

108TH CONGRESS  
2D SESSION

# H. R. 4347

To amend the International Child Abduction Remedies Act to provide that the National Center for Missing and Exploited Children and its employees, when carrying out activities delegated by the United States Central Authority under that Act, have the protections under the Federal Tort Claims Act, to amend title 28, United States Code, to give district courts of the United States jurisdiction over competing State custody determinations, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 12, 2004

Mr. HYDE (for himself, Mr. LAMPSON, Mr. LANTOS, Mr. CHABOT, Mr. GREENWOOD, Mr. HOUGHTON, Mr. MCHUGH, Mr. WOLF, Mr. BURTON of Indiana, Ms. HARRIS, Mr. FOLEY, Mr. KING of New York, Ms. JACKSON-LEE of Texas, Mr. GREEN of Texas, Mr. BOEHLERT, Mr. SHIMKUS, Mr. BERMAN, Mr. SMITH of New Jersey, Mr. TURNER of Texas, Mr. FROST, Mr. MORAN of Virginia, and Mr. CARDOZA) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on International Relations and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the International Child Abduction Remedies Act to provide that the National Center for Missing and Exploited Children and its employees, when carrying out activities delegated by the United States Central Authority under that Act, have the protections under the Federal Tort Claims Act, to amend title 28, United States Code, to give district courts of the United States jurisdic-

tion over competing State custody determinations, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “International Assist-  
5 ance to Missing and Exploited Children Act of 2004”.

6 **SEC. 2. APPLICABILITY OF FEDERAL TORT CLAIMS PROVI-**  
7 **SIONS TO NATIONAL CENTER FOR MISSING**  
8 **AND EXPLOITED CHILDREN AND ITS EM-**  
9 **PLOYEES.**

10       Section 7 of the International Child Abduction Rem-  
11 edies Act (42 U.S.C. 11606) is amended by adding at the  
12 end the following new subsection:

13       “(f) LIMITED LIABILITY OF ENTITIES REGARDING  
14 DELEGATED AUTHORITY.—For purposes of section  
15 1346(b)(1) and chapter 171 of title 28, United States  
16 Code, the National Center for Missing and Exploited Chil-  
17 dren, when carrying out responsibilities of the United  
18 States Central Authority under this Act, pursuant to a  
19 delegation of authority by the Central Authority, and any  
20 other entity to whom such responsibilities are delegated  
21 by the Central Authority, when carrying out such respon-  
22 sibilities, shall be deemed to be part of the Department  
23 of State, and any employee of the Center or such entity,  
24 while acting within the scope of his or her employment

1 in carrying out such delegated responsibilities, shall be  
2 deemed to be an employee of the Government.”.

3 **SEC. 3. JURISDICTION OVER COMPETING STATE CUSTODY**  
4 **ORDERS.**

5 Section 1738A of title 28, United States Code, is  
6 amended by adding at the end the following:

7 “(i) If a court of one State makes a child custody  
8 determination in accordance with subsection (c) and if  
9 that determination is in conflict with a determination  
10 made by another State in accordance with subsection (c),  
11 a contestant for whom such a determination was made  
12 may bring an action in the district court of the United  
13 States the district of which includes the resident of such  
14 contestant to determine which determination shall pre-  
15 vail.”.

16 **SEC. 4. NATIONAL REGISTRY OF CUSTODY ORDERS.**

17 (a) IN GENERAL.—The Attorney General shall estab-  
18 lish a national child custody and visitation registry in  
19 which shall be entered—

20 (1) certified copies of custody and visitation or-  
21 ders made by courts throughout the United States;

22 (2) information identifying pending proceedings  
23 in courts throughout the United States for orders  
24 described in paragraph (1), and for modification or  
25 enforcement of those orders; and

1           (3) information identifying proceedings filed in  
2           any court in the United States pursuant to the  
3           Hague Convention on the Civil Aspects of Inter-  
4           national Child Abduction and the International  
5           Child Abduction Remedies Act, and resulting orders.

6           (b) COOPERATION.—The Attorney General shall seek  
7           the cooperation of the Federal courts and the courts of  
8           each State and the District of Columbia in providing rel-  
9           evant information to the registry on an ongoing basis. The  
10          Attorney General shall provide such financial and tech-  
11          nical assistance as necessary to carry out subsection (a).

12          (c) DISCLOSURE OF INFORMATION IN REGISTRY.—

13           (1) DISCLOSURE.—Upon request filed in ac-  
14           cordance with paragraph (3), by a court, law en-  
15           forcement official, or a contestant of child custody or  
16           his or her legal representative, the Attorney General  
17           shall provide information in the Registry to that  
18           court, official, contestant, or representative.

