because of conduct.

1. If the petitioner for an initial decree has wrongfully taken the child from another state or has engaged in similar reprehensible conduct the court may decline to exercise jurisdiction if this is just and proper under the circumstances.

2. Unless required in the interest of the child, the court shall not exercise its jurisdiction to modify a custody decree of another state if the petitioner, without consent of the person entitled to custody, has improperly removed the child from the physical custody of the person entitled to custody or has improperly retained the child after a visit or other temporary relinquishment of physical custody. If the petitioner has violated any other provision of a custody decree of another state the court may decline to exercise its jurisdiction if this is just and proper under the circumstances.

3. In appropriate cases a court dismissing a petition under this section may charge the petitioner with necessary travel and other expenses, including attorneys' fees, incurred by other parties or their witnesses.

Sec. 75-j. Pleadings and affidavits; duty to inform court.

1. Except as provided in subdivisions four and five of this section, every party to a custody proceeding shall, in his or her first pleading or in an affidavit attached to that pleading, give information under oath as to the child's present address, the places where the child has lived within the last five years, and the names and present addresses of the persons with whom the child has lived during that period. In this pleading or affidavit every party shall further declare under oath whether he or she:

(a) has participated as a party, witness, or in any other capacity in any other litigation concerning the custody of the same child in this or any other state;

(b) has information of any custody proceeding concerning the child pending in a court of this or any other state; and

(c) knows of any person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the child.

2. If the declaration as to any of the above items is in the affirmative the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and as to other matters pertinent to the court's jurisdiction and the disposition of the case.

3. If, during the pendency of a custody proceeding, any party learns of another custody proceeding concerning the child in this or another state, he shall immediately inform the court of this fact.

4. In an action for divorce or separation, or to annul a marriage or declare the nullity of a void marriage,

(a) where neither party is in default in appearance or pleading and the issue of custody is uncontested, the affidavit required by this section need not be submitted. In any other such action, such affidavit shall be submitted by the parties within twenty days after joinder of issue on the question of custody, or at the time application for a default judgment is made.

(b) Notwithstanding any other provision of law, if the party seeking custody of the child has resided or resides in a residential program for victims of domestic violence as defined in subdivision four of section four hundred fifty-nine-a of the social services law, the present address of the child and the present address of the party seeking custody and the address of the residential program for victims of domestic violence shall not be revealed.

(c) Notwithstanding any other provision of law, the court shall waive disclosure of the present and all prior addresses of the child or a party upon notice to the adverse party when such relief is necessary for the physical or emotional safety of a child or a party.

5. Notwithstanding any other provision of law, in any custody proceeding, the court shall waive disclosure of the present or a prior address of the child or a party when such relief is necessary for the physical or emotional safety of a child or a party. Application for an order waiving disclosure of the present or a prior address of the child or a party shall be on notice to all other parties, who shall have an opportunity to be heard. Provided, however, that in no case shall the address of a residential program for victims of domestic violence, as defined in subdivision four of section four hundred fifty-nine-a of the social services law, be disclosed.

Sec. 75-k. Additional parties.

If the court learns from information furnished by the parties pursuant to section seventy-five-j of this article, or from other sources that a person not a party to the custody proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child, it shall order that person to be joined as a party and to be duly notified of the pendency of the proceeding and of his joinder as a party. If the person joined as a party is outside this state he shall be served with process or otherwise notified in accordance with section seventy-five-f of this article.

Sec. 75-l. Appearance of parties and the child.

1. The court may order any party to the proceeding who is in the state to appear personally before the court. If that party has physical custody of the child the court may order that he appear personally with the child.
2. If a party to the proceeding whose presence is desired by the court is outside the state with or without the child the court may order that the notice given under section seventy-five-f of this article include a statement directing that party to appear personally with or without the child and declaring that failure to appear may result in a decision adverse to that party.
3. If a party to the proceeding who is outside the state is directed to appear under subdivision two or desires to appear personally before the court with or without the child, the court may require another party to pay to the clerk of the court travel and other necessary expenses of the party so appearing and of the child if this is just and proper under the circumstances.

Sec. 75-m. Force and effect of custody decrees.

A custody decree rendered by a court of this state which had jurisdiction under section seventy-five-d of this article shall be binding upon all parties who have been personally served in this state or notified pursuant to section seventy-five-f of this article or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to these parties the custody decree is conclusive as to all issues of law and fact decided and as to the custody determination made unless and until that determination is modified pursuant to law, including the provisions of this article.

Sec. 75-n. Recognition of out-of-state custody decrees.

The courts of this state shall recognize and enforce an initial or modification decree of a court of another state which had assumed jurisdiction under statutory provisions substantially in accordance with this article or which was made under factual circumstances meeting the jurisdictional standards of this article, so long as the decree has not been modified in accordance with jurisdictional standards substantially similar to those of this article.

Sec. 75-o. Modification of custody decree of another state.

1. If a court of another state has made a custody decree, a court of this state shall not modify that decree unless
 - (1) it appears to the court of this state that the court which rendered the decree does not now have jurisdiction under jurisdictional prerequisites substantially in accordance with this article or has declined to assume jurisdiction to modify the decree and
 - (2) the court of this state has jurisdiction.
2. If a court of this state is authorized under subdivision one of this section and section seventy-five-i of this article to modify a custody decree of another state, it shall give due consideration to the transcript of the record and other documents of all previous proceedings submitted to it in accordance with section seventy-five-v of this article.

Sec. 75-p. Filing and enforcement of custody decree of another state.

1. A certified copy of a custody decree of another state may be filed in the office of the clerk of the supreme court or of the family court. The clerk shall treat the decree in the same manner as a custody decree of the supreme court or of the family court. A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this state.
2. A person violating a custody decree of another state which makes it necessary to enforce the decree in this state may be required to pay necessary travel and other expenses, including attorneys' fees, incurred by the party entitled to the custody or his witnesses.

Sec. 75-q. Certified copies of custody decrees.

The clerk of the supreme court or the family court, at the request of the court of another state or, upon payment of the appropriate fees, if any, at the request of a party to the custody proceeding, the attorney for a party or a representative of the child shall certify and forward a copy of the decree to that court or person.

Sec. 75-r. Examination of witnesses outside the state.

In addition to other procedural devices available to a party, any party to the proceeding or a guardian ad litem or other representative of the child may examine witnesses, including parties and the child, in another state by deposition or otherwise in accordance with the applicable provisions of the civil practice law and rules.

Sec. 75-s. Hearings and studies in another state; orders to appear.

1. A court of this state may request the appropriate court of another state to hold a hearing to adduce evidence, to order a party within its jurisdiction, to produce or give evidence under other procedures of that state, or to have social studies made with respect to the custody of a child involved in proceedings pending in the court of this state; and to forward to the court of this state certified copies of the transcript of the record of the hearing, the evidence otherwise adduced, or any social studies prepared in compliance with the request. The cost of the services may be assessed against the parties.

2. A court of this state may request the appropriate court of another state to order a party to custody proceedings pending in the court of this state to appear in the proceedings, and if that party has physical custody of the child, to appear with the child. The request may state that travel and other necessary expenses of the party and of the child whose appearance is desired will be assessed against another party or will otherwise be paid.

Sec. 75-t. Assistance to courts of other states.

1. Upon request of the court of another state the courts of this state which are competent to hear custody matters may order a party or witness in this state to appear at an examination to be conducted in the same manner as if such person were a party to or witness in an action pending in the supreme court. A certified copy of the deposition or the evidence otherwise adduced shall be forwarded by the clerk of the court to the court which requested it.

2. A person within the state may voluntarily give his testimony or statement for use in a custody proceeding outside this state.

3. Upon request of the court of another state a competent court of this state may order a person within the state to appear alone or with the child in a custody proceeding in another state. The court may condition compliance with the request upon assurance by the other state that travel and other necessary expenses will be advanced or reimbursed.

Sec. 75-u. Preservation of evidence for use in other states. In any custody proceeding in this state the court shall preserve the pleadings, orders and decrees, any record that has been made of its hearings, social studies, and other pertinent documents until the child reaches twenty-one years of age. Upon appropriate request of the court of another state the court shall forward to the other court certified copies of any or all of such documents.

Sec. 75-v. Request for court records from another state. If a custody decree has been rendered in another state concerning a child involved in a custody proceeding pending in a court of this state, the court of this state upon taking jurisdiction of the case shall request of the court of the other state a certified copy of the transcript of any court record and other documents mentioned in section seventy-five-u.

Sec. 75-w. International application. The general policies of this article extend to the international area. The provisions of this article relating to the recognition and enforcement of custody decrees of other states apply to custody decrees and decrees involving legal institutions similar in nature to custody institutions rendered by appropriate authorities of other nations if reasonable notice and opportunity to be heard were given to all affected persons.

Sec. 75-x. Priority. Upon the request of a party to a custody proceeding which raises a question of existence or exercise of jurisdiction under this article the case shall be given calendar priority and handled expeditiously.

Sec. 75-y. Separability. If any part of this article or the application thereof to any person or circumstance is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the remainder of such article or the application thereof to other persons and circumstances.

Sec. 75-z. Inconsistent provisions of other laws superseded. Insofar as the provisions of this article are inconsistent with the provisions of any other law, general, special or local, the provisions of this article shall be controlling.

APPENDIX D:

THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

The States signatory to the present Convention, Firmly convinced that the interests of children are of paramount importance in matters relating to their custody, Desiring to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence, as well as to secure protection for rights of access, Have resolved to conclude a Convention to this effect, and have agreed upon the following provisions -

CHAPTER I - SCOPE OF THE CONVENTION

Article 1 The objects of the present Convention are -

- a) to secure the prompt return of children wrongfully removed to or retained in any Contracting State; and
- b) to ensure that rights of custody and of access under the law of one Contracting State are effectively respected in other Contracting States.

Article 2 Contracting States shall take all appropriate measures to secure within their territories the implementation of the objects of the Convention. For this purpose they shall use the most expeditious procedures available.

Article 3 The removal or the retention of a child is to be considered wrongful where -

- a) it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention; and
- b) at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.

The rights of custody mentioned in sub-paragraph a above, may arise in particular by operation of law or by reason of a judicial or administrative decision, or by reason of an agreement having legal effect under the law of that State.

Article 4 The Convention shall apply to any child who was habitually resident in a Contracting State immediately before any breach of custody or access rights. The Convention shall cease to apply when the child attains the age of 16 years.

Article 5 For the purposes of this Convention -

- a) 'rights of custody' shall include rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence;
- b) 'rights of access' shall include the right to take a child for a limited period of time to a place other than the child's habitual residence.

CHAPTER II - CENTRAL AUTHORITIES

Article 6 A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention upon such authorities.

Federal States, States with more than one system of law or States having autonomous territorial organizations shall be free to appoint more than one Central Authority and to specify the territorial extent of their powers. Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which applications may be addressed for transmission to the appropriate Central Authority within that State.

Article 7 Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their respective States to secure the prompt return of children and to achieve the other objects of this Convention.

In particular, either directly or through any intermediary, they shall take all appropriate measures:

- a) to discover the whereabouts of a child who has been wrongfully removed or retained;
- b) to prevent further harm to the child or prejudice to interested parties by taking or causing to be taken provisional measures;
- c) to secure the voluntary return of the child or to bring about an amicable resolution of the issues;
- d) to exchange, where desirable, information relating to the social background of the child;

- e) to provide information of a general character as to the law of their State in connection with the application of the Convention;
- f) to initiate or facilitate the institution of judicial or administrative proceedings with a view to obtaining the return of the child and, in a proper case, to make arrangements for organizing or securing the effective exercise of rights of access;
- g) where the circumstances so require, to provide or facilitate the provision of legal aid and advice, including the participation of legal counsel and advisers;
- h) to provide such administrative arrangements as may be necessary and appropriate to secure the safe return of the child;
- i) to keep each other informed with respect to the operation of this Convention and, as far as possible, to eliminate any obstacles to its application.

CHAPTER III - RETURN OF CHILDREN

Article 8 Any person, institution or other body claiming that a child has been removed or retained in breach of custody rights may apply either to the Central Authority of the child's habitual residence or to the Central Authority of any other Contracting State for assistance in securing the return of the child. The application shall contain -

- a) information concerning the identity of the applicant, of the child and of the person alleged to have removed or retained the child;
- b) where available, the date of birth of the child;
- c) the grounds on which the applicant's claim for return of the child is based;
- d) all available information relating to the whereabouts of the child and the identity of the person with whom the child is presumed to be.

The application may be accompanied or supplemented by -

- e) an authenticated copy of any relevant decision or agreement;
- f) a certificate or an affidavit emanating from a Central Authority, or other competent authority of the State of the child's habitual residence, or from a qualified person, concerning the relevant law of that State;
- g) any other relevant document.

Article 9 If the Central Authority which receives an application referred to in Article 8 has reason to believe that the child is in another Contracting State, it shall directly and without delay transmit the application to the Central Authority of that Contracting State and inform the requesting Central Authority, or the applicant, as the case may be.

Article 10 The Central Authority of the State where the child is shall take or cause to be taken all appropriate measures in order to obtain the voluntary return of the child.

Article 11 The judicial or administrative authorities of Contracting States shall act expeditiously in proceedings for the return of children. If the judicial or administrative authority concerned has not reached a decision within six weeks from the date of commencement of the proceedings, the applicant or the Central Authority of the requested State, on its own initiative or if asked by the Central Authority of the requesting State, shall have the right to request a statement of the reasons for the delay. If a reply is received by the Central Authority of the requested State, that Authority shall transmit the reply to the Central Authority of the requesting State, or to the applicant, as the case may be.

Article 12 Where a child has been wrongfully removed or retained in terms of Article 3 and, at the date of the commencement of the proceedings before the judicial or administrative authority of the Contracting State where the child is, a period of less than one year has elapsed from the date of the wrongful removal or retention, the authority concerned shall order the return of the child forthwith.

The judicial or administrative authority, even where the proceedings have been commenced after the expiration of the period of one year referred to in the preceding paragraph, shall also order the return of the child, unless it is demonstrated that the child is now settled in its new environment. Where the judicial or administrative authority in the requested State has reason to believe that the child has been taken to another State, it may stay the proceedings or dismiss the application for the return of the child.

Article 13 Notwithstanding the provisions of the preceding Article, the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that -

- a) the person, institution or other body having the care of the person of the child was not actually exercising the custody rights at the time of removal or retention, or had consented to or subsequently acquiesced in the removal of retention; or
- b) there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.

The judicial or administrative authority may also refuse to order the return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its views.

In considering the circumstances referred to in this Article, the judicial and administrative authorities shall take into account the information relating to the social background of the child provided by the Central Authority or other competent authority of the child's habitual residence.

Article 14 In ascertaining whether there has been a wrongful removal of retention within the meaning of Article 3, the judicial or administrative authorities of the requested State may take notice directly of the law of, and of judicial or administrative decisions, formally recognized or not in the State of the habitual residence of the child, without recourse to the specific procedures for the proof of that law or for the recognition of foreign decisions which would otherwise be applicable.

Article 15 The judicial or administrative authorities of a Contracting State may, prior to the making of an order for the return of the child, request that the applicant obtain from the authorities of the State of the habitual residence of the child a decision or other determination that the removal or retention was wrongful within the meaning of Article 3 of the Convention, where such a decision or determination may be obtained in that State. The Central Authorities of the Contracting States shall so far as practicable assist applicants to obtain such a decision or determination.

Article 16 After receiving notice of a wrongful removal or retention of a child in the sense of Article 3, the judicial or administrative authorities of the Contracting State to which the child has been removed or in which it has been retained shall not decide on the merits of rights of custody until it has been determined that the child is not to be returned under this Convention or unless an application under the Convention is not lodged within a reasonable time following receipt of the notice.

Article 17 The sole fact that a decision relating to custody has been given in or is entitled to recognition in the requested State shall not be a ground for refusing to return a child under this Convention, but the judicial or administrative authorities of the requested State may take account of the reasons for that decision in applying this Convention.

Article 18 The provisions of this Chapter do not limit the power of a judicial or administrative authority to order the return of the child at any time.

Article 19 A decision under this Convention concerning the return of the child shall not be taken to be determination on the merits of any custody issue.

Article 20 The return of the child under the provision of Article 12 may be refused if this would not be permitted by the fundamental principles of the requested State relating to the protection of human rights and fundamental freedoms.

CHAPTER VI - RIGHTS OF ACCESS

Article 21 An application to make arrangements for organizing or securing the effective exercise of rights of access may be presented to the Central Authorities of the Contracting States in the same way as an application for the return of a child.

The Central Authorities are bound by the obligations of co-operation which are set forth in Article 7 to promote the peaceful enjoyment of access rights and the fulfillment of any conditions to which the exercise of such rights may be subject. The central Authorities shall take steps to remove, as far as possible, all obstacles to the exercise of such rights. The Central Authorities, either directly or through intermediaries, may initiate or assist in the institution of proceedings with a view to organizing or protecting these rights and securing respect for the conditions to which the exercise of these rights may be subject.

Article 22

No security, bond or deposit, however described, shall be required to guarantee the payment of costs and expenses in the judicial or administrative proceedings falling within the scope of this Convention.

Article 23

No legalization or similar formality may be required in the context of this Convention.

Article 24 Any application, communication or other document sent to the Central Authority of the requested State shall be in the original language, and shall be accompanied by a translation into the official language or one of the official languages of the requested State or, where that is not feasible, a translation into French or English.

However, a Contracting State may, by making a reservation in accordance with Article 42, object to the use of either French or English, but not both, in any application, communication or other document sent to its Central Authority.

Article 25 Nationals of the Contracting States and persons who are habitually resident within those States shall be entitled in matters concerned with the application of this Convention to legal aid and advice in any other Contracting State on the same conditions as if they themselves were nationals of and habitually resident in that State.

Article 26 Each Central Authority shall bear its own costs in applying this Convention. Central Authorities and other public services of Contracting States shall not impose any charges in relation to applications submitted under this Convention. In particular, they may not require any payment from the applicant towards the costs and expenses of the proceedings or, where applicable, those arising from the participation of legal counsel or advisers. However, they may require the payment of the expenses incurred or to be incurred in implementing the return of the child.

However, a Contracting State may, by making a reservation in accordance with Article 42, declare that it shall not be bound to assume any costs referred to in the preceding paragraph resulting from the participation of legal counsel or advisers or from court proceedings, except insofar as those costs may be covered by its system of legal aid and advice.

Upon ordering the return of a child or issuing an order concerning rights of access under this Convention, the judicial or administrative authorities may, where appropriate, direct the person who removed or retained the child, or who prevented the exercise of rights of access, to pay necessary expenses incurred by or on behalf of the applicant, including travel expenses, any costs incurred or payments made for locating the child, the costs of legal representation of the applicant, and those of returning the child.

Article 27 When it is manifest that the requirements of this Convention are not fulfilled or that the application is otherwise not well founded, a Central Authority is not bound to accept the application. In that case, the Central Authority shall forthwith inform the applicant or the Central Authority through which the application was submitted, as the case may be, of its reasons.

Article 28 A Central Authority may require that the application be accompanied by a written authorization empowering it to act on behalf of the applicant, or to designate a representative so to act.

Article 29 This Convention shall not preclude any person, institution or body who claims that there has been a breach of custody or access rights within the meaning of Article 3 or 21 from applying directly to the judicial or administrative authorities of a Contracting State, whether or not under the provisions of this Convention.

Article 30 Any application submitted to the Central Authorities or directly to the judicial or administrative authorities of a Contracting State in accordance with the terms of this Convention, together with documents and any other information appended thereto or provided by a Central Authority, shall be admissible in the courts or administrative authorities of the Contracting States.

Article 31 In relation to a State which in matters of custody of children has two or more systems of law applicable in different territorial units --

a) any reference to habitual residence in that State shall be construed as referring to habitual residence in a territorial unit of that State;

b) any reference to the law of the State of habitual residence shall be construed as referring to the law of the territorial unit in that State where the child habitually resides.

Article 32

In relation to a State which in matters of custody of children has two or more systems of law applicable to different categories of persons, any reference to the law of that State shall be construed as referring to the legal system specified by the law of that State.

Article 33

A State within which different territorial units have their own rules of law in respect of custody of children shall not be bound to apply this Convention where a State with a unified system of law would not be bound to do so.

Article 34

This Convention shall take priority in matters within its scope over the Convention of 5 October 1961 concerning the powers of authorities and the law applicable in respect of the protection of minors, as between Parties to both Conventions. Otherwise the present Convention shall not restrict the application of an international instrument in force between the State of origin and the State addressed or other law of the State addressed for the purposes of obtaining the return of a child who has been wrongfully removed or retained or of organizing access rights.

Article 35 This Convention shall apply as between Contracting States only to wrongful removals or retentions occurring after its entry into force in those States.

Where a declaration has been made under Article 39 or 40, the reference in the preceding paragraph to a Contracting State shall be taken to refer to the territorial unit or units in relation to which this Convention applies.

Article 36 Nothing in this Convention shall prevent two or more Contracting State, in order to limit the restrictions to which the return of the child may be subject, from agreeing among themselves to derogate from any provision of this Convention which may imply such a restriction.

CHAPTER VI - FINAL CLAUSES

Article 37 The Convention shall be open for signature by the States which were Members of the Hague Conference on Private International Law at the time of its Fourteenth Session. It shall be ratified, accepted or approved and the instruments of ratification, acceptance or approval shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 38 Any other State may accede to the Convention. The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

The Convention shall enter into force for a State acceding to it on the first day of the third calendar month after the deposit of its instrument of accession.

The accession will have effect only as regards the relations between the acceding State and such Contracting States as will have declared their acceptance of the accession. Such a declaration will also have to be made by any Member State ratifying, accepting or approving the Convention after an accession. Such declaration shall be deposited at the Ministry of Foreign Affairs of the Kingdom of the Netherlands; this Ministry shall forward, through diplomatic channels, a certified copy to each of the Contracting States.

The Convention will enter into force as between the acceding State and the State that has declared its acceptance of the accession on the first day of the third calendar month after the deposit of the declaration of acceptance.

Article 39 Any State may, at the time of signature, ratification, acceptance, approval or accession, declare that the Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect at the time the Convention enters into force for that State.

Such declaration, as well as any subsequent extension, shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 40 If a Contracting State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

Any such declaration shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and shall state expressly the territorial units to which the Convention applies.

Article 41 Where a Contracting State has a system of government under which executive, judicial and legislative powers are distributed between central and other authorities within that State, its signature or ratification, acceptance or approval of, or accession to this Convention, or its making of any declaration in terms of Article 40 shall carry no implication as to the internal distribution of powers within that State.

Article 42 Any State may, not later than the time of ratification, acceptance, approval or accession, or at the time of making a declaration in terms of Article 39 or 40, make one or both of the reservations provided for in Article 24 and Article 26, third paragraph. No other reservations shall be permitted.

Any State may at any time withdraw a reservation it has made. The withdraw shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands. The reservation shall cease to have

effect on the first day of the third calendar month after the notification referred to in the preceding paragraph.

Article 43 The Convention shall enter into force on the first day of the third calendar month after the deposit of the third instrument of ratification, acceptance, approval or accession referred to in Articles 37 and 38.

Thereafter the Convention shall enter into force -

1 for each State ratifying, accepting, approving or acceding to it subsequently, on the first day of the third calendar month after the deposit of its instrument of ratification, acceptance, approval or accession;

2 for any territory or territorial unit to which the Convention has been extended in conformity with Article 39 or 40, on the first day of the third calendar month after the notification referred to in that Article.

Article 44 The Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 43 even for States which subsequently have ratified, accepted, approved it or acceded to it.

If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands at least six months before the expiry of the five year period. It may be limited to certain of the territories or territorial units to which the Convention applies.

The denunciation shall have effect only as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

Article 45 The Ministry of Foreign Affairs of the Kingdom of the Netherlands shall notify the States Members of the Conference, and the States which have acceded in accordance with Article 38, of the following -

1- the signatures and ratifications, acceptances and approvals referred to in Article 37;

2- the accession referred to in Article 38;

3- the date on which the Convention enters into force in accordance with Article 43;

4- the extensions referred to in Article 39;

5- the declarations referred to in Articles 38 and 40;

6- the reservations referred to in Article 24 and Article 26, third paragraph, and the withdrawals referred to in Article 42;

7- the denunciation referred to in Article 44.

In witness whereof the undersigned, being duly authorized thereto, have signed this Convention.

Done at The Hague, on the 25th day of October, 1980, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Kingdom of the Netherlands, and of which a certified copy shall be sent, through diplomatic channels, to each of the States Members of the Hague Conference on Private International Law at the date of its Fourteenth Session.

APPENDIX E:

INDIAN CHILD WELFARE ACT

U.S. CODE TITLE 25 - CHAPTER 21 - SUBCHAPTER I - CHILD CUSTODY PROCEEDINGS

§ 1911. Indian tribe jurisdiction over Indian child custody proceedings

(a) Exclusive jurisdiction. An Indian tribe shall have jurisdiction exclusive as to any State over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of such tribe, except where such jurisdiction is otherwise vested in the State by existing Federal law. Where an Indian child is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

(b) Transfer of proceedings; declination by tribal court. In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child not domiciled or residing within the reservation of the Indian child's tribe, the court, in the absence of good cause to the contrary, shall transfer such proceeding to the jurisdiction of the tribe, absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe: Provided, That such transfer shall be subject to declination by the tribal court of such tribe.

(c) State court proceedings; intervention. In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child, the Indian custodian of the child and the Indian child's tribe shall have a right to intervene at any point in the proceeding.

(d) Full faith and credit to public acts, records, and judicial proceedings of Indian tribes.

The United States, every State, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent that such entities give full faith and credit to the public acts, records, and judicial proceedings of any other entity.

§ 1912. Pending court proceedings

(a) Notice; time for commencement of proceedings; additional time for preparation. In any involuntary proceeding in a State court, where the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child's tribe, by registered mail with return receipt requested, of the pending proceedings and of their right of intervention. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the Secretary in like manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No foster care placement or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the Secretary: Provided, That the parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for such proceeding.

(b) Appointment of counsel. In any case in which the court determines indigency, the parent or Indian custodian shall have the right to court-appointed counsel in any removal, placement, or termination proceeding. The court may, in its discretion, appoint counsel for the child upon a finding that such appointment is in the best interest of the child. Where State law makes no provision for appointment of counsel in such proceedings, the court shall promptly notify the Secretary upon appointment of counsel, and the Secretary, upon certification of the presiding judge, shall pay reasonable fees and expenses out of funds which may be appropriated pursuant to section 13 of this title.

(c) Examination of reports or other documents. Each party to a foster care placement or termination of parental rights proceeding under State law involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to such action may be based.

(d) Remedial services and rehabilitative programs; preventive measures. Any party seeking to effect a foster care placement of, or termination of parental rights to, an Indian child under State law shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

(e) Foster care placement orders; evidence; determination of damage to child. No foster care placement may be ordered in such proceeding in the absence of a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(f) Parental rights termination orders; evidence; determination of damage to child. No termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

§ 1913. Parental rights; voluntary termination

(a) Consent; record; certification matters; invalid consents. Where any parent or Indian custodian voluntarily consents to a foster care placement or to termination of parental rights, such consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid.

(b) Foster care placement; withdrawal of consent. Any parent or Indian custodian may withdraw consent to a foster care placement under State law at any time and, upon such withdrawal, the child shall be returned to the parent or Indian custodian.

(c) Voluntary termination of parental rights or adoptive placement; withdrawal of consent; return of custody. In any voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent.

(d) Collateral attack; vacation of decree and return of custody; limitations. After the entry of a final decree of adoption of an Indian child in any State court, the parent may withdraw consent thereto upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate such decree. Upon a finding that such consent was obtained through fraud or duress, the court shall vacate such decree and return the child to the parent. No adoption which has been effective for at least two years may be invalidated under the provisions of this subsection unless otherwise permitted under State law.

§ 1914. Petition to court of competent jurisdiction to invalidate action upon showing of certain violations. Any Indian child who is the subject of any action for foster care placement or termination of parental rights under State law, any parent or Indian custodian from whose custody such child was removed, and the Indian child's tribe may petition any court of competent jurisdiction to invalidate such action upon a showing that such action violated any provision of sections 1911, 1912, and 1913 of this title.

§ 1915. Placement of Indian children

(a) Adoptive placements; preference. In any adoptive placement of an Indian child under State law, a preference shall be given, in the absence of good cause to the contrary, to a placement with

- (1) a member of the child's extended family;
- (2) other members of the Indian child's tribe; or
- (3) other Indian families.

(b) Foster care or preadoptive placements; criteria; preference. Any child accepted for foster care or preadoptive placement shall be placed in the least restrictive setting which most approximates a family and in which his special needs, if any, may be met. The child shall also be placed within reasonable proximity to his or her home, taking into account any special needs of the child. In any foster care or preadoptive placement, a preference shall be given, in the absence of good cause to the contrary, to a placement with—

- (i) a member of the Indian child's extended family;
- (ii) a foster home licensed, approved, or specified by the Indian child's tribe;
- (iii) an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or

(iv) an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

(c) Tribal resolution for different order of preference; personal preference considered; anonymity in application of preferences. In the case of a placement under subsection (a) or (b) of this section, if the Indian child's tribe shall establish a different order of preference by resolution, the agency or court effecting the placement shall follow such order so long as the placement is the least restrictive setting appropriate to the particular needs of the child, as provided in subsection (b) of this section. Where appropriate, the preference of the Indian child or parent shall be considered: Provided, That where a consenting parent evidences a desire for anonymity, the court or agency shall give weight to such desire in applying the preferences.

(d) Social and cultural standards applicable. The standards to be applied in meeting the preference requirements of this section shall be the prevailing social and cultural standards of the Indian community in which the parent or extended family resides or with which the parent or extended family members maintain social and cultural ties.

(e) Record of placement; availability. A record of each such placement, under State law, of an Indian child shall be maintained by the State in which the placement was made, evidencing the efforts to comply with the order of preference specified in this section. Such record shall be made available at any time upon the request of the Secretary or the Indian child's tribe.

§ 1916. Return of custody

(a) Petition; best interests of child. Notwithstanding State law to the contrary, whenever a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child, a biological parent or prior Indian custodian may petition for return of custody and the court shall grant such petition unless there is a showing, in a proceeding subject to the provisions of section 1912 of this title, that such return of custody is not in the best interests of the child.

(b) Removal from foster care home; placement procedure. Whenever an Indian child is removed from a foster care home or institution for the purpose of further foster care, preadoptive, or adoptive placement, such placement shall be in accordance with the provisions of this chapter, except in the case where an Indian child is being returned to the parent or Indian custodian from whose custody the child was originally removed.

§ 1917. Tribal affiliation information and other information for protection of rights from tribal relationship; application of subject of adoptive placement; disclosure by court. Upon application by an Indian individual who has reached the age of eighteen and who was the subject of an adoptive placement, the court which entered the final decree shall inform such individual of the tribal affiliation, if any, of the individual's biological parents and provide such other information as may be necessary to protect any rights flowing from the individual's tribal relationship.

§ 1918. Reassumption of jurisdiction over child custody proceedings

(a) Petition; suitable plan; approval by Secretary. Any Indian tribe which became subject to State jurisdiction pursuant to the provisions of the Act of August 15, 1953 (67 Stat. 588), as amended by title IV of the Act of April 11, 1968 (82 Stat. 73, 78), or pursuant to any other Federal law, may reassume jurisdiction over child custody proceedings. Before any Indian tribe may reassume jurisdiction over Indian child custody proceedings, such tribe shall present to the Secretary for approval a petition to reassume such jurisdiction which includes a suitable plan to exercise such jurisdiction.

(b) Criteria applicable to consideration by Secretary; partial retrocession

(1) In considering the petition and feasibility of the plan of a tribe under subsection (a) of this section, the Secretary may consider, among other things:

- (i) whether or not the tribe maintains a membership roll or alternative provision for clearly identifying the persons who will be affected by the reassumption of jurisdiction by the tribe;
- (ii) the size of the reservation or former reservation area which will be affected by retrocession and reassumption of jurisdiction by the tribe;
- (iii) the population base of the tribe, or distribution of the population in homogeneous communities or geographic areas; and
- (iv) the feasibility of the plan in cases of multi-tribal occupation of a single reservation or geographic area.

(2) In those cases where the Secretary determines that the jurisdictional provisions of section 1911 (a) of this title are not feasible, he is authorized to accept partial retrocession which will enable

tribes to exercise referral jurisdiction as provided in section 1911 (b) of this title, or, where appropriate, will allow them to exercise exclusive jurisdiction as provided in section 1911 (a) of this title over limited community or geographic areas without regard for the reservation status of the area affected.

(c) Approval of petition; publication in Federal Register; notice; reassumption period; correction of causes for disapproval. If the Secretary approves any petition under subsection (a) of this section, the Secretary shall publish notice of such approval in the Federal Register and shall notify the affected State or States of such approval. The Indian tribe concerned shall reassume jurisdiction sixty days after publication in the Federal Register of notice of approval. If the Secretary disapproves any petition under subsection (a) of this section, the Secretary shall provide such technical assistance as may be necessary to enable the tribe to correct any deficiency which the Secretary identified as a cause for disapproval.

(d) Pending actions or proceedings unaffected. Assumption of jurisdiction under this section shall not affect any action or proceeding over which a court has already assumed jurisdiction, except as may be provided pursuant to any agreement under section 1919 of this title.

§ 1919. Agreements between States and Indian tribes

(a) Subject coverage. States and Indian tribes are authorized to enter into agreements with each other respecting care and custody of Indian children and jurisdiction over child custody proceedings, including agreements which may provide for orderly transfer of jurisdiction on a case-by-case basis and agreements which provide for concurrent jurisdiction between States and Indian tribes.

(b) Revocation; notice; actions or proceedings unaffected. Such agreements may be revoked by either party upon one hundred and eighty days' written notice to the other party. Such revocation shall not affect any action or proceeding over which a court has already assumed jurisdiction, unless the agreement provides otherwise.

§ 1920. Improper removal of child from custody; declination of jurisdiction; forthwith return of child: danger exception. Where any petitioner in an Indian child custody proceeding before a State court has improperly removed the child from custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over such petition and shall forthwith return the child to his parent or Indian custodian unless returning the child to his parent or custodian would subject the child to a substantial and immediate danger or threat of such danger.

§ 1921. Higher State or Federal standard applicable to protect rights of parent or Indian custodian of Indian child. In any case where State or Federal law applicable to a child custody proceeding under State or Federal law provides a higher standard of protection to the rights of the parent or Indian custodian of an Indian child than the rights provided under this subchapter, the State or Federal court shall apply the State or Federal standard.

§ 1922. Emergency removal or placement of child; termination; appropriate action. Nothing in this subchapter shall be construed to prevent the emergency removal of an Indian child who is a resident of or is domiciled on a reservation, but temporarily located off the reservation, from his parent or Indian custodian or the emergency placement of such child in a foster home or institution, under applicable State law, in order to prevent imminent physical damage or harm to the child. The State authority, official, or agency involved shall insure that the emergency removal or placement terminates immediately when such removal or placement is no longer necessary to prevent imminent physical damage or harm to the child and shall expeditiously initiate a child custody proceeding subject to the provisions of this subchapter, transfer the child to the jurisdiction of the appropriate Indian tribe, or restore the child to the parent or Indian custodian, as may be appropriate.

§ 1923. Effective date. None of the provisions of this subchapter, except sections 1911 (a), 1918, and 1919 of this title, shall affect a proceeding under State law for foster care placement, termination of parental rights, preadoptive placement, or adoptive placement which was initiated or completed prior to one hundred and eighty days after November 8, 1978, but shall apply to any subsequent proceeding in the same matter or subsequent proceedings affecting the custody or placement of the same child.

APPENDIX F.