19           (2) NONDISCLOSURE.—Information in the Reg-  
20           istry shall not be disclosed to any person if the At-  
21           torney General has reasonable cause to believe,  
22           based upon notice by a State or otherwise, that the  
23           disclosure of the information could be harmful to the  
24           custodial parent of a child or that child, except that

1 such information may be disclosed to a court or an  
2 agent of a court, if—

3 (A) upon receipt of information from the  
4 Secretary, the court determines whether disclo-  
5 sure to any other person of that information  
6 could be harmful to the parent or the child; and

7 (B) if the court determines that disclosure  
8 of such information to any other person could  
9 be harmful, the court and its agents shall not  
10 make any such disclosure.

11 (3) FORM AND MANNER OF REQUEST FOR IN-  
12 FORMATION.—A request for information under this  
13 subsection shall be filed in such manner and form as  
14 the Attorney General shall by regulation prescribe  
15 and shall be accompanied or supported by such doc-  
16 uments as the Attorney General may determine to  
17 be necessary.

18 **SEC. 5. DETENTION OF CHILDREN IN CERTAIN CIR-**  
19 **CUMSTANCES.**

20 (a) DETENTION OF CHILDREN.—Law enforcement  
21 officials of any State or local government or the Federal  
22 Government may detain—

23 (1) any child listed under any category of the  
24 Missing Person File by the National Crime Informa-  
25 tion Center, and

1           (2) any child accompanying an adult who is ar-  
2           rested for suspected abduction of the child in viola-  
3           tion of a child custody order,

4 for purposes of allowing the lawful determination of the  
5 proper disposition of the child in accordance with the most  
6 recent valid custody determination applicable to the child.

7           (b) INTERIM CUSTODY.—Upon detaining a child  
8 under subsection (a), the law enforcement officials in-  
9 volved shall ensure that the child is surrendered, at the  
10 earliest practicable time, to the appropriate State child  
11 protective services agency or child welfare agency.

12 **SEC. 6. INTERNATIONAL CHILD ABDUCTION REMEDIES.**

13           (a) LEGAL ASSISTANCE FOR VICTIMS OF PARENTAL  
14 KIDNAPPING; TRAINING AND TECHNICAL ASSISTANCE.—  
15 Section 7 of the International Child Abduction Remedies  
16 Act (42 U.S.C. 11606), as amended by section 2 of this  
17 Act, is further amended by adding at the end the following  
18 new subsections:

19           “(g) GRANTS FOR LEGAL ASSISTANCE FOR VICTIMS  
20 OF PARENTAL KIDNAPPING; TRAINING AND TECHNICAL  
21 ASSISTANCE.—

22           “(1) FUNDING FOR LEGAL ASSISTANCE; TRAIN-  
23 ING AND TECHNICAL ASSISTANCE.—The United  
24 States Central Authority shall establish a program—

1           “(A) to provide funding to legal services  
2 providers, including private attorneys, public of-  
3 ficials acting pursuant to the Uniform Child  
4 Custody Jurisdiction and Enforcement Act,  
5 legal aid programs, and law school clinical pro-  
6 grams, to provide direct legal or advocacy serv-  
7 ices on behalf of persons seeking remedies  
8 under the Convention, or other civil or criminal  
9 remedies in interstate or international parental  
10 kidnapping cases; and

11           “(B) to provide training and technical as-  
12 sistance to legal services providers, State court  
13 judges, and law students on the civil and crimi-  
14 nal laws pertaining to interstate and inter-  
15 national parental kidnapping, in order to im-  
16 prove the capacity to provide legal assistance  
17 described in paragraph (1) and adjudicate cases  
18 involving remedies described in such paragraph.

19           “(2) PROVISION OF TRAINING.—The United  
20 States Central Authority may carry out subpara-  
21 graph (B) of paragraph (1) directly or through  
22 grants to appropriate nonprofit organizations, State  
23 judicial educators, national, State, and local bar as-  
24 sociations, and law schools. The United States Cen-  
25 tral Authority shall require recipients of such grants

1 to report on the training programs they present, in-  
2 cluding the number of participants.

3 “(h) CONSOLIDATION OF JURISDICTION OF  
4 COURTS.—The United States Central Authority shall en-  
5 courage the Chief Justice of each State and the District  
6 of Columbia to designate a single court, or a limited num-  
7 ber of courts, in which cases brought under the Conven-  
8 tion may be heard. The Central Authority may provide  
9 technical assistance (including computers and Internet ac-  
10 cess) as necessary to foster consolidation of jurisdiction  
11 and implementation of the Convention, consistent with the  
12 purposes of the Convention.