INTERNATIONAL PARENTAL KIDNAPPING ACT

International Parental Kidnapping Crime Act of 1993, 18 U.S.C. 1204

An Act: DEC. 02, 1993 - PUBLIC LAW 103-173

SECTION 1. SHORT TITLE .

This Act may be cited as the "International Parental Kidnapping Crime Act of 1993".

SECTION 2. TITLE 18 AMENDMENT.

(a) In General. -- Chapter 55 (relating to kidnapping) of title 18, United States Code, is amended by adding at the end the following:

"Sec. 1204. International parental kidnapping

"(a) Whoever removes a child from the United States or retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title or imprisoned not more than 3 years, or both.

"(b) As used in this Section --

"(1) the term 'child' means a person who has not attained the age of 16 years: and

"(2) the term 'parental rights', with respect to a child, means the right to physical custody of the child --

"(A) whether joint or sole (and includes visiting rights); and

"(B) whether arising by operation of law, court order, or legally binding agreement of the parties.

"(c) It shall be an affirmative defense under this section that --

"(1) the defendant acted within the provisions of a valid Court order granting the defendant legal custody or visitation rights and that order was obtained pursuant to the Uniform Child Custody Jurisdiction Act and was in effect at the time of the offense;

"(2) the defendant was fleeing an incidence or pattern of domestic violence;

"(3) the defendant had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond the defendant's control, and the defendant notified or made reasonable attempts to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible.

"(d) This section does not detract from The Hague Convention on the Civil Aspects of International Parental Child Abduction, done at the Hague on October 25, 1980."

(b) Sense of the Congress. -- It is the sense of the Congress that, inasmuch as use of the procedures under the Hague Convention on the Civil Aspects of International Parental Child Abduction has resulted in the return of many children, those procedures, in circumstances in which they are applicable, should be the option of first choice for a parent who seeks the return of a child who has been removed from the parent.

(c) Clerical Amendment.-The table of sections at the beginning of chapter 55 of Title 18, United States Code, is amended by adding at the end the following: "1204. International parental kidnapping."

SECTION 3. STATE COURT PROGRAMS REGARDING INTERSTATE AND INTERNATIONAL PARENTAL CHILD ABDUCTION.

There is authorized to be appropriated \$250,000 to carry out under the State Justice Institute Act of 1984 (42 U.S.C. 10701-10713) national, regional, and in-State training and educational programs dealing with criminal and civil aspects of interstate and international parental child abduction.

APPENDIX G:

PARENTAL KIDNAPPING PREVENTION ACT

Parental Kidnapping Prevention Act 28 USC Sec. 1738A

28 § 1738A. Full faith and credit given to child custody determinations

(a) The appropriate authorities of every State shall enforce according to its terms, and shall not modify except as provided in subsection (f) of this section, any child custody determination made consistently with the provisions of this section by a court of another State.

(b) As used in this section, the term -

(1) 'child' means a person under the age of eighteen;

(2) 'contestant' means a person, including a parent, who claims a right to custody or visitation of a child;

(3) 'custody determination' means a judgment, decree, or other order of a court providing for the custody or visitation of a child, and includes permanent and temporary orders, and initial orders and modifications;

(4) 'home State' means the State in which, immediately preceding the time involved, the child lived with his parents, a parent, or a person acting as parent, for at least six consecutive months, and in the case of a child less than six months old, the State in which the child lived from birth with any of such persons. Periods of temporary absence of any of such persons are counted as part of the six-month or other period;

(5) 'modification' and 'modify' refer to a custody determination which modifies, replaces, supersedes, or otherwise is made subsequent to, a prior custody determination concerning the same child, whether made by the same court or not;

(6) 'person acting as a parent' means a person, other than a parent, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody;

(7) 'physical custody' means actual possession and control of a child; and

(8) 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

(c) A child custody determination made by a court of a State is consistent with the provisions of this section only if -

(1) such court has jurisdiction under the law of such State; and

(2) one of the following conditions is met:

(A) such State:

(i) is the home State of the child on the date of the commencement of the proceeding, or

(ii) had been the child's home State within six months before the date of the commencement of the proceeding and the child is absent from such State because of his removal or retention by a contestant or for other reasons, and a contestant continues to live in such State;

(B) (i) it appears that no other State would have jurisdiction under subparagraph (A), and

(ii) it is in the best interest of the child that a court of such State assume jurisdiction because (I) the child and his parents, or the child and at least one contestant, have a significant connection with such State other than mere physical presence in such State, and (II) there is available in such State substantial evidence concerning the child's present or future care, protection, training, and personal relationships;

(C) the child is physically present in such State and

(i) the child has been abandoned, or

(ii) it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse;

(D) (i) it appears that no other State would have jurisdiction under subparagraph

(A), (B), (C), or (E), or another State has declined to exercise jurisdiction

on the ground that the State whose jurisdiction is in issue is the more appropriate forum to determine the custody of the child, and
(ii) it is in the best interest of the child that such court assume jurisdiction;
or

(E) the court has continuing jurisdiction pursuant to subsection (d) of this section.

(d) The jurisdiction of a court of a State which has made a child custody determination consistently with the provisions of this section continues as long as the requirement of subsection (c)(1) of this section continues to be met and such State remains the residence of the child or of any contestant.

(e) Before a child custody determination is made, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated and any person who has physical custody of a child.

(f) A court of a State may modify a determination of the custody of the same child made by a court of another State, if -

(1) it has jurisdiction to make such a child custody determination; and

(2) the court of the other State no longer has jurisdiction, or it has declined to exercise such jurisdiction to modify such determination.

(g) A court of a State shall not exercise jurisdiction in any proceeding for a custody determination commenced during the pendency of a proceeding in a court of another State where such court of that other State is exercising jurisdiction consistently with the provisions of this section to make a custody determination.

APPENDIX H:
RESOURCES

Child Protective Services – Arizona

Toll-Free Child Abuse Hotline 1-888-SOS-CHILD (1-888-767-2445)

<https://www.azdes.gov/dcyf/cps/>

Mexican Consulate

553 S Stone Ave, Tucson, AZ 85701

Phone: (520) 882-5596 - Fax: (520) 882-8959

contucmx@sre.gob.mx

National Center for Missing & Exploited Children

Charles B. Wang International Children's Building

699 Prince Street, Alexandria, Virginia 22314-3175

Phone: 703-274-3900 - Fax: 703-274-2200

24-hour Hotline: 1-800-843-5678

<http://www.missingkids.com/>

Pascua Yaqui Nation

7474 S. Camino De Oeste, Tucson, AZ 85757

Phone (520) 883-5000 - FAX (520) 883-5014

<http://www.pascuayaqui-nsn.gov/>

Pima County Attorney's Office

32 N. Stone, Ste. 1400, Tucson, AZ 85701

Phone: 520-740-5600

Custodial Interference Point Prosecutor: Kristen Kelly, Deputy County Attorney

Custodial Interference Point Detective: Jennifer Seigla, Investigator

Tohono O'Odham Nation, Attorney General

P.O. Box 837, Sells, AZ 85634

Phone: (520) 383-3410 - Fax: (520) 383-3379

<http://www.tonation-nsn.gov/contacts.htm>

INFORMATIVE WEBSITES

Criminal Justice System's Response to Parental Abduction

<http://www.ncjrs.gov/pdffiles1/ojjdp/186160.pdf>

Good Practice in Handling Hague Abduction Convention Return Applications

http://www.cybertipline.com/en_US/publications/GoodPractice_E.pdf

Recovery and Reunification of Missing Children: A Team Approach

http://www.missingkids.com/en_US/publications/NC64.pdf

A Family Resource Guide on International Parental Kidnapping.
<http://www.ncjrs.org/pdffiles1/ojdp/190448.pdf>

Hague Convention website contains information about eh Hague Convention on the Civil Aspects of International Child Abduction <http://hcch.net>

U.S. State Department website contains Hague Convention Application and flyers with parental kidnapping information about specific countries. <http://www.travel.state.gov>

National Center for Missing and Exploited Children website contains information about parental kidnapping <http://www.missingkids.com>

Website created and maintained by private attorney William Hilton contains legal information about international and parental kidnapping <http://hiltonhouse.com>

American Bar Association website: provides resources and other website information about parental kidnapping. Patricia Hoff's excellent article, "Parental Kidnapping: Prevention and Remedies" (Dec. 2000) can be downloaded from this website.
<http://www.abanet.org>

Information about the United States
http://www.missingkids.com/en_US/publications/UnitedStates_E.pdf

RESOURCES IN SPANISH

Texto de la Convencion sobre los aspectos civiles de la sustraccion internacional de menores (castellano) [Text of the convention on the civil aspects of the international abduction of minors - Spanish]
<http://ordenjuridico.gob.mx/TratInt/Derecho%20Internacional2/TD25.pdf>

Guia de la prevencion de la sustraccion internacional de menores (castellano) [Guide to the prevention of the international abduction of minors - Spanish]
<http://www.ncjrs.gov/html/ojdp/199832/contents.html>

Informe de Mexico (castellano) [Information about Mexico – Spanish]
http://www.missingkids.com/en_US/publications/Mexico_S.pdf

Informe explicativo de Dna.Elisa Perez Vera (castellano) [Explanatory Information from Mrs. Elisa Perez Vera – Spanish]
<http://hcch.e-vision.nl/uipload/exp128s.pdf>



APPENDIX I. PARENTAL ABDUCTION MEMO

Pima County Attorney's Office Criminal Division

MEMORANDUM

TO:

FROM: Pima County Attorney's Office

DATE:

CHILD ABDUCTION BY A PARENT IS A CRIME

If you receive a report that a child has been taken without legal authorization from his/her home by a parent. If you need assistance with this type of case, please notify:

Jennifer Seigla, 740-5268 (Detective at the Pima County Attorney's Office)

OR

Kristen Kelly, 740-5600 (Custodial Interference Lead Prosecutor at the Pima County Attorney's Office)

with the following information:

1. A court case number regarding custody and/or visitation of the child .
2. The possible location of child and seizing parent. The officer should make contact with the non-custodial parent (NCP) to first request that the child be returned to the custodial parent (CP).
3. Any exigent circumstances regarding the child's welfare/safety such as:
 - an existing medical condition that requires medication to which the NCP does not have access.
 - the NCP has a verified history of child maltreatment or NCP made threats to harm the child or take the child out of state.
 - the NCP has a verified history of mental health problems.
 - the NCP made threats to harm the child or take the child out of state.
 - the NCP was under the influence of drugs/alcohol when he/she took the child.

If an emergency exists, the report should be treated as such and handled per department policies & procedures.

*This document is the property of the Pima County Attorney's Office.
For further information, contact:*

Special Victims Unit Supervisor:
Susan Eazer, Deputy County Attorney

Point Prosecutor for Custodial Interference Cases:
Kristen Kelly, Deputy County Attorney

Point Detective for Custodial Interference Cases:
Jennifer Seigla, Investigator

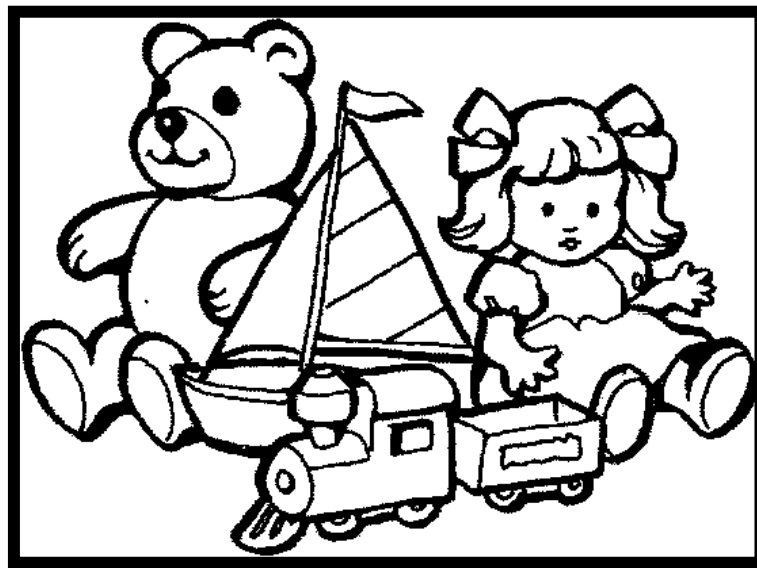
Contact for additional copies, reprint permission, editorial notes:
Mark von Destinon, Ph.D., Staff Assistant

**Pima County Attorney's Office
32 N. Stone Ave, Ste. 1400 ♦ Tucson, AZ 85701
(520) 740-5600**

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Original: October 1997, Revised September 2008

PIMA COUNTY PROTOCOL
FOR THE
MULTIDISCIPLINARY RESPONSE
TO
CUSTODIAL INTERFERENCE



**OFFICE OF THE PIMA COUNTY ATTORNEY
BARBARA LAWALL, PIMA COUNTY ATTORNEY
TUCSON, ARIZONA**



SEPTEMBER 2008

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STATEMENT OF PURPOSE

This protocol is offered as a model for handling custodial interference cases in Pima County. It provides guidelines to assist those who investigate and work with custodial interference.

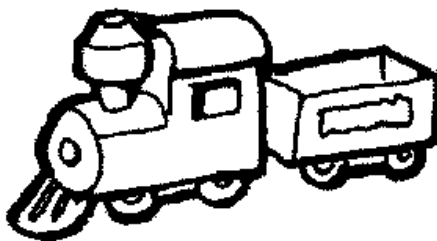
The goals for this document:

1. To recognize that children and parents should be treated with dignity and respect.
2. To promote a system that recognizes the multiple issues and various agencies.
3. To create workable guidelines for investigations of custodial interference.
4. To provide a consistent and efficient approach to the investigation, prosecution and management of custodial interference cases in Pima County.

While protocols are designed as templates with the benefits of guidance, predictability and adherence in mind, individual steps within a particular protocol are certainly not intended to be followed by rote with unthinking or irrational rigidity. For example, technological advances or circumstances belonging uniquely to the moment at hand may justify departure from steps described herein without altering the overall purpose or efficacy of these protocols. It is recognized by the authors that best practices within a particular discipline can encompass variations in, or evolution of, a process while retaining medical or functional integrity.

Where any interagency/jurisdiction conflict exists, the best interests of the child shall be the overriding concern.

NOTE: Although this protocol uses the singular term “Child” throughout, for the purposes of this document the term is to be interpreted as either singular (child) or plural (children).



SECTION I.

BOTH PARENTS AND THE CHILD ARE IN PIMA COUNTY

- 1) The Custodial Parent must make a report to the Pima County Law Enforcement agency responsible for the area from which the child was taken.
 - a) The report is made to a uniformed officer (See Appendix I. Parental Abduction Memo).
 - b) The report should be forwarded to the appropriate unit for assignment to a Detective. Prompt attention and immediate action should be taken in cases that qualify as an emergency.
 - c) A case should be considered an emergency if **any** of the following apply:
 - i) The child has a medical condition that requires treatment/medication to which the Non-Custodial Parent does not have access.
 - ii) The Non-Custodial Parent has a verified history of child maltreatment, *i.e.*, prior arrest/convictions for sex crimes or child abuse.
 - iii) The Non-Custodial Parent has a verified and documented history of mental problems.
 - iv) The Non-Custodial Parent threatened to harm the child or take the child out-of-state at the time he/she took the child.
 - v) The Non-Custodial Parent was intoxicated on drugs or alcohol at the time he/she took the child.
 - vi) The Custodial Parent alleges that the child is in immediate danger as the Non-Custodial Parent sexually or physically abused the child in the past.
- 2) If the report is an emergency, the report should be immediately given to the appropriate unit for assignment to a Detective (See Appendix I. Parental Abduction Memo). If the report is made at a time when no Detective is available (nights or weekends) the uniformed officer should do the following:
 - a) Obtain a copy of the court papers giving the Custodial Parent sole or joint legal custody from the Custodial Parent. If the parents were never married and the child's paternity has never been established, the law provides that the mother is the

legal custodian. In that case, no custody papers are necessary. The custody papers should contain the following information:

- i) That the Custodial Parent has sole or joint legal custody.
 - ii) That the order came from the Pima County Superior Court or has been filed (domesticated) there.
 - iii) That the Non-Custodial Parent was present when the custody order was issued or had counsel present when the order was issued.
- b) If the custody paperwork is in order or the parents were never married and **the location of the Non-Custodial Parent and child is known**, the officer should make personal contact with the Non-Custodial Parent in order to return the child to the Custodial Parent.
- i) If the Non-Custodial Parent has proper and current custodial paperwork, the officer should check on the welfare of the child and make a determination as to whether it is safe to leave the child with the Non-Custodial Parent.
 - (1) If the officer determines that it is not safe to leave the child with the Non-Custodial Parent, the child should be taken into temporary custody. The Non-Custodial Parent should be served with a Temporary Custody Notice when the child is removed. Upon removal of the child, the officer must immediately notify Child Protective Services in order to obtain a shelter placement. Within six hours of removal, the Custodial Parent must also be served by the officer with a Temporary Custody Order. The case should then be forwarded to the appropriate unit for assignment to a Detective.
 - (2) If the child can safely be left with the Non-Custodial Parent, the officer should not remove the child but rather should notify the Custodial Parent that the child is safe, that the Non-Custodial Parent has more recent custody papers, and that the case will be assigned to a Detective for follow-up investigation. The case should then be forwarded to the appropriate unit for assignment.
 - ii) If the Non-Custodial Parent is located with the child and fails to produce custodial paperwork, the officer should take custody of the child and return him/her to the Custodial Parent.
 - (1) The officer must decide whether to arrest the Non-Custodial Parent.

- (2) Whether the Non-Custodial Parent is arrested or not, the case should be forwarded to the appropriate unit for assignment to a Detective.
- 3) If the custody paperwork is in order or the parents were never married and **the location of the Non-Custodial Parent and child is unknown**, the officer should enter the case in National Crime Information Center (NCIC). (NOTE: A waiting period for entering such information is not permitted.) A criminal charge against the abductor is not a prerequisite for listing the child as missing. The National Child Search Assistance Act of 1990, 42 U.S.C. § 5780, mandates:
- a) Each state reporting under the provisions of this title shall:
- i) Ensure that no Law Enforcement agency within the state establishes or maintains any policy that requires the observance of any waiting period before accepting a missing child or unidentified person report;
- ii) Provide that each such report and all available information, with respect to each missing child report, shall include:
- (1) The name, date of birth, sex, race, height, weight, eye and hair colors of the child.
- (2) The date and location of the last known contact with the child.
- (3) The category under which the child is reported missing.
- (4) The information shall be entered immediately into the state law enforcement computer system and the National Crime Information Center computer networks and make available to the Missing Children Information Clearinghouse (1-800-843-5678) with the state or other agency designated within the state to receive such reports. The case should then be forwarded to the appropriate unit for assignment to a Detective.
- 4) If the Custodial Parent does not have a copy of the custody papers or the order does not contain the above information and the location of the Non-Custodial Parent and child is known, **the officer should do a welfare check on the child** to make sure that the child is safe **unless** there is **concern that the Non-Custodial Parent will flee the county if contacted.**
- a) If there is no reason to believe that the Non-Custodial Parent will flee with the child and there is no imminent risk to the child by leaving him/her with the Non-

Custodial Parent, the officer does not have to remove the child but must immediately forward the case to the appropriate unit for assignment to a Detective.

- b) If a welfare check is done and **the child is in imminent danger**, the Officer should remove the child and serve both parents with a Temporary Custody Notice. Immediately after the removal of the child, the officer must contact Child Protective Services for placement. The case should then be forwarded to the appropriate unit for assignment to a Detective.
- 5) If the report is not an emergency, the case should be forwarded to the appropriate unit for assignment to a Detective (See Appendix I. Parental Abduction Memo).
- a) If the **whereabouts of the Non-Custodial Parent and child are known**, the Detective should conduct the investigation and take the necessary action.
 - i) If the child is located and returned to the Custodial Parent, the case should be brought to the County Attorney's Office for issuing.
 - (1) If the Non-Custodial Parent is arrested, the case must be issued within 70 days of the arrest.
 - (2) If the Non-Custodial Parent is not arrested, a case must be issued within the seven year statute of limitations.
 - (3) At the time of issuing, no statements should be handwritten (this may not always be possible). For the issuing appointment, the custodial interference questionnaire (See Appendix B) must be completed and a copy of the custody papers, if they exist, must be provided.
- 6) If the **whereabouts of the Non-Custodial Parent and child are unknown** and an arrest warrant is needed, the Detective must contact the County Attorney's Office.
- a) The custodial interference questionnaire (See Appendix B) must be completed, but no taped statements or transcripts are required.
 - b) A copy of the custody papers are needed before a warrant will be issued unless the parents were never married, no legal custody determination has been made, or no custody papers exist.
 - c) At the time the warrant is issued, the case should be entered into NCIC if that has not already been done.
 - d) Once the warrant has been executed and the child has been returned to the Custodial Parent, the Detective should contact the County Attorney's Office

regarding extradition if the defendant/Non-Custodial Parent was arrested out-of-state for an issuing appointment. If the defendant/Non-Custodial Parent was arrested in Arizona, the same procedure detailed above for issuing a case is to be followed.

- 7) Child Protective Services should be contacted only if there is an allegation of abuse or neglect. In that case, Law Enforcement should make a report to Child Protective Services via the statewide reporting number, **1-888-767-2445**.
 - a) It is up to Child Protective Services to decide what action, if any, is to be taken.
 - b) If the child is determined to be in imminent danger and is removed by Law Enforcement, and if Child Protective Services provides emergency shelter care, it is up to Child Protective Services to decide what action they will take with respect to the child.

NOTE: All paperwork should be checked by the legal advisor for the Law Enforcement agency or by the County Attorney's Office before the child is returned to the Custodial Parent. Law Enforcement officers have been held liable for returning a child when the custody papers were invalid.



SECTION II.

CHILD TAKEN FROM PIMA COUNTY TO ANOTHER COUNTY/STATE

- 1) In Pima County, the CUSTODIAL PARENT must make a report to the Law Enforcement agency responsible for the area in which he/she lives.
 - a) When the initial report is taken, a copy of the custody papers should be obtained from the Custodial Parent unless the parents were never married and no custody determination has been made. The custody papers should contain the following information:
 - i) That the Custodial Parent has sole or joint legal custody;
 - ii) That the order came from the Pima County Superior Court or has been filed/domesticated) there;
 - iii) That the Non-Custodial Parent was present when the custody order was issued or had counsel present when the order was issued.
- 2) A report should be taken and the case forwarded to the appropriate unit for assignment to a Detective (See Appendix I. Parental Abduction Memo).
 - a) The assigned Detective should conduct the investigation.
 - i) If the case has not already been entered on NCIC, that should be done. (See Section I.3) above)
 - ii) If an Amber Alert has not already been made, the Detective should place one.
 - b) If the Non-Custodial Parent and child are located in another county/state, the assigned Detective may contact the Non-Custodial Parent towards the goal of a voluntary return of the child or the Detective may seek an arrest warrant from the County Attorney's Office.
 - c) To obtain an arrest warrant, the procedure set forth above in Section I., Item 6 is to be followed.
 - d) If the state to which the Non-Custodial Parent fled is known, the Detective should contact authorities in that state to determine if a pick-up order is needed.
 - e) If a pick-up order is needed, one should be obtained from the County Attorney's Office.

- 3) If the child is returned voluntarily to the Custodial Parent in Pima County, the Detective should make an issuing appointment at the County Attorney's Office. The procedure in Section I.5)a) is to be followed.
- 4) If the Non-Custodial Parent is arrested pursuant to the warrant in another state, the case must be brought to the County Attorney's Office as soon as possible so that a decision regarding extradition may be made. The procedure in Section I.6)d) is to be followed.
- 5) The National Center for Missing and Exploited Children (**1-800-843-5678**) has a program to assist a Custodial Parent in traveling out-of-state to retrieve his/her abducted child. They have an agreement with American Airlines to fly the Custodial Parent to the other jurisdiction. They can also provide bus tickets. To be eligible for this program, the following criteria must be met:
 - a) There must be a criminal charge pending;
 - b) The child must be listed in NCIC;
 - c) The child must be in the custody of Law Enforcement in the other jurisdiction;
 - d) The National Center for Missing and Exploited Children (**1-800-843-5678**) must receive an OFFICIAL CONFIRMATION from the local Law Enforcement agency verifying the case;
 - e) The Custodial Parent must have custody papers; and
 - f) The Custodial Parent must be indigent.

NOTE: All paperwork should be checked by the legal advisor for the Law Enforcement agency or by the County Attorney's Office before the child is returned to the Custodial Parent. Law Enforcement officers have been held liable for returning a child when the custody papers were invalid.



SECTION III.

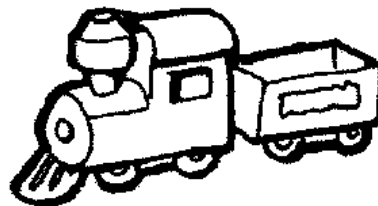
CHILD BROUGHT TO PIMA COUNTY FROM ANOTHER COUNTY/STATE

- 1) If Law Enforcement encounters a child who has been unlawfully removed from another county/state (*i.e.*, during a traffic stop), or NCIC alerts that there is a missing child associated with the person stopped, the child should be taken into custody immediately (See Appendix I, Parental Abduction Memo).
 - a) If there is a warrant for the adult with the child, it should be executed.
 - b) If the person with the child is the parent, a temporary custody notice must be served.
 - c) Law Enforcement should contact the Law Enforcement agency that initiated the "involuntary missing" notice to make arrangements for the child to be picked up.
 - d) Child Protective Services should be notified immediately that the child is in custody so that temporary shelter may be obtained in the event the child cannot be picked up by the Custodial Parent or other agency within six hours.
 - e) It is the responsibility of the Custodial Parent/initiating agency to arrange transportation for the child.
 - f) Child Protective Services has only 48 hours, excluding weekends and holidays, in which to hold a child without filing a dependency petition.
 - g) If the Custodial Parent cannot get to Pima County to pick up the child within 48 hours, Child Protective Services should obtain a voluntary placement agreement to avoid having to file a dependency petition.
- 2) If Law Enforcement is contacted by an out-of-state or out-of-county Custodial Parent or Custodial Parent's attorney regarding a child who is unlawfully in Pima County, a report should be taken and forwarded to the appropriate unit for assignment to a Detective (See Appendix I. Parental Abduction Memo).
 - a) Before the Detective takes any action on the case, the parent must provide the Detective with a copy of the custody decree, as well as evidence that this is the most recent custody order. If the parents were never married and no custody determination has been made, no paperwork is required to begin an investigation.
 - b) If the request is to locate a child who is allegedly in Pima County, Law Enforcement may proceed to locate the child; however, the child should not be

removed until the parent has provided Law Enforcement with a copy of the domesticated custody papers and the Custodial Parent or his/her designee is in Pima County to take custody of the child.

- c) If the child's whereabouts in Pima County are known and the request is to pick up the child, that should not be done until the Custodial Parent or his/her designee is in Pima County to pick up the child and the most recent custody papers have been filed in Pima County Superior Court.
 - d) The UCCJA § 8-475 (A) does not require either a warrant or a pick-up order for a child to be removed from a Non-Custodial Parent. (See Appendix C).
 - e) If the Non-Custodial Parent refuses access, a search warrant should be obtained.
- 3) If Law Enforcement is contacted by another Law Enforcement agency requesting assistance in locating or retrieving a child who is the victim of custodial interference, an arrest warrant for the Non-Custodial Parent should be requested from that other agency.
- a) If there is an arrest warrant for the Non-Custodial Parent, the procedures set forth above in Section III.1) should be followed; however, if the whereabouts of the Non-Custodial Parent and child are known, someone from the other jurisdiction (Custodial Parent or Law Enforcement) should be in Pima County to take custody of the child when the warrant is executed.
 - b) If there is no arrest warrant, the procedures set forth above in Section III.2) should be followed.

NOTE: All paperwork should be checked by the legal advisor for the Law Enforcement agency or by the County Attorney's Office before the child is returned to the Custodial Parent. Law Enforcement officers have been held liable for returning a child when the custody papers were invalid.



SECTION IV.

CHILD IS TAKEN FROM CHILD PROTECTIVE SERVICES IN PIMA COUNTY

- 1) Child Protective Services must make a report to the Law Enforcement agency responsible for the location from which the child was taken.
 - a) The report will be made to a uniformed officer (See Appendix I. Parental Abduction Memo).
 - b) That officer should enter the child's name into NCIC.
 - c) The case should then be forwarded to the appropriate unit for assignment to a Detective.
- 2) The assigned Detective should follow the procedures set forth above in Section I.3).
- 3) If the child is located in a state that requires a pick up order, the Child Protective Services must request that the Attorney General's Office obtain one from the Juvenile Court.
- 4) Once the child is located, it is the responsibility of Child Protective Services to arrange for the child to be returned to Pima County.

NOTE: All paperwork should be checked by the legal advisor for the Law Enforcement agency or by the County Attorney's Office before the child is returned to the Custodial Parent. Law Enforcement officers have been held liable for returning a child when the custody papers were invalid.



SECTION V.

CHILD IS TAKEN FROM CHILD PROTECTIVE SERVICES IN ANOTHER COUNTY/STATE AND BROUGHT TO PIMA COUNTY

- 1) If Arizona Child Protective Services is contacted by the equivalent child protection agency of another state regarding a missing child, Child Protective Services should call Law Enforcement (See Appendix I. Parental Abduction Memo).
- 2) If any Pima County Law Enforcement agency is contacted by the child protection agency of another state regarding a missing child, Law Enforcement should call the Arizona Child Protective Services.
- 3) A FAX or PDF copy of the orders giving custody to Child Protective Services in the other jurisdiction must be obtained by Law Enforcement.
- 4) If the other jurisdiction wants the Non-Custodial Parent arrested, an arrest warrant must be obtained from the other jurisdiction.
- 5) Child Protective Services and Law Enforcement should go together to pick up the child.
 - a) A Temporary Custody Notice (TCN) must be served on the person from whom the child is taken.
 - b) It is the responsibility of Child Protective Services to obtain permission from the other jurisdiction to place the child.
- 6) If Law Enforcement encounters a child who has been taken from Child Protective Services in another jurisdiction, the procedures set forth in Section III.1) should be followed.

NOTE: All paperwork should be checked by the legal advisor for the Law Enforcement agency or by the County Attorney's Office before the child is returned to the Custodial Parent. Law Enforcement officers have been held liable for returning a child when the custody papers were invalid.



SECTION VI.

PARENTS ARE MARRIED AND ONE TOOK THE CHILD

- 1) The parent who was left behind must make a report to the Pima County Law Enforcement agency responsible for the area from which the child was taken.
 - a) The report is made to a uniformed officer (See Appendix I. Parental Abduction Memo).
 - b) If there is no emergency, the whereabouts of the child are unknown, or the child is in a shelter, the report should be forwarded to the appropriate unit for assignment to the Detective. Prompt attention and immediate action should be taken in all cases that qualify as an emergency.
 - c) A case should be considered an emergency if the whereabouts of the child are known and **any** of the following apply:
 - i) The child has a medical condition that requires treatment/medication to which the abductor does not have access.
 - ii) The abductor has a verified history of child maltreatment, *i.e.* prior arrests/convictions for sex crimes or child abuse.
 - iii) The abductor has a documented and verified history of mental problems.
 - iv) When the abductor took the child, he/she threatened to harm the child or take the child out of state.
 - v) The abductor was intoxicated on drugs or alcohol at the time he/she took the child.
 - vi) The parent left behind alleges that the child is in immediate danger as the abductor sexually or physically abused the child in the past.
- 2) If the report is an emergency, the report should immediately be given to the appropriate unit for assignment to a Detective (See Appendix I. Parental Abduction Memo). If the report is made at a time when no Detective is available (nights or weekends), the uniformed officer should do the following:
 - a) If the child's whereabouts are known and the child is in Pima County, the officer should make personal contact with the abducting parent to check on the welfare of the child.

- i) If the abducting parent alleges that he/she is a victim of domestic violence or that the parent left behind posed a threat of immediate danger to the child and the child can safely be left with the abducting parent, the child should not be removed. The parent left behind should be notified that the child is safe and that the case will be assigned to a Detective. The case should then be forwarded to the appropriate unit for assignment.
 - ii) If the abducting parent alleges that he/she is a victim of domestic violence or that the parent left behind posed a threat of immediate danger to the child, but the officer determines that it is not safe to leave the child with the abducting parent, the child should be taken into temporary custody. The abducting parent should be served with a Temporary Custody Notice when the child is removed. Upon removal of the child, the officer must immediately notify Child Protective Services in order to obtain a shelter placement. Within six hours of removal, the parent left behind must also be served by the officer with a Temporary Custody Order. The case should then be forwarded to the appropriate unit for assignment to a Detective.
 - iii) If the abducting parent does not allege domestic violence or that the child is in immediate danger, the officer should take custody of the child and return him/her to the parent who was left behind.
- b) The officer must decide whether to arrest the abducting parent.
 - c) Whether the abducting parent is arrested or not, the case should be forwarded to the appropriate unit for assignment to a Detective.
 - d) If the location of the abducting parent and child is unknown, the officer should enter the case in NCIC and issue an Amber Alert. **(NOTE: A waiting period for entering such information is not permitted.)** A criminal charge against the abductor is not a prerequisite for listing the child as missing. The National Child Search Assistance Act of 1990, 42 US. C. § 5780, mandates that:
 - i) Each state reporting under the provisions of this title shall:
 - (1) Ensure that no Law Enforcement agency within the state establishes or maintains any policy that requires the observance of any waiting period before accepting a missing child or unidentified person report;

- (2) Provide that each such report and all necessary information, with respect to each missing child report, shall include:
- ii) The name, date of birth, sex, race, height, weight, eye and hair colors of the child;
 - iii) The date and location of the last known contact with the child; and
 - iv) The category under which the child is reported missing.
 - (1) Enter the information immediately into the state law enforcement computer system and the National Crime Information Center computer networks and make available to the Missing Children Information Clearinghouse (**1-800-843-5678**) with the state or other agency designated within the state to receive such reports.
 - v) The case should then be forwarded to the appropriate unit for assignment to a Detective.
 - vi) If the report is not an emergency, the case should be forwarded to the appropriate unit for assignment to a Detective.
 - (1) If the whereabouts of the abducting parent and child are known, the Detective should conduct the investigation and take the actions he/she feels are necessary.
 - vii) If the abducting parent alleges that he/she is a victim of domestic violence and that the child was in immediate danger at the time of abduction, or that the child was taken because the child was in immediate danger by the parent left behind, the abducting parent should be advised to obtain an order of protection or file for temporary custody of the child. If, **within a reasonable period of time under the circumstances**, the abducting parent begins process of obtaining an order of protection and/or files for temporary custody, the case should be closed.
 - viii) If the abducting parent and child are located in another county/state, the Detective **may** contact the abducting parent towards the goal of a voluntary return of the child and/or the Detective **may** seek an arrest warrant from the Pima County Attorney's Office.
 - ix) If the abducting parent is located, the case should be brought to the Pima County Attorney's Office for issuing.

- x) If the abducting parent is arrested, the case must be issued within 70 days of the arrest.
 - xi) If the abducting parent is not arrested, there is no time-frame for issuing.
 - xii) At the time of issuing, no statements should be handwritten (this may not always be possible).
 - (1) For the issuing appointment, the custodial interference questionnaire must be completed (See Appendix B). If the abducting parent alleges domestic violence or immediate danger to the child, a check of the court records in the county in which the child was located must be conducted to ascertain whether the abducting parent applied for an order of protection or filed for temporary custody. If the whereabouts of the abducting parent and child are unknown and an arrest warrant is needed, the Detective must contact the Pima County Attorney's Office.
- 3) The Custodial Interference Questionnaire (See Appendix B) must be completed, but no taped or recorded transcripts are required
 - 4) At the time the warrant is issued, the case should be entered into NCIC and an Amber Alert issued, if not already done.
 - 5) Once the warrant has been executed, the Detective should contact the Pima County Attorney's Office for an issuing appointment.