13 “(i) AUTHORIZATION OF APPROPRIATIONS.—In addi-  
14 tion to any other funds made available to carry out this  
15 Act, there are authorized to be appropriated to the United  
16 States Central Authority such sums as may be necessary  
17 to carry out subsections (g) and (h).”.

18 (b) EXEMPTION FROM COURT COSTS.—Section 8(b)  
19 of the International Child Abduction Remedies Act (42  
20 U.S.C. 11607(b)) is amended—

21 (1) by redesignating paragraphs (2) and (3) as  
22 paragraphs (3) through (4), respectively;

23 (2) by striking paragraph (1) and inserting the  
24 following:

1           “(1) No court costs may be assessed on a peti-  
2           tioner in connection with a petition seeking the re-  
3           turn of, or rights of access to, a child located in the  
4           United States, pursuant to this Act.

5           “(2) Petitioners may be required to bear the  
6           costs of legal counsel or advisors, court costs in-  
7           curred in connection with their petitions (other than  
8           petitions described in paragraph (1)) and travel  
9           costs for the return of the child involved and any ac-  
10          companying persons, except as provided in para-  
11          graphs (3) and (4).”; and

12          (3) in paragraph (3), as so redesignated—

13                 (A) by striking “paragraph (3)” and in-  
14                 serting “paragraph (4)”; and

15                 (B) by inserting “(other than in connection  
16                 with a petition described in paragraph (1))”  
17                 after “or court costs”.

18          (c) FEDERAL JUDICIAL CENTER.—Section 620 of  
19          title 28, United States Code, is amended by adding at the  
20          end the following:

21                 “(c) CONTINUING EDUCATION AND TRAINING PRO-  
22          GRAMS.—The Center shall include in its continuing edu-  
23          cation and training programs, including the training pro-  
24          grams for newly appointed judges, information on the  
25          Hague Convention on the Civil Aspects of International

1 Child Abduction, the International Child Abduction Rem-  
2 edies Act, the International Parental Kidnapping Crime  
3 Act, and other Federal statutes pertaining to parental kid-  
4 napping within the jurisdiction of the Federal courts.”.

5 **SEC. 7. REPORTS RELATING TO INTERNATIONAL CHILD AB-**  
6 **DUCTION.**

7 (a) REPORT ON PROGRESS IN NEGOTIATING BILAT-  
8 ERAL TREATIES WITH NON-HAGUE CONVENTION COUN-  
9 TRIES.—The Secretary of State shall prepare and submit  
10 to the Congress an annual report on progress made by  
11 the United States in negotiating and entering into bilat-  
12 eral treaties (or other international agreements) relating  
13 to international child abduction with countries that are not  
14 contracting parties to the Hague Convention on the Civil  
15 Aspects of International Child Abduction. The Secretary  
16 of State shall include in the report the number of child  
17 abductions in countries that are not such contracting par-  
18 ties.

19 (b) REPORT ON ENFORCEMENT OF SECTION 1204 OF  
20 TITLE 18, UNITED STATES CODE.—The Attorney Gen-  
21 eral, in consultation with the Secretary of State, shall pre-  
22 pare and submit to the Congress an annual report that  
23 contains a description of the status of each case involving  
24 a request during the preceding year for extradition to the

1 United States of an individual alleged to have violated sec-  
2 tion 1204 of title 18, United States Code.

3 **SEC. 8. SUPPORT FOR UNIFORM CHILD CUSTODY JURIS-**  
4 **DICTION AND ENFORCEMENT ACT.**

5 From amounts made available to carry out this sec-  
6 tion, the Attorney General shall support, directly or  
7 through grants and contracts, the adoption and implemen-  
8 tation by the States of the Uniform Child Custody Juris-  
9 diction and Enforcement Act, as adopted by the National  
10 Conference of Commissioners on Uniform State Laws (in  
11 this section referred to as the “UCCJEA”). The support  
12 provided under this section shall include the following ac-  
13 tivities:

14 (1) Activities to promote the adoption of the  
15 UCCJEA by States that have not yet adopted it.

16 (2) Activities to provide training to lawyers and  
17 to judges and other appropriate public officials to  
18 ensure that the UCCJEA is implemented effectively  
19 and uniformly throughout the United States.