NOTE: All paperwork should be checked by the legal advisor for the Law Enforcement agency or by the County Attorney's Office before the child is returned to the Custodial Parent. Law Enforcement officers have been held liable for returning a child when the custody papers were invalid.



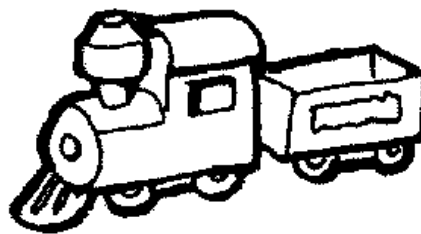
SECTION VII.

CHILD TAKEN FROM PIMA COUNTY TO ANOTHER COUNTRY

- 1) The Custodial Parent in Pima County must make a report to the Law Enforcement agency responsible for the area in which they live (See Appendix I. Parental Abduction Memo).
 - a) When the initial report is taken, a copy of the custody papers should be obtained from the Custodial Parent unless the parents were never married and no custody determination has been made. The custody papers should contain the following information:
 - i) That the Custodial Parent has sole or joint legal custody;
 - ii) That the order came from the Pima County Superior Court or has been filed (domesticated) there;
 - iii) That the Non-Custodial Parent was present when the custody order was issued or had counsel present when the order was issued.
- 2) A report should be taken and the case forwarded to the appropriate unit for assignment to a Detective.
 - a) The assigned Detective should conduct the investigation. If the case has not already been entered on NCIC, that should be done. (See Section I.3) above).
 - b) If the Non-Custodial Parent and child are located in another country, the Detective **may** contact the country's Consulate/Embassy towards the goal of a voluntary return of the child. The Detective **may** also seek an arrest warrant for the abductor from the Pima County Attorney's Office.
 - c) To obtain an arrest warrant, the procedure set forth in Section I.3)d) is to be followed.
- 3) If the child is returned voluntarily to the Custodial Parent in Pima County, the Detective should make an issuing appointment at the County Attorney's Office. The procedure above in Section I.5)a)1) is to be followed.
- 4) If the Non-Custodial Parent is arrested pursuant to the warrant in another country, the case must be brought to the County Attorney's Office as soon as possible so that a decision regarding international extradition can be made. Follow the procedure in Section I.5)a).

- 5) The National Center for Missing and Exploited Children (**1-800-843-5678**) has a program to assist a Custodial Parent in traveling out of state to retrieve the abducted child. They have an agreement with American Airlines to fly the Custodial Parent to the other jurisdiction. They can also provide bus tickets. To be eligible for this program, the following criteria must be met. If the criteria exist, call **1-800-843-5678** and ask for technical assistance.
- a) At one point the child must have been listed in NCIC;
 - b) The child must be in the custody of Law Enforcement or Social Services in the other jurisdiction;
 - c) The National Center must receive official confirmation from the local Law Enforcement agency verifying the case;
 - d) The Custodial Parent must have custody papers; and
 - e) The Custodial Parent must be indigent.

NOTE: All paperwork should be checked by the legal advisor for the Law Enforcement agency or by the County Attorney's Office before the child is returned to the Custodial Parent. Law Enforcement officers have been held liable for returning a child when the custody papers were invalid.



SECTION VIII.

CHILD BROUGHT TO PIMA COUNTY FROM ANOTHER COUNTRY

- 1) If Law Enforcement encounters a child who has been unlawfully removed from another country (*i.e.*, during a traffic stop), or there is an NCIC alert that there is an involuntarily missing child associated with the person stopped, the child should be taken into custody immediately (See Appendix I. Parental Abduction Memo).
 - a) If there is a warrant for the adult, it should be executed.
 - b) If the person is the parent, a temporary custody notice must be served.
 - c) Law Enforcement should contact the Consulate/Embassy of the country that initiated the “involuntary missing” notice to make arrangements for the child to be picked up.
 - d) Child Protective Services should be notified immediately that the child is in custody to obtain temporary shelter, in the event that the child cannot be picked up by the Custodial Parent or other authorized custodial international representative within six hours.
 - e) It is the responsibility of the Custodial Parent/Consulate/Embassy of the foreign country to arrange transportation for the child.
 - f) Child Protective Services has 48 hours, excluding weekends and holidays, in which to hold a child without filing a dependency petition.
 - g) If the Custodial Parent or other authorized custodial international representative cannot get to Pima County to pick up the child within 48 hours, Child Protective Services should obtain a voluntary placement agreement to avoid having to file a dependency petition.
- 2) If Law Enforcement is contacted by an out-of-country Custodial Parent or other authorized custodial international representative regarding a child who is unlawfully in Pima County, a report should be taken and forwarded to the appropriate unit for assignment to a Detective (See Appendix I. Parental Abduction Memo).
 - a) Before the Detective takes any action on the case, the reporting Custodial Parent or other authorized custodial international representative must provide the Detective with a copy of the custody decree as well as evidence that this is the most recent

custody order. If the parents were never married and no custody determination has been made, no paperwork is required to begin an investigation.

- b) If the request is to locate a child who is allegedly in Pima County, Law Enforcement **may** locate the child; however, the child should not be removed until the Custodial Parent or other authorized custodial international representative has provided Law Enforcement with a copy of the domesticated custody papers and the Custodial Parent or his/her designee is in Pima County to take custody of the child
 - c) If the child's whereabouts in Pima County are known and the request is to pick up the child, that should not be done until the Custodial Parent or his/her designee is in Pima County to pick up the child and the most recent custody papers have been filed in Pima County Superior Court.
 - d) The UCCJA § 8-475 (A) does not require a warrant or a pick up order for a child to be removed from a Non-Custodial Parent (See Appendix C).
 - e) If the Non-Custodial Parent refuses access, a search warrant should be obtained.
- 3) If Law Enforcement is contacted by a Consulate/Embassy/or foreign Law Enforcement agency requesting assistance in locating or retrieving a child who is the victim of custodial interference, an arrest warrant for the Non-Custodial Parent should be requested from that other agency (See Appendix I. Parental Abduction Memo).
- a) If there is an arrest warrant for the Non-Custodial Parent, the procedures set forth in Section III.1) should be followed; however if the whereabouts of the Non-Custodial Parent and child are known, someone from the other jurisdiction (Custodial Parent or authorized custodial international representative) should be in Pima County to take custody of the child when the warrant is executed.
 - b) If there is no arrest warrant, the procedures set forth in Section III.3) should be followed.

NOTE: All paperwork should be checked by the legal advisor for the Law Enforcement agency or by the County Attorney's Office before the child is returned to the Custodial Parent. Law Enforcement officers have been held liable for returning a child when the custody papers were invalid.

SECTION IX.
MISCELLANEOUS ISSUES

1. **Jurisdiction:** The facts of the case are not at issue until all parties are in the jurisdiction of the parent who was left behind (per the Hague Convention, see Appendix D)
2. **Age of Child:** As a general rule, if a report is made on a child age 12 or older who leaves the home of the Custodial Parent voluntarily and is or is alleged to be with the Non-Custodial Parent, the report should be taken and handled as a runaway juvenile, not a custodial interference case. This does not apply if there are children younger than 12 who are also involved. The Hague Convention (see Appendix D) applies to any child under age 16; however, it does not determine custody until the jurisdiction of the parent left behind is determined. (Per Hague 16).
3. **Tribal Jurisdiction:** If the custody determination was made by a tribal court, the reporting party should be referred to the appropriate tribal court for assistance.
 - a. If tribal court is not involved (*i.e.*, parents never married, or if a state court made the custody determination), but the Non-Custodial Parent has taken the child to a reservation, the reporting party should be referred to the appropriate tribal law enforcement agency.
 - b. The Indian Child Welfare Act (see Appendix E) is the controlling statute with Indian children.
4. **Military Issues:** If the Custodial Parent or the Non-Custodial Parent is currently in the military, the Soldiers and Sailors Act may apply. Law Enforcement should contact the County Attorney's Office for assistance in such cases. (Note: The Hague Convention applies, see Appendix D).
5. **Failure to Return Child After Visitation:** On cases where the Non-Custodial Parent fails to return the child following a visit, Law Enforcement may contact the Non-Custodial Parent to seek a voluntary return. If appropriate, the County Attorney's Office will send a letter to the Non-Custodial Parent requesting the child's return. If the child is out of state, the County Attorney may issue an arrest warrant if the Non-Custodial Parent fails or refuses to promptly return the child.

APPENDIX A:

STATUTES

§ 13-1302 Custodial interference; child born out wedlock; classification

A. A person commits custodial interference if, knowing or having reason to know that the person has no legal right to do so, the person does one of the following:

1. Takes, entices or keeps from lawful custody any child or any person who is incompetent, and who is entrusted by authority of law to the custody of another person or institution.
2. Before the entry of a court order determining custodial rights, takes, entices or with holds any child who is less than eighteen years of age from the other parent denying that parent access to any child.
3. If the person is one or two persons who have joint legal custody of a child takes, entices or with holds from physical custody the child from the other custodian.
4. At the expiration of access rights outside the state, intentionally fails or refuses to return or impedes the return of a child to the lawful custodian.

B. If a child is born out of wedlock, the mother is the legal custodian of the child for the purposes of this section until paternity is established and custody or access is determined by a court.

C. It is a defense to a prosecution pursuant to subsection A, paragraph 2 if both of the following apply:

1. The defendant has begun the process to obtain an order of protection or files a petition for custody within a reasonable period of time and the order of protection or petition states the defendant's belief that the child was at risk if left with the other parent.
2. The defendant is the child's parent and has the right of custody and the defendant either:
 - A.** Has a good faith and reasonable belief that the taking, enticing or with holding is necessary to protect the child from immediate danger.
 - B.** Is a victim of domestic violence by the other parent and has a good faith and reasonable belief that the child will be in immediate danger if the child is left with the other parent.

D. If the child taken, enticed or kept from lawful custody is taken out of this state, custodial interference is a class 4 felony. If committed by a parent or agent of a parent of

the child taken, enticed or kept, custodial interference is a class 6 felony. If the child is returned voluntarily by the defendant with out physical injury prior to arrest or the issuance of an arrest warrant custodial interference it is a class 1 misdemeanor. If committed by a person other than a parent or agent of a parent of the child taken, custodial interference is a class 3 felony.

§13-1305 Access interference; classification; definitions

A. A person commits access interference if, knowing or having reason to know that he has no legal right to do so, the person knowingly engages in a pattern of behavior that prevents, obstructs or frustrates the access rights of a person who is entitled to access to a child pursuant to a court order

B. If the child is removed from this state, access interference is a class 5 felony. Otherwise access interference is a class 2 misdemeanor.

C. The enforcement of this section is not limited by the availability of other remedies for access interference.

D. For the purpose of this section "Access order" means a court order that is issued pursuant to title 25 and that allows a person to have direct access to a child or incompetent person.



APPENDIX B:
CUSTODIAL INTERFERENCE QUESTIONNAIRE

Date: _____ Case No. _____
The following questionnaire must be completed before a warrant or case will be issued. The victim's parent is to complete sections 1 through 5. The Detective is to complete section 6. The questionnaire must be accompanied by a copy of the most recent court order(s) that relate to child custody and/or visitation.

.....

1. VICTIM'S PARENT

Full name: _____
 First Middle Last Maiden/Alias

Home address: _____
Home phone: _____
Message phone: _____
Business name: _____
Business address: _____
Business phone: _____
Business hours: _____
Date of birth: _____ SSN: _____
Citizenship/immigration status: _____
Relationship to child: _____
Relationship to abductor/violating parent: _____

.....

2. INFORMATION REGARDING MISSING CHILD

Child 1:

Full name: _____
 First Middle Last (Nickname)

SSN: _____ Passport #: _____ Fingerprint card: _____
Date of birth: _____ Age: _____ Place of birth: _____
Sex: ___ Height: _____ Weight: _____ Hair: _____ Eyes: _____
School name: _____ Grade: _____
Disabilities: _____
Regularly taken medications: _____
Language child speaks: _____
Childcare provider: _____
Address: _____
Phone #: _____

3. INFORMATION REGARDING SUSPECT/ABDUCTOR/TAKING PARENT:

Full name: _____

SSN: _____
First Middle Last (Nickname)
Passport #: _____ Fingerprint card: _____

Date of birth: _____ Age: _____ Place of birth: _____

Sex: ___ Height: _____ Weight: _____ Hair: _____ Eyes: _____

Driver's License #: _____ State: _____

Last known address: _____

Last known phone: _____

Occupation: _____

Last known address: _____

Last known phone: _____

Last known place of employment: _____

Date of birth: _____

Citizenship/immigration status: _____

Relationship to child: _____

Vehicle description: _____

License No. _____ State: _____

Other states suspect has frequented or lived: _____

When: _____

Education Level: _____

Military Service? Yes ___ No ___ Unknown ___

Branch: _____ Military Status: _____

Physical disabilities: _____

Scars, Marks, Tattoos: _____

Language(s) spoken: _____

Does suspect have history of mental problems? Yes ___ No ___ Unknown ___

Does suspect take medication? Yes ___ No ___ Unknown ___

Does suspect have drug/alcohol problem? Yes ___ No ___ Unknown ___

Describe: _____

Has suspect ever harmed the child? Yes ___ No ___ Unknown ___

Describe: _____

Has suspect ever committed acts of domestic violence? Yes ___ No ___ Unknown ___

Describe: _____

If suspect is the biological father, has paternity been established?

Yes ___ No ___ Unknown ___

Has a custody determination been made by a court?

Yes ___ No ___ Unknown ___

Is suspect ordered to pay child support for the child ?

Yes ___ No ___ Unknown ___

Date last payment received? _____ Amount: _____

4. COURT ORDER INFORMATION (answer only if parents are/were married)

Status of Custody: _____

No order, parents still married? Yes ___ No ___ Unknown ___

Joint legal custody: Yes ___ No ___ Unknown ___

Primary physical custodian: _____

Sole custody awarded to: _____

Out-of-state visitation with: _____

Date order entered: _____ County & State: _____

Has the original order ever been modified? Yes ___ No ___ Unknown ___

If yes, when? _____ County & State: _____

What changes were made? _____

Is there any court action regarding custody pending now? Yes ___ No ___

If yes, explain: _____

Victim's parents' lawyer: _____

Suspect's parents' lawyer: _____

If the custody order is from another jurisdiction, has it been domesticated in Pima County?

Yes ___ No ___ Unknown ___

5. INFORMATION REGARDING ABDUCTION:

When was the child taken? _____

From where? _____

Describe circumstances: _____

Date of last contact with child: _____

Circumstances of contact: _____

Date of last contact with suspect: _____

Circumstances of contact: _____

Are whereabouts of suspect and child known? Yes ___ No _____

If yes, where are they? _____

Did anyone help the suspect take the child? Yes ___ No _____ Unknown ___

Who? _____

Address/phone: _____

How did this person help? _____

When were police first contacted? _____

If reporting was delayed, explain: _____

Has the suspect been asked to return the child? Yes _ No _____

If yes, what was his/her response? _____

If no, why not? _____

If visitation was out-of-state, dates of arranged visit: _____

If suspect's whereabouts are unknown, list relatives/friends suspect might have gone to:

1. Name/Address/Phone/Relationship:

2. Name/Address/Phone/Relationship:

3. Name/Address/Phone/Relationship:

6. CRIMINAL HISTORY OF SUSPECT (to be completed by Law Enforcement)

Suspect name: _____

First

Middle

Last

Alias/Nickname

Prior arrests:

Crime _____ Date _____

Crime _____ Date _____

Crime _____ Date _____

Prior Convictions:

Crime _____ Date _____

Crime _____ Date _____

Crime _____ Date _____

FBI No: _____

APPENDIX C:

UNIFORM CHILD CUSTODY JURISDICTION ACT

Sec. 75-a. Short title. This article shall be known as the "Uniform Child Custody Jurisdiction Act."

Sec. 75-b. Purposes of article; construction of provisions.

1. The general purposes of this article are to:

- (a) avoid jurisdictional competition and conflict with courts of other states in matters of child custody which have in the past resulted in the shifting of children from state to state with harmful effects on their well-being;
- (b) promote cooperation with the courts of other states to the end that a custody decree is rendered in that state which can best decide the case in the interest of the child;
- (c) assure that litigation concerning the custody of a child take place ordinarily in the state with which the child and his family have the closest connection and where significant evidence concerning his care, protection, training, and personal relationships is most readily available, and that courts of this state decline the exercise of jurisdiction when the child and his family have a closer connection with another state;
- (d) discourage continuing controversies over child custody in the interest of greater stability of home environment and of secure family relationships for the child;
- (e) deter abductions and other unilateral removals of children undertaken to obtain custody awards;
- (f) avoid re-litigation of custody decisions of other states in this state insofar as feasible;
- (g) facilitate the enforcement of custody decrees of other states;
- (h) promote and expand the exchange of information and other forms of mutual assistance between the courts of this state and those of other states concerned with the same child; and
- (i) make uniform the law of those states which enact it.

2. This article shall be construed to promote the general purposes stated in this section.

Sec. 75-c. Definitions. As used in this article, the following terms have the following meanings:

1. "Contestant" means a person, including a parent, who claims a right to custody or visitation rights with respect to a child.
2. "Custody determination" means a court decision and court orders and instructions providing for the temporary or permanent custody of a child, including visitation rights.
3. "Custody proceeding" includes proceedings in which a custody determination is at issue or is one of several issues including any action or proceeding brought to annul a marriage or to declare the nullity of a void marriage, or for a separation, or for a divorce, but not including proceedings for adoption, child protective proceedings or proceedings for permanent termination of parental custody, or proceedings involving the guardianship and custody of neglected or dependent children, or proceedings initiated pursuant to section three hundred fifty-eight-a of the social services law.
4. "Decree" or "custody decree" means a custody determination contained in a judicial decree or order made in a custody proceeding, and includes an initial decree and a modification decree.
5. "Home state" means the state in which the child at the time of the commencement of the custody proceeding, has resided with his parents, a parent, or a person acting as parent, for at least six consecutive months. In the case of a child less than six months old at the time of the commencement of the proceeding, home state means the state in which the child has resided with any of such persons for a majority of the time since birth.
6. "Initial decree" means the first custody decree concerning a particular child.
7. "Modification decree" means a custody decree which modifies or replaces a prior decree, whether made by the court which rendered the prior decree or by another court.
8. "Physical custody" means actual possession and control of a child.

9. "Person acting as parent" means a person, other than a parent, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody.

10. "State" means any state, territory, or possession of the United States, the Commonwealth of Puerto Rico, and the District of Columbia.

Sec. 75-d. Jurisdiction to make child custody determinations.

1. A court of this state which is competent to decide child custody matters has jurisdiction to make a child custody determination by initial or modification decree only when:

(a) this state

(i) is the home state of the child at the time of commencement of the custody proceeding, or

(ii) had been the child's home state within six months before commencement of such proceeding and the child is absent from this state because of his removal or retention by a person claiming his custody or for other reasons, and a parent or person acting as parent continues to live in this state; or

(b) it is in the best interest of the child that a court of this state assume jurisdiction because

(i) the child and his parents, or the child and at least one contestant, have a significant connection with this state, and

(ii) there is within the jurisdiction of the court substantial evidence concerning the child's present or future care, protection, training, and personal relationships; or

(c) the child is physically present in this state and

(i) the child has been abandoned or

(ii) it is necessary in an emergency to protect the child; or

(d) (i) it appears that no other state would have jurisdiction under prerequisites substantially in accordance with paragraph (a), (b), or (c), or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine the custody of the child, and

(ii) it is in the best interest of the child that this court assume jurisdiction.

2. Except under paragraphs (c) and (d) of subdivision one of this section, physical presence in this state of the child, or of the child and one of the contestants, is not alone sufficient to confer jurisdiction on a court of this state to make a child custody determination.

3. Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine his custody.

Sec. 75-e. Notice and opportunity to be heard. Before making a decree under this article, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated, and any person who has physical custody of the child. If any of these persons is outside the state, notice and opportunity to be heard shall be given pursuant to section seventy-five-f of this article. Any person who is given notice and an opportunity to be heard pursuant to this section shall be deemed a party to the proceeding for all purposes under this article.

Sec. 75-f. Notice to persons outside the state.

1. If a person cannot be personally served with notice within the state, the court shall require that such person be served in a manner reasonably calculated to give actual notice, as follows:

(a) by personal delivery outside the state in the manner prescribed in section three hundred thirteen of the civil practice law and rules;

(b) by any form of mail addressed to the person and requesting a receipt; or

(c) in such manner as the court, upon motion, directs, including publication, if service is impracticable under paragraph (a) or (b) of subdivision one of this section.

2. Notice under this section shall be served, mailed, delivered, or last published at least twenty days before any hearing in this state.

3. Proof of service outside the state shall be by affidavit of the individual who made the service, or in the manner prescribed by the order pursuant to which the service is made. If service is made by mail, proof may be a receipt signed by the addressee or other evidence of delivery to the addressee.

4. Notice is not required if a person submits to the jurisdiction of the court.

Sec. 75-g. Simultaneous proceedings in other states.

1. A court of this state shall not exercise its jurisdiction under this article if at the time of filing the petition a proceeding concerning the custody of the child was pending in a court of another state exercising jurisdiction substantially in conformity with this article, unless the proceeding is stayed by the court of the other state because this state is a more appropriate forum or for other reasons.
2. Before hearing the petition in a custody proceeding the court shall examine the pleadings and other information supplied by the parties under section seventy-five-j of this article. If the court has reason to believe that proceedings may be pending in another state it shall direct an inquiry to the state court administrator or other appropriate official of the other state.
3. If the court is informed during the course of the proceeding that a proceeding concerning the custody of the child was pending in another state before the court assumed jurisdiction it shall stay the proceeding and communicate with the court in which the other proceeding is pending to the end that the issue may be litigated in the more appropriate forum and that information be exchanged in accordance with sections seventy-five-s through seventy-five-v of this article. If a court of this state has made a custody decree before being informed of a pending proceeding in a court of another state, it shall immediately inform that court of the fact. If the court is informed that a proceeding was commenced in another state after it assumed jurisdiction, it shall likewise inform the other court to the end that the issues may be litigated in the more appropriate forum.

Sec. 75-h. Inconvenient forum.

1. A court which has jurisdiction under this article to make an initial or modification decree may decline to exercise its jurisdiction any time before making a decree if it finds that it is an inconvenient forum to make a custody determination under the circumstances of the case and that a court of another state is a more appropriate forum.
2. A finding of inconvenient forum may be made upon the court's own motion or upon motion of a party or a guardian ad litem or other representative of the child.
3. In determining if it is an inconvenient forum, the court shall consider if it is in the interest of the child that another state assume jurisdiction. For this purpose it may take into account the following factors, among others, whether:
 - (a) another state is or recently was the child's home state;
 - (b) another state has a closer connection with the child and his family or with the child and one or more of the contestants;
 - (c) substantial evidence concerning the child's present or future care, protection, training, and personal relationships is more readily available in another state;
 - (d) the parties have agreed on another forum which is no less appropriate; and
 - (e) the exercise of jurisdiction by a court of this state would contravene any of the purposes stated in section seventy-five-b of this article.
4. Before determining whether to decline or retain jurisdiction the court may communicate with a court of another state and exchange information pertinent to the assumption of jurisdiction by either court with a view to assuring that jurisdiction will be exercised by the more appropriate court and that a forum will be available to the parties.
5. If the court finds that it is an inconvenient forum and that a court of another state is a more appropriate forum, it may dismiss the proceedings, or it may stay the proceedings upon condition that a custody proceeding be promptly commenced in another named state or upon any other conditions which may be just and proper, including the condition that a moving party stipulate his consent and submission to the jurisdiction of the other forum.
6. Where the court has jurisdiction of an action or proceeding brought to annul a marriage or to declare the nullity of a void marriage or for a separation or for a divorce, the court may decline to exercise jurisdiction of an application for a custody determination made therein while retaining jurisdiction of the matrimonial action.
7. If it appears to the court that it is clearly an inappropriate forum it may require the party who commenced the proceedings to pay, in addition to the costs of the proceedings in this state, necessary travel and other expenses, including attorneys' fees, incurred by other parties or their witnesses. Payment shall be made to the clerk of the court for remittance to the proper party.
8. Upon dismissal or stay of proceedings under this section the court shall inform the court found to be the more appropriate forum of such dismissal or stay, or if the court which would have jurisdiction in the other state is not certainly known, shall transmit the information to the court administrator or other appropriate official for forwarding to the appropriate court.

9. Any communication received from another state to the effect that its courts have made a finding of inconvenient forum because a court of this state is the more appropriate forum shall be filed with the clerk of the appropriate court. Upon assuming jurisdiction the court of this state shall inform the original court of this fact.

Sec. 75-i. Jurisdiction declined because of conduct.

1. If the petitioner for an initial decree has wrongfully taken the child from another state or has engaged in similar reprehensible conduct the court may decline to exercise jurisdiction if this is just and proper under the circumstances.

2. Unless required in the interest of the child, the court shall not exercise its jurisdiction to modify a custody decree of another state if the petitioner, without consent of the person entitled to custody, has improperly removed the child from the physical custody of the person entitled to custody or has improperly retained the child after a visit or other temporary relinquishment of physical custody. If the petitioner has violated any other provision of a custody decree of another state the court may decline to exercise its jurisdiction if this is just and proper under the circumstances.

3. In appropriate cases a court dismissing a petition under this section may charge the petitioner with necessary travel and other expenses, including attorneys' fees, incurred by other parties or their witnesses.

Sec. 75-j. Pleadings and affidavits; duty to inform court.

1. Except as provided in subdivisions four and five of this section, every party to a custody proceeding shall, in his or her first pleading or in an affidavit attached to that pleading, give information under oath as to the child's present address, the places where the child has lived within the last five years, and the names and present addresses of the persons with whom the child has lived during that period. In this pleading or affidavit every party shall further declare under oath whether he or she:

(a) has participated as a party, witness, or in any other capacity in any other litigation concerning the custody of the same child in this or any other state;

(b) has information of any custody proceeding concerning the child pending in a court of this or any other state; and

(c) knows of any person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the child.

2. If the declaration as to any of the above items is in the affirmative the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and as to other matters pertinent to the court's jurisdiction and the disposition of the case.

3. If, during the pendency of a custody proceeding, any party learns of another custody proceeding concerning the child in this or another state, he shall immediately inform the court of this fact.

4. In an action for divorce or separation, or to annul a marriage or declare the nullity of a void marriage,

(a) where neither party is in default in appearance or pleading and the issue of custody is uncontested, the affidavit required by this section need not be submitted. In any other such action, such affidavit shall be submitted by the parties within twenty days after joinder of issue on the question of custody, or at the time application for a default judgment is made.

(b) Notwithstanding any other provision of law, if the party seeking custody of the child has resided or resides in a residential program for victims of domestic violence as defined in subdivision four of section four hundred fifty-nine-a of the social services law, the present address of the child and the present address of the party seeking custody and the address of the residential program for victims of domestic violence shall not be revealed.

(c) Notwithstanding any other provision of law, the court shall waive disclosure of the present and all prior addresses of the child or a party upon notice to the adverse party when such relief is necessary for the physical or emotional safety of a child or a party.

5. Notwithstanding any other provision of law, in any custody proceeding, the court shall waive disclosure of the present or a prior address of the child or a party when such relief is necessary for the physical or emotional safety of a child or a party. Application for an order waiving disclosure of the present or a prior address of the child or a party shall be on notice to all other parties, who shall have an opportunity to be heard. Provided, however, that in no case shall the address of a residential program for victims of domestic violence, as defined in subdivision four of section four hundred fifty-nine-a of the social services law, be disclosed.

Sec. 75-k. Additional parties.

If the court learns from information furnished by the parties pursuant to section seventy-five-j of this article, or from other sources that a person not a party to the custody proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child, it shall order that person to be joined as a party and to be duly notified of the pendency of the proceeding and of his joinder as a party. If the person joined as a party is outside this state he shall be served with process or otherwise notified in accordance with section seventy-five-f of this article.

Sec. 75-l. Appearance of parties and the child.

1. The court may order any party to the proceeding who is in the state to appear personally before the court. If that party has physical custody of the child the court may order that he appear personally with the child.
2. If a party to the proceeding whose presence is desired by the court is outside the state with or without the child the court may order that the notice given under section seventy-five-f of this article include a statement directing that party to appear personally with or without the child and declaring that failure to appear may result in a decision adverse to that party.
3. If a party to the proceeding who is outside the state is directed to appear under subdivision two or desires to appear personally before the court with or without the child, the court may require another party to pay to the clerk of the court travel and other necessary expenses of the party so appearing and of the child if this is just and proper under the circumstances.

Sec. 75-m. Force and effect of custody decrees.

A custody decree rendered by a court of this state which had jurisdiction under section seventy-five-d of this article shall be binding upon all parties who have been personally served in this state or notified pursuant to section seventy-five-f of this article or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to these parties the custody decree is conclusive as to all issues of law and fact decided and as to the custody determination made unless and until that determination is modified pursuant to law, including the provisions of this article.

Sec. 75-n. Recognition of out-of-state custody decrees.

The courts of this state shall recognize and enforce an initial or modification decree of a court of another state which had assumed jurisdiction under statutory provisions substantially in accordance with this article or which was made under factual circumstances meeting the jurisdictional standards of this article, so long as the decree has not been modified in accordance with jurisdictional standards substantially similar to those of this article.

Sec. 75-o. Modification of custody decree of another state.

1. If a court of another state has made a custody decree, a court of this state shall not modify that decree unless
 - (1) it appears to the court of this state that the court which rendered the decree does not now have jurisdiction under jurisdictional prerequisites substantially in accordance with this article or has declined to assume jurisdiction to modify the decree and
 - (2) the court of this state has jurisdiction.
2. If a court of this state is authorized under subdivision one of this section and section seventy-five-i of this article to modify a custody decree of another state, it shall give due consideration to the transcript of the record and other documents of all previous proceedings submitted to it in accordance with section seventy-five-v of this article.

Sec. 75-p. Filing and enforcement of custody decree of another state.

1. A certified copy of a custody decree of another state may be filed in the office of the clerk of the supreme court or of the family court. The clerk shall treat the decree in the same manner as a custody decree of the supreme court or of the family court. A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this state.
2. A person violating a custody decree of another state which makes it necessary to enforce the decree in this state may be required to pay necessary travel and other expenses, including attorneys' fees, incurred by the party entitled to the custody or his witnesses.

Sec. 75-q. Certified copies of custody decrees.

The clerk of the supreme court or the family court, at the request of the court of another state or, upon payment of the appropriate fees, if any, at the request of a party to the custody proceeding, the attorney for a party or a representative of the child shall certify and forward a copy of the decree to that court or person.

Sec. 75-r. Examination of witnesses outside the state.

In addition to other procedural devices available to a party, any party to the proceeding or a guardian ad litem or other representative of the child may examine witnesses, including parties and the child, in another state by deposition or otherwise in accordance with the applicable provisions of the civil practice law and rules.

Sec. 75-s. Hearings and studies in another state; orders to appear.

1. A court of this state may request the appropriate court of another state to hold a hearing to adduce evidence, to order a party within its jurisdiction, to produce or give evidence under other procedures of that state, or to have social studies made with respect to the custody of a child involved in proceedings pending in the court of this state; and to forward to the court of this state certified copies of the transcript of the record of the hearing, the evidence otherwise adduced, or any social studies prepared in compliance with the request. The cost of the services may be assessed against the parties.

2. A court of this state may request the appropriate court of another state to order a party to custody proceedings pending in the court of this state to appear in the proceedings, and if that party has physical custody of the child, to appear with the child. The request may state that travel and other necessary expenses of the party and of the child whose appearance is desired will be assessed against another party or will otherwise be paid.

Sec. 75-t. Assistance to courts of other states.

1. Upon request of the court of another state the courts of this state which are competent to hear custody matters may order a party or witness in this state to appear at an examination to be conducted in the same manner as if such person were a party to or witness in an action pending in the supreme court. A certified copy of the deposition or the evidence otherwise adduced shall be forwarded by the clerk of the court to the court which requested it.

2. A person within the state may voluntarily give his testimony or statement for use in a custody proceeding outside this state.

3. Upon request of the court of another state a competent court of this state may order a person within the state to appear alone or with the child in a custody proceeding in another state. The court may condition compliance with the request upon assurance by the other state that travel and other necessary expenses will be advanced or reimbursed.

Sec. 75-u. Preservation of evidence for use in other states. In any custody proceeding in this state the court shall preserve the pleadings, orders and decrees, any record that has been made of its hearings, social studies, and other pertinent documents until the child reaches twenty-one years of age. Upon appropriate request of the court of another state the court shall forward to the other court certified copies of any or all of such documents.

Sec. 75-v. Request for court records from another state. If a custody decree has been rendered in another state concerning a child involved in a custody proceeding pending in a court of this state, the court of this state upon taking jurisdiction of the case shall request of the court of the other state a certified copy of the transcript of any court record and other documents mentioned in section seventy-five-u.

Sec. 75-w. International application. The general policies of this article extend to the international area. The provisions of this article relating to the recognition and enforcement of custody decrees of other states apply to custody decrees and decrees involving legal institutions similar in nature to custody institutions rendered by appropriate authorities of other nations if reasonable notice and opportunity to be heard were given to all affected persons.

Sec. 75-x. Priority. Upon the request of a party to a custody proceeding which raises a question of existence or exercise of jurisdiction under this article the case shall be given calendar priority and handled expeditiously.

Sec. 75-y. Separability. If any part of this article or the application thereof to any person or circumstance is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the remainder of such article or the application thereof to other persons and circumstances.

Sec. 75-z. Inconsistent provisions of other laws superseded. Insofar as the provisions of this article are inconsistent with the provisions of any other law, general, special or local, the provisions of this article shall be controlling.

APPENDIX D:

THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

The States signatory to the present Convention, Firmly convinced that the interests of children are of paramount importance in matters relating to their custody, Desiring to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence, as well as to secure protection for rights of access, Have resolved to conclude a Convention to this effect, and have agreed upon the following provisions -

CHAPTER I - SCOPE OF THE CONVENTION

Article 1 The objects of the present Convention are -

- a) to secure the prompt return of children wrongfully removed to or retained in any Contracting State; and
- b) to ensure that rights of custody and of access under the law of one Contracting State are effectively respected in other Contracting States.

Article 2 Contracting States shall take all appropriate measures to secure within their territories the implementation of the objects of the Convention. For this purpose they shall use the most expeditious procedures available.

Article 3 The removal or the retention of a child is to be considered wrongful where -

- a) it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention; and
- b) at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.

The rights of custody mentioned in sub-paragraph a above, may arise in particular by operation of law or by reason of a judicial or administrative decision, or by reason of an agreement having legal effect under the law of that State.

Article 4 The Convention shall apply to any child who was habitually resident in a Contracting State immediately before any breach of custody or access rights. The Convention shall cease to apply when the child attains the age of 16 years.

Article 5 For the purposes of this Convention -

- a) 'rights of custody' shall include rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence;
- b) 'rights of access' shall include the right to take a child for a limited period of time to a place other than the child's habitual residence.

CHAPTER II - CENTRAL AUTHORITIES

Article 6 A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention upon such authorities.

Federal States, States with more than one system of law or States having autonomous territorial organizations shall be free to appoint more than one Central Authority and to specify the territorial extent of their powers. Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which applications may be addressed for transmission to the appropriate Central Authority within that State.

Article 7 Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their respective States to secure the prompt return of children and to achieve the other objects of this Convention.

In particular, either directly or through any intermediary, they shall take all appropriate measures:

- a) to discover the whereabouts of a child who has been wrongfully removed or retained;
- b) to prevent further harm to the child or prejudice to interested parties by taking or causing to be taken provisional measures;
- c) to secure the voluntary return of the child or to bring about an amicable resolution of the issues;
- d) to exchange, where desirable, information relating to the social background of the child;

- e) to provide information of a general character as to the law of their State in connection with the application of the Convention;
- f) to initiate or facilitate the institution of judicial or administrative proceedings with a view to obtaining the return of the child and, in a proper case, to make arrangements for organizing or securing the effective exercise of rights of access;
- g) where the circumstances so require, to provide or facilitate the provision of legal aid and advice, including the participation of legal counsel and advisers;
- h) to provide such administrative arrangements as may be necessary and appropriate to secure the safe return of the child;
- i) to keep other each other informed with respect to the operation of this Convention and, as far as possible, to eliminate any obstacles to its application.

CHAPTER III - RETURN OF CHILDREN

Article 8 Any person, institution or other body claiming that a child has been removed or retained in breach of custody rights may apply either to the Central Authority of the child's habitual residence or to the Central Authority of any other Contracting State for assistance in securing the return of the child. The application shall contain -

- a) information concerning the identity of the applicant, of the child and of the person alleged to have removed or retained the child;
- b) where available, the date of birth of the child;
- c) the grounds on which the applicant's claim for return of the child is based;
- d) all available information relating to the whereabouts of the child and the identity of the person with whom the child is presumed to be.

The application may be accompanied or supplemented by -

- e) an authenticated copy of any relevant decision or agreement;
- f) a certificate or an affidavit emanating from a Central Authority, or other competent authority of the State of the child's habitual residence, or from a qualified person, concerning the relevant law of that State;
- g) any other relevant document.

Article 9 If the Central Authority which receives an application referred to in Article 8 has reason to believe that the child is in another Contracting State, it shall directly and without delay transmit the application to the Central Authority of that Contracting State and inform the requesting Central Authority, or the applicant, as the case may be.

Article 10 The Central Authority of the State where the child is shall take or cause to be taken all appropriate measures in order to obtain the voluntary return of the child.

Article 11 The judicial or administrative authorities of Contracting States shall act expeditiously in proceedings for the return of children. If the judicial or administrative authority concerned has not reached a decision within six weeks from the date of commencement of the proceedings, the applicant or the Central Authority of the requested State, on its own initiative or if asked by the Central Authority of the requesting State, shall have the right to request a statement of the reasons for the delay. If a reply is received by the Central Authority of the requested State, that Authority shall transmit the reply to the Central Authority of the requesting State, or to the applicant, as the case may be.

Article 12 Where a child has been wrongfully removed or retained in terms of Article 3 and, at the date of the commencement of the proceedings before the judicial or administrative authority of the Contracting State where the child is, a period of less than one year has elapsed from the date of the wrongful removal or retention, the authority concerned shall order the return of the child forthwith.

The judicial or administrative authority, even where the proceedings have been commenced after the expiration of the period of one year referred to in the preceding paragraph, shall also order the return of the child, unless it is demonstrated that the child is now settled in its new environment. Where the judicial or administrative authority in the requested State has reason to believe that the child has been taken to another State, it may stay the proceedings or dismiss the application for the return of the child.

Article 13 Notwithstanding the provisions of the preceding Article, the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that -

- a) the person, institution or other body having the care of the person of the child was not actually exercising the custody rights at the time of removal or retention, or had consented to or subsequently acquiesced in the removal of retention; or
- b) there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.

The judicial or administrative authority may also refuse to order the return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its views.

In considering the circumstances referred to in this Article, the judicial and administrative authorities shall take into account the information relating to the social background of the child provided by the Central Authority or other competent authority of the child's habitual residence.

Article 14 In ascertaining whether there has been a wrongful removal of retention within the meaning of Article 3, the judicial or administrative authorities of the requested State may take notice directly of the law of, and of judicial or administrative decisions, formally recognized or not in the State of the habitual residence of the child, without recourse to the specific procedures for the proof of that law or for the recognition of foreign decisions which would otherwise be applicable.

Article 15 The judicial or administrative authorities of a Contracting State may, prior to the making of an order for the return of the child, request that the applicant obtain from the authorities of the State of the habitual residence of the child a decision or other determination that the removal or retention was wrongful within the meaning of Article 3 of the Convention, where such a decision or determination may be obtained in that State. The Central Authorities of the Contracting States shall so far as practicable assist applicants to obtain such a decision or determination.

Article 16 After receiving notice of a wrongful removal or retention of a child in the sense of Article 3, the judicial or administrative authorities of the Contracting State to which the child has been removed or in which it has been retained shall not decide on the merits of rights of custody until it has been determined that the child is not to be returned under this Convention or unless an application under the Convention is not lodged within a reasonable time following receipt of the notice.

Article 17 The sole fact that a decision relating to custody has been given in or is entitled to recognition in the requested State shall not be a ground for refusing to return a child under this Convention, but the judicial or administrative authorities of the requested State may take account of the reasons for that decision in applying this Convention.

Article 18 The provisions of this Chapter do not limit the power of a judicial or administrative authority to order the return of the child at any time.

Article 19 A decision under this Convention concerning the return of the child shall not be taken to be determination on the merits of any custody issue.

Article 20 The return of the child under the provision of Article 12 may be refused if this would not be permitted by the fundamental principles of the requested State relating to the protection of human rights and fundamental freedoms.

CHAPTER VI - RIGHTS OF ACCESS

Article 21 An application to make arrangements for organizing or securing the effective exercise of rights of access may be presented to the Central Authorities of the Contracting States in the same way as an application for the return of a child.

The Central Authorities are bound by the obligations of co-operation which are set forth in Article 7 to promote the peaceful enjoyment of access rights and the fulfillment of any conditions to which the exercise of such rights may be subject. The central Authorities shall take steps to remove, as far as possible, all obstacles to the exercise of such rights. The Central Authorities, either directly or through intermediaries, may initiate or assist in the institution of proceedings with a view to organizing or protecting these rights and securing respect for the conditions to which the exercise of these rights may be subject.

Article 22

No security, bond or deposit, however described, shall be required to guarantee the payment of costs and expenses in the judicial or administrative proceedings falling within the scope of this Convention.

Article 23

No legalization or similar formality may be required in the context of this Convention.

Article 24 Any application, communication or other document sent to the Central Authority of the requested State shall be in the original language, and shall be accompanied by a translation into the official language or one of the official languages of the requested State or, where that is not feasible, a translation into French or English.

However, a Contracting State may, by making a reservation in accordance with Article 42, object to the use of either French or English, but not both, in any application, communication or other document sent to its Central Authority.

Article 25 Nationals of the Contracting States and persons who are habitually resident within those States shall be entitled in matters concerned with the application of this Convention to legal aid and advice in any other Contracting State on the same conditions as if they themselves were nationals of and habitually resident in that State.

Article 26 Each Central Authority shall bear its own costs in applying this Convention. Central Authorities and other public services of Contracting States shall not impose any charges in relation to applications submitted under this Convention. In particular, they may not require any payment from the applicant towards the costs and expenses of the proceedings or, where applicable, those arising from the participation of legal counsel or advisers. However, they may require the payment of the expenses incurred or to be incurred in implementing the return of the child.

However, a Contracting State may, by making a reservation in accordance with Article 42, declare that it shall not be bound to assume any costs referred to in the preceding paragraph resulting from the participation of legal counsel or advisers or from court proceedings, except insofar as those costs may be covered by its system of legal aid and advice.

Upon ordering the return of a child or issuing an order concerning rights of access under this Convention, the judicial or administrative authorities may, where appropriate, direct the person who removed or retained the child, or who prevented the exercise of rights of access, to pay necessary expenses incurred by or on behalf of the applicant, including travel expenses, any costs incurred or payments made for locating the child, the costs of legal representation of the applicant, and those of returning the child.

Article 27 When it is manifest that the requirements of this Convention are not fulfilled or that the application is otherwise not well founded, a Central Authority is not bound to accept the application. In that case, the Central Authority shall forthwith inform the applicant or the Central Authority through which the application was submitted, as the case may be, of its reasons.

Article 28 A Central Authority may require that the application be accompanied by a written authorization empowering it to act on behalf of the applicant, or to designate a representative so to act.

Article 29 This Convention shall not preclude any person, institution or body who claims that there has been a breach of custody or access rights within the meaning of Article 3 or 21 from applying directly to the judicial or administrative authorities of a Contracting State, whether or not under the provisions of this Convention.

Article 30 Any application submitted to the Central Authorities or directly to the judicial or administrative authorities of a Contracting State in accordance with the terms of this Convention, together with documents and any other information appended thereto or provided by a Central Authority, shall be admissible in the courts or administrative authorities of the Contracting States.

Article 31 In relation to a State which in matters of custody of children has two or more systems of law applicable in different territorial units --

a) any reference to habitual residence in that State shall be construed as referring to habitual residence in a territorial unit of that State;

b) any reference to the law of the State of habitual residence shall be construed as referring to the law of the territorial unit in that State where the child habitually resides.

Article 32

In relation to a State which in matters of custody of children has two or more systems of law applicable to different categories of persons, any reference to the law of that State shall be construed as referring to the legal system specified by the law of that State.

Article 33

A State within which different territorial units have their own rules of law in respect of custody of children shall not be bound to apply this Convention where a State with a unified system of law would not be bound to do so.

Article 34

This Convention shall take priority in matters within its scope over the Convention of 5 October 1961 concerning the powers of authorities and the law applicable in respect of the protection of minors, as between Parties to both Conventions. Otherwise the present Convention shall not restrict the application of an international instrument in force between the State of origin and the State addressed or other law of the State addressed for the purposes of obtaining the return of a child who has been wrongfully removed or retained or of organizing access rights.

Article 35 This Convention shall apply as between Contracting States only to wrongful removals or retentions occurring after its entry into force in those States.

Where a declaration has been made under Article 39 or 40, the reference in the preceding paragraph to a Contracting State shall be taken to refer to the territorial unit or units in relation to which this Convention applies.

Article 36 Nothing in this Convention shall prevent two or more Contracting State, in order to limit the restrictions to which the return of the child may be subject, from agreeing among themselves to derogate from any provision of this Convention which may imply such a restriction.

CHAPTER VI - FINAL CLAUSES

Article 37 The Convention shall be open for signature by the States which were Members of the Hague Conference on Private International Law at the time of its Fourteenth Session.

It shall be ratified, accepted or approved and the instruments of ratification, acceptance or approval shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 38 Any other State may accede to the Convention. The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

The Convention shall enter into force for a State acceding to it on the first day of the third calendar month after the deposit of its instrument of accession.

The accession will have effect only as regards the relations between the acceding State and such Contracting States as will have declared their acceptance of the accession. Such a declaration will also have to be made by any Member State ratifying, accepting or approving the Convention after an accession. Such declaration shall be deposited at the Ministry of Foreign Affairs of the Kingdom of the Netherlands; this Ministry shall forward, through diplomatic channels, a certified copy to each of the Contracting States.

The Convention will enter into force as between the acceding State and the State that has declared its acceptance of the accession on the first day of the third calendar month after the deposit of the declaration of acceptance.

Article 39 Any State may, at the time of signature, ratification, acceptance, approval or accession, declare that the Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect at the time the Convention enters into force for that State.

Such declaration, as well as any subsequent extension, shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 40 If a Contracting State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

Any such declaration shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and shall state expressly the territorial units to which the Convention applies.

Article 41 Where a Contracting State has a system of government under which executive, judicial and legislative powers are distributed between central and other authorities within that State, its signature or ratification, acceptance or approval of, or accession to this Convention, or its making of any declaration in terms of Article 40 shall carry no implication as to the internal distribution of powers within that State.

Article 42 Any State may, not later than the time of ratification, acceptance, approval or accession, or at the time of making a declaration in terms of Article 39 or 40, make one or both of the reservations provided for in Article 24 and Article 26, third paragraph. No other reservations shall be permitted.

Any State may at any time withdraw a reservation it has made. The withdraw shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands. The reservation shall cease to have

effect on the first day of the third calendar month after the notification referred to in the preceding paragraph.

Article 43 The Convention shall enter into force on the first day of the third calendar month after the deposit of the third instrument of ratification, acceptance, approval or accession referred to in Articles 37 and 38.

Thereafter the Convention shall enter into force -

1 for each State ratifying, accepting, approving or acceding to it subsequently, on the first day of the third calendar month after the deposit of its instrument of ratification, acceptance, approval or accession;

2 for any territory or territorial unit to which the Convention has been extended in conformity with Article 39 or 40, on the first day of the third calendar month after the notification referred to in that Article.

Article 44 The Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 43 even for States which subsequently have ratified, accepted, approved it or acceded to it.

If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands at least six months before the expiry of the five year period. It may be limited to certain of the territories or territorial units to which the Convention applies.

The denunciation shall have effect only as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

Article 45 The Ministry of Foreign Affairs of the Kingdom of the Netherlands shall notify the States Members of the Conference, and the States which have acceded in accordance with Article 38, of the following -

1- the signatures and ratifications, acceptances and approvals referred to in Article 37;

2- the accession referred to in Article 38;

3- the date on which the Convention enters into force in accordance with Article 43;

4- the extensions referred to in Article 39;

5- the declarations referred to in Articles 38 and 40;

6- the reservations referred to in Article 24 and Article 26, third paragraph, and the withdrawals referred to in Article 42;

7- the denunciation referred to in Article 44.

In witness whereof the undersigned, being duly authorized thereto, have signed this Convention.

Done at The Hague, on the 25th day of October, 1980, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Kingdom of the Netherlands, and of which a certified copy shall be sent, through diplomatic channels, to each of the States Members of the Hague Conference on Private International Law at the date of its Fourteenth Session.

APPENDIX E:

INDIAN CHILD WELFARE ACT

U.S. CODE TITLE 25 - CHAPTER 21 - SUBCHAPTER I - CHILD CUSTODY PROCEEDINGS

§ 1911. Indian tribe jurisdiction over Indian child custody proceedings

(a) Exclusive jurisdiction. An Indian tribe shall have jurisdiction exclusive as to any State over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of such tribe, except where such jurisdiction is otherwise vested in the State by existing Federal law. Where an Indian child is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

(b) Transfer of proceedings; declination by tribal court. In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child not domiciled or residing within the reservation of the Indian child's tribe, the court, in the absence of good cause to the contrary, shall transfer such proceeding to the jurisdiction of the tribe, absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe: Provided, That such transfer shall be subject to declination by the tribal court of such tribe.

(c) State court proceedings; intervention. In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child, the Indian custodian of the child and the Indian child's tribe shall have a right to intervene at any point in the proceeding.

(d) Full faith and credit to public acts, records, and judicial proceedings of Indian tribes. The United States, every State, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent that such entities give full faith and credit to the public acts, records, and judicial proceedings of any other entity.

§ 1912. Pending court proceedings

(a) Notice; time for commencement of proceedings; additional time for preparation. In any involuntary proceeding in a State court, where the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child's tribe, by registered mail with return receipt requested, of the pending proceedings and of their right of intervention. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the Secretary in like manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No foster care placement or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the Secretary: Provided, That the parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for such proceeding.

(b) Appointment of counsel. In any case in which the court determines indigency, the parent or Indian custodian shall have the right to court-appointed counsel in any removal, placement, or termination proceeding. The court may, in its discretion, appoint counsel for the child upon a finding that such appointment is in the best interest of the child. Where State law makes no provision for appointment of counsel in such proceedings, the court shall promptly notify the Secretary upon appointment of counsel, and the Secretary, upon certification of the presiding judge, shall pay reasonable fees and expenses out of funds which may be appropriated pursuant to section 13 of this title.

(c) Examination of reports or other documents. Each party to a foster care placement or termination of parental rights proceeding under State law involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to such action may be based.

(d) Remedial services and rehabilitative programs; preventive measures. Any party seeking to effect a foster care placement of, or termination of parental rights to, an Indian child under State law shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

(e) Foster care placement orders; evidence; determination of damage to child. No foster care placement may be ordered in such proceeding in the absence of a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(f) Parental rights termination orders; evidence; determination of damage to child. No termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

§ 1913. Parental rights; voluntary termination

(a) Consent; record; certification matters; invalid consents. Where any parent or Indian custodian voluntarily consents to a foster care placement or to termination of parental rights, such consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid.

(b) Foster care placement; withdrawal of consent. Any parent or Indian custodian may withdraw consent to a foster care placement under State law at any time and, upon such withdrawal, the child shall be returned to the parent or Indian custodian.

(c) Voluntary termination of parental rights or adoptive placement; withdrawal of consent; return of custody. In any voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent.

(d) Collateral attack; vacation of decree and return of custody; limitations. After the entry of a final decree of adoption of an Indian child in any State court, the parent may withdraw consent thereto upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate such decree. Upon a finding that such consent was obtained through fraud or duress, the court shall vacate such decree and return the child to the parent. No adoption which has been effective for at least two years may be invalidated under the provisions of this subsection unless otherwise permitted under State law.

§ 1914. Petition to court of competent jurisdiction to invalidate action upon showing of certain violations. Any Indian child who is the subject of any action for foster care placement or termination of parental rights under State law, any parent or Indian custodian from whose custody such child was removed, and the Indian child's tribe may petition any court of competent jurisdiction to invalidate such action upon a showing that such action violated any provision of sections 1911, 1912, and 1913 of this title.

§ 1915. Placement of Indian children

(a) Adoptive placements; preference. In any adoptive placement of an Indian child under State law, a preference shall be given, in the absence of good cause to the contrary, to a placement with

- (1) a member of the child's extended family;
- (2) other members of the Indian child's tribe; or
- (3) other Indian families.

(b) Foster care or preadoptive placements; criteria; preference. Any child accepted for foster care or preadoptive placement shall be placed in the least restrictive setting which most approximates a family and in which his special needs, if any, may be met. The child shall also be placed within reasonable proximity to his or her home, taking into account any special needs of the child. In any foster care or preadoptive placement, a preference shall be given, in the absence of good cause to the contrary, to a placement with—

- (i) a member of the Indian child's extended family;
- (ii) a foster home licensed, approved, or specified by the Indian child's tribe;
- (iii) an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or

(iv) an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

(c) Tribal resolution for different order of preference; personal preference considered; anonymity in application of preferences. In the case of a placement under subsection (a) or (b) of this section, if the Indian child's tribe shall establish a different order of preference by resolution, the agency or court effecting the placement shall follow such order so long as the placement is the least restrictive setting appropriate to the particular needs of the child, as provided in subsection (b) of this section. Where appropriate, the preference of the Indian child or parent shall be considered: Provided, That where a consenting parent evidences a desire for anonymity, the court or agency shall give weight to such desire in applying the preferences.

(d) Social and cultural standards applicable. The standards to be applied in meeting the preference requirements of this section shall be the prevailing social and cultural standards of the Indian community in which the parent or extended family resides or with which the parent or extended family members maintain social and cultural ties.

(e) Record of placement; availability. A record of each such placement, under State law, of an Indian child shall be maintained by the State in which the placement was made, evidencing the efforts to comply with the order of preference specified in this section. Such record shall be made available at any time upon the request of the Secretary or the Indian child's tribe.

§ 1916. Return of custody

(a) Petition; best interests of child. Notwithstanding State law to the contrary, whenever a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child, a biological parent or prior Indian custodian may petition for return of custody and the court shall grant such petition unless there is a showing, in a proceeding subject to the provisions of section 1912 of this title, that such return of custody is not in the best interests of the child.

(b) Removal from foster care home; placement procedure. Whenever an Indian child is removed from a foster care home or institution for the purpose of further foster care, preadoptive, or adoptive placement, such placement shall be in accordance with the provisions of this chapter, except in the case where an Indian child is being returned to the parent or Indian custodian from whose custody the child was originally removed.

§ 1917. Tribal affiliation information and other information for protection of rights from tribal relationship; application of subject of adoptive placement; disclosure by court. Upon application by an Indian individual who has reached the age of eighteen and who was the subject of an adoptive placement, the court which entered the final decree shall inform such individual of the tribal affiliation, if any, of the individual's biological parents and provide such other information as may be necessary to protect any rights flowing from the individual's tribal relationship.

§ 1918. Reassumption of jurisdiction over child custody proceedings

(a) Petition; suitable plan; approval by Secretary. Any Indian tribe which became subject to State jurisdiction pursuant to the provisions of the Act of August 15, 1953 (67 Stat. 588), as amended by title IV of the Act of April 11, 1968 (82 Stat. 73, 78), or pursuant to any other Federal law, may reassume jurisdiction over child custody proceedings. Before any Indian tribe may reassume jurisdiction over Indian child custody proceedings, such tribe shall present to the Secretary for approval a petition to reassume such jurisdiction which includes a suitable plan to exercise such jurisdiction.

(b) Criteria applicable to consideration by Secretary; partial retrocession

(1) In considering the petition and feasibility of the plan of a tribe under subsection (a) of this section, the Secretary may consider, among other things:

- (i) whether or not the tribe maintains a membership roll or alternative provision for clearly identifying the persons who will be affected by the reassumption of jurisdiction by the tribe;
- (ii) the size of the reservation or former reservation area which will be affected by retrocession and reassumption of jurisdiction by the tribe;
- (iii) the population base of the tribe, or distribution of the population in homogeneous communities or geographic areas; and
- (iv) the feasibility of the plan in cases of multi-tribal occupation of a single reservation or geographic area.

(2) In those cases where the Secretary determines that the jurisdictional provisions of section 1911 (a) of this title are not feasible, he is authorized to accept partial retrocession which will enable

tribes to exercise referral jurisdiction as provided in section 1911 (b) of this title, or, where appropriate, will allow them to exercise exclusive jurisdiction as provided in section 1911 (a) of this title over limited community or geographic areas without regard for the reservation status of the area affected.

(c) Approval of petition; publication in Federal Register; notice; reassumption period; correction of causes for disapproval. If the Secretary approves any petition under subsection (a) of this section, the Secretary shall publish notice of such approval in the Federal Register and shall notify the affected State or States of such approval. The Indian tribe concerned shall reassume jurisdiction sixty days after publication in the Federal Register of notice of approval. If the Secretary disapproves any petition under subsection (a) of this section, the Secretary shall provide such technical assistance as may be necessary to enable the tribe to correct any deficiency which the Secretary identified as a cause for disapproval.

(d) Pending actions or proceedings unaffected. Assumption of jurisdiction under this section shall not affect any action or proceeding over which a court has already assumed jurisdiction, except as may be provided pursuant to any agreement under section 1919 of this title.

§ 1919. Agreements between States and Indian tribes

(a) Subject coverage. States and Indian tribes are authorized to enter into agreements with each other respecting care and custody of Indian children and jurisdiction over child custody proceedings, including agreements which may provide for orderly transfer of jurisdiction on a case-by-case basis and agreements which provide for concurrent jurisdiction between States and Indian tribes.

(b) Revocation; notice; actions or proceedings unaffected. Such agreements may be revoked by either party upon one hundred and eighty days' written notice to the other party. Such revocation shall not affect any action or proceeding over which a court has already assumed jurisdiction, unless the agreement provides otherwise.

§ 1920. Improper removal of child from custody; declination of jurisdiction; forthwith return of child: danger exception. Where any petitioner in an Indian child custody proceeding before a State court has improperly removed the child from custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over such petition and shall forthwith return the child to his parent or Indian custodian unless returning the child to his parent or custodian would subject the child to a substantial and immediate danger or threat of such danger.

§ 1921. Higher State or Federal standard applicable to protect rights of parent or Indian custodian of Indian child. In any case where State or Federal law applicable to a child custody proceeding under State or Federal law provides a higher standard of protection to the rights of the parent or Indian custodian of an Indian child than the rights provided under this subchapter, the State or Federal court shall apply the State or Federal standard.

§ 1922. Emergency removal or placement of child; termination; appropriate action. Nothing in this subchapter shall be construed to prevent the emergency removal of an Indian child who is a resident of or is domiciled on a reservation, but temporarily located off the reservation, from his parent or Indian custodian or the emergency placement of such child in a foster home or institution, under applicable State law, in order to prevent imminent physical damage or harm to the child. The State authority, official, or agency involved shall insure that the emergency removal or placement terminates immediately when such removal or placement is no longer necessary to prevent imminent physical damage or harm to the child and shall expeditiously initiate a child custody proceeding subject to the provisions of this subchapter, transfer the child to the jurisdiction of the appropriate Indian tribe, or restore the child to the parent or Indian custodian, as may be appropriate.

§ 1923. Effective date. None of the provisions of this subchapter, except sections 1911 (a), 1918, and 1919 of this title, shall affect a proceeding under State law for foster care placement, termination of parental rights, preadoptive placement, or adoptive placement which was initiated or completed prior to one hundred and eighty days after November 8, 1978, but shall apply to any subsequent proceeding in the same matter or subsequent proceedings affecting the custody or placement of the same child.

APPENDIX F.

INTERNATIONAL PARENTAL KIDNAPPING ACT

International Parental Kidnapping Crime Act of 1993, 18 U.S.C. 1204

An Act: DEC. 02, 1993 - PUBLIC LAW 103-173

SECTION 1. SHORT TITLE .

This Act may be cited as the "International Parental Kidnapping Crime Act of 1993".

SECTION 2. TITLE 18 AMENDMENT.

(a) In General. -- Chapter 55 (relating to kidnapping) of title 18, United States Code, is amended by adding at the end the following:

"Sec. 1204. International parental kidnapping

"(a) Whoever removes a child from the United States or retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title or imprisoned not more than 3 years, or both.

"(b) As used in this Section --

"(1) the term 'child' means a person who has not attained the age of 16 years: and

"(2) the term 'parental rights', with respect to a child, means the right to physical custody of the child --

"(A) whether joint or sole (and includes visiting rights); and

"(B) whether arising by operation of law, court order, or legally binding agreement of the parties.

"(c) It shall be an affirmative defense under this section that --

"(1) the defendant acted within the provisions of a valid Court order granting the defendant legal custody or visitation rights and that order was obtained pursuant to the Uniform Child Custody Jurisdiction Act and was in effect at the time of the offense;

"(2) the defendant was fleeing an incidence or pattern of domestic violence;

"(3) the defendant had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond the defendant's control, and the defendant notified or made reasonable attempts to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible.

"(d) This section does not detract from The Hague Convention on the Civil Aspects of International Parental Child Abduction, done at the Hague on October 25, 1980."

(b) Sense of the Congress. -- It is the sense of the Congress that, inasmuch as use of the procedures under the Hague Convention on the Civil Aspects of International Parental Child Abduction has resulted in the return of many children, those procedures, in circumstances in which they are applicable, should be the option of first choice for a parent who seeks the return of a child who has been removed from the parent.

(c) Clerical Amendment.-The table of sections at the beginning of chapter 55 of Title 18, United States Code, is amended by adding at the end the following: "1204. International parental kidnapping."

SECTION 3. STATE COURT PROGRAMS REGARDING INTERSTATE AND INTERNATIONAL PARENTAL CHILD ABDUCTION.

There is authorized to be appropriated \$250,000 to carry out under the State Justice Institute Act of 1984 (42 U.S.C. 10701-10713) national, regional, and in-State training and educational programs dealing with criminal and civil aspects of interstate and international parental child abduction.

APPENDIX G:

PARENTAL KIDNAPPING PREVENTION ACT

Parental Kidnapping Prevention Act 28 USC Sec. 1738A

28 § 1738A. Full faith and credit given to child custody determinations

(a) The appropriate authorities of every State shall enforce according to its terms, and shall not modify except as provided in subsection (f) of this section, any child custody determination made consistently with the provisions of this section by a court of another State.

(b) As used in this section, the term -

(1) 'child' means a person under the age of eighteen;

(2) 'contestant' means a person, including a parent, who claims a right to custody or visitation of a child;

(3) 'custody determination' means a judgment, decree, or other order of a court providing for the custody or visitation of a child, and includes permanent and temporary orders, and initial orders and modifications;

(4) 'home State' means the State in which, immediately preceding the time involved, the child lived with his parents, a parent, or a person acting as parent, for at least six consecutive months, and in the case of a child less than six months old, the State in which the child lived from birth with any of such persons. Periods of temporary absence of any of such persons are counted as part of the six-month or other period;

(5) 'modification' and 'modify' refer to a custody determination which modifies, replaces, supersedes, or otherwise is made subsequent to, a prior custody determination concerning the same child, whether made by the same court or not;

(6) 'person acting as a parent' means a person, other than a parent, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody;

(7) 'physical custody' means actual possession and control of a child; and

(8) 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

(c) A child custody determination made by a court of a State is consistent with the provisions of this section only if -

(1) such court has jurisdiction under the law of such State; and

(2) one of the following conditions is met:

(A) such State:

(i) is the home State of the child on the date of the commencement of the proceeding, or

(ii) had been the child's home State within six months before the date of the commencement of the proceeding and the child is absent from such State because of his removal or retention by a contestant or for other reasons, and a contestant continues to live in such State;

(B) (i) it appears that no other State would have jurisdiction under subparagraph (A), and

(ii) it is in the best interest of the child that a court of such State assume jurisdiction because (I) the child and his parents, or the child and at least one contestant, have a significant connection with such State other than mere physical presence in such State, and (II) there is available in such State substantial evidence concerning the child's present or future care, protection, training, and personal relationships;

(C) the child is physically present in such State and

(i) the child has been abandoned, or

(ii) it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse;

(D) (i) it appears that no other State would have jurisdiction under subparagraph

(A), (B), (C), or (E), or another State has declined to exercise jurisdiction

on the ground that the State whose jurisdiction is in issue is the more appropriate forum to determine the custody of the child, and
(ii) it is in the best interest of the child that such court assume jurisdiction;
or

(E) the court has continuing jurisdiction pursuant to subsection (d) of this section.

(d) The jurisdiction of a court of a State which has made a child custody determination consistently with the provisions of this section continues as long as the requirement of subsection (c)(1) of this section continues to be met and such State remains the residence of the child or of any contestant.

(e) Before a child custody determination is made, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated and any person who has physical custody of a child.

(f) A court of a State may modify a determination of the custody of the same child made by a court of another State, if -

(1) it has jurisdiction to make such a child custody determination; and

(2) the court of the other State no longer has jurisdiction, or it has declined to exercise such jurisdiction to modify such determination.

(g) A court of a State shall not exercise jurisdiction in any proceeding for a custody determination commenced during the pendency of a proceeding in a court of another State where such court of that other State is exercising jurisdiction consistently with the provisions of this section to make a custody determination.

APPENDIX H: RESOURCES

Child Protective Services – Arizona

Toll-Free Child Abuse Hotline 1-888-SOS-CHILD (1-888-767-2445)
<https://www.azdes.gov/dcyf/cps/>

Mexican Consulate

553 S Stone Ave, Tucson, AZ 85701
Phone: (520) 882-5596 - Fax: (520) 882-8959
contucmx@sre.gob.mx

National Center for Missing & Exploited Children

Charles B. Wang International Children's Building
699 Prince Street, Alexandria, Virginia 22314-3175
Phone: 703-274-3900 - Fax: 703-274-2200
24-hour Hotline: 1-800-843-5678
<http://www.missingkids.com/>

Pascua Yaqui Nation

7474 S. Camino De Oeste, Tucson, AZ 85757
Phone (520) 883-5000 - FAX (520) 883-5014
<http://www.pascuayaqui-nsn.gov/>

Pima County Attorney's Office

32 N. Stone, Ste. 1400, Tucson, AZ 85701
Phone: 520-740-5600
Custodial Interference Point Prosecutor: Kristen Kelly, Deputy County Attorney
Custodial Interference Point Detective: Jennifer Seigla, Investigator

Tohono O'Odham Nation, Attorney General

P.O. Box 837, Sells, AZ 85634
Phone: (520) 383-3410 - Fax: (520) 383-3379
<http://www.tonation-nsn.gov/contacts.htm>

INFORMATIVE WEBSITES

Criminal Justice System's Response to Parental Abduction

<http://www.ncjrs.gov/pdffiles1/ojjdp/186160.pdf>

Good Practice in Handling Hague Abduction Convention Return Applications

http://www.cybertipline.com/en_US/publications/GoodPractice_E.pdf

Recovery and Reunification of Missing Children: A Team Approach

http://www.missingkids.com/en_US/publications/NC64.pdf

A Family Resource Guide on International Parental Kidnapping.
<http://www.ncjrs.org/pdffiles1/ojdp/190448.pdf>

Hague Convention website contains information about eh Hague Convention on the Civil Aspects of International Child Abduction <http://hcch.net>

U.S. State Department website contains Hague Convention Application and flyers with parental kidnapping information about specific countries. <http://www.travel.state.gov>

National Center for Missing and Exploited Children website contains information about parental kidnapping <http://www.missingkids.com>

Website created and maintained by private attorney William Hilton contains legal information about international and parental kidnapping <http://hiltonhouse.com>

American Bar Association website: provides resources and other website information about parental kidnapping. Patricia Hoff's excellent article, "Parental Kidnapping: Prevention and Remedies" (Dec. 2000) can be downloaded from this website.
<http://www.abanet.org>

Information about the United States
http://www.missingkids.com/en_US/publications/UnitedStates_E.pdf

RESOURCES IN SPANISH

Texto de la Convencion sobre los aspectos civiles de la sustraccion internacional de menores (castellano) [Text of the convention on the civil aspects of the international abduction of minors - Spanish]
<http://ordenjuridico.gob.mx/TratInt/Derecho%20Internacional2/TD25.pdf>

Guia de la prevencion de la sustraccion internacional de menores (castellano) [Guide to the prevention of the international abduction of minors - Spanish]
<http://www.ncjrs.gov/html/ojdp/199832/contents.html>

Informe de Mexico (castellano) [Information about Mexico – Spanish]
http://www.missingkids.com/en_US/publications/Mexico_S.pdf

Informe explicativo de Dna.Elisa Perez Vera (castellano) [Explanatory Information from Mrs. Elisa Perez Vera – Spanish]
<http://hcch.e-vision.nl/uiupload/exp128s.pdf>



APPENDIX I. PARENTAL ABDUCTION MEMO

Pima County Attorney's Office Criminal Division

MEMORANDUM

TO:

FROM: Pima County Attorney's Office

DATE:

CHILD ABDUCTION BY A PARENT IS A CRIME

If you receive a report that a child has been taken without legal authorization from his/her home by a parent. If you need assistance with this type of case, please notify:

Jennifer Seigla, 740-5268 (Detective at the Pima County Attorney's Office)

OR

Kristen Kelly, 740-5600 (Custodial Interference Lead Prosecutor at the Pima County Attorney's Office)

with the following information:

1. A court case number regarding custody and/or visitation of the child .
2. The possible location of child and seizing parent. The officer should make contact with the non-custodial parent (NCP) to first request that the child be returned to the custodial parent (CP).
3. Any exigent circumstances regarding the child's welfare/safety such as:
 - an existing medical condition that requires medication to which the NCP does not have access.
 - the NCP has a verified history of child maltreatment or NCP made threats to harm the child or take the child out of state.
 - the NCP has a verified history of mental health problems.
 - the NCP made threats to harm the child or take the child out of state.
 - the NCP was under the influence of drugs/alcohol when he/she took the child.

If an emergency exists, the report should be treated as such and handled per department policies & procedures.

*This document is the property of the Pima County Attorney's Office.
For further information, contact:*

Special Victims Unit Supervisor:
Susan Eazer, Deputy County Attorney

Point Prosecutor for Custodial Interference Cases:
Kristen Kelly, Deputy County Attorney

Point Detective for Custodial Interference Cases:
Jennifer Seigla, Investigator

Contact for additional copies, reprint permission, editorial notes:
Mark von Destinon, Ph.D., Staff Assistant

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