20 (3) Activities to provide guidance and funding  
21 to States to facilitate and expedite the enforcement  
22 by those States of the custody and visitation provi-  
23 sions of the UCCJEA.

1 **SEC. 9. USE OF SUPERVISED VISITATION CENTERS UNDER**  
2 **THE SAFE HAVENS FOR CHILDREN PILOT**  
3 **PROGRAM IN SITUATIONS INVOLVING THE**  
4 **RISK OF PARENTAL KIDNAPPING.**

5 Section 1301(a) of the Violence Against Women Act  
6 of 2000 (42 U.S.C. 10420(a)) is amended by striking “or  
7 stalking” and inserting “stalking, or the risk of parental  
8 kidnapping”.

9 **SEC. 10. DISCLOSURE OF TAXPAYER IDENTITY INFORMA-**  
10 **TION TO NATIONAL CENTER FOR MISSING**  
11 **AND EXPLOITED CHILDREN AND DEPART-**  
12 **MENT OF STATE.**

13 (a) IN GENERAL.—Subsection (m) of section 6103 of  
14 the Internal Revenue Code of 1986 (relating to disclosure  
15 of taxpayer identity information) is amended by adding  
16 at the end the following new paragraph:

17 “(8) REQUESTS FROM THE NATIONAL CENTER  
18 FOR MISSING AND EXPLOITED CHILDREN OR THE  
19 SECRETARY OF STATE.—Upon written request by  
20 the National Center for Missing and Exploited Chil-  
21 dren or the Secretary of State, the Secretary may  
22 disclose the mailing address and any business ad-  
23 dress of any taxpayer or dependent thereof pursuant  
24 to section 404 of the Missing Children’s Assistance  
25 Act, for use only by the National Center for Missing  
26 and Exploited Children or the Department of State,

1 as the case may be, in locating and recovering miss-  
2 ing and exploited children.”.

3 (b) SAFEGUARDS.—Paragraph (4) of section 6103(p)  
4 of such Code (relating to safeguards) is amended—

5 (1) by striking “(16) or” and inserting “(16),  
6 or”,

7 (2) by inserting “or in subsection (m)(8)” after  
8 “(20)” each place it occurs, and

9 (3) by “or (7) of subsection (m)” and inserting  
10 “(7), or (8) of subsection (m)”.

11 (c) CRIMINAL PENALTY FOR UNAUTHORIZED DIS-  
12 CLOSURE OF INFORMATION.—Paragraph (2) of section  
13 7213(a) of such Code (relating to State and other employ-  
14 ees) is amended by striking “or (7)” and inserting “(7),  
15 or (8)”.

16 (d) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to requests made after the date  
18 of the enactment of this Act.

19 **SEC. 11. SUPPORT FOR INCREASED U.S. CONTRIBUTION TO**  
20 **HAGUE PERMANENT BUREAU.**

21 (a) FINDINGS.—The Congress finds as follows:

22 (1) The problem of international child abduc-  
23 tion is complex, frustrating, and growing, with more  
24 than 16,000 reported cases in the past two decades  
25 according to the Department of State, and many

1 more unreported cases according to the National  
2 Center for Missing and Exploited Children  
3 (NCMEC).

4 (2) Congress has listened to horror stories from  
5 countless “left-behind” American parents struggling  
6 to retrieve their children who have been taken  
7 abroad by an abducting parent, enforce orders from  
8 the courts of other countries directing the return of  
9 their children, or even simply to gain access to their  
10 children who are being detained abroad.

11 (3) There is an international treaty relating to  
12 the prevention of international child abduction, the  
13 Convention on the Civil Aspects of International  
14 Child Abduction, signed by the United States and 73  
15 additional countries.

16 (4) There is wide disparity and inconsistency in  
17 the application of the treaty by member countries.

18 (5) If the United States is to truly address this  
19 serious problem, the international body, The Hague  
20 Conference on Private International Law, which ad-  
21 ministers and oversees this treaty, must be strength-  
22 ened and made more viable.

23 (6) If the United States is to address the heart-  
24 rending pain of so many left-behind parents, we  
25 need to build bridges to those parts of the world

1 that are not yet parties to the current treaty, and  
2 we must make those countries that are signatories  
3 to the treaty better able to deal with the complex-  
4 ities of the challenge and ensure that more children  
5 come home.

6 (7) In an effort to address this problem more  
7 aggressively and effectively, the International Centre  
8 for Missing and Exploited Children (ICMEC), the  
9 privately funded international affiliate of NCMEC,  
10 recently entered into a formal Memorandum of  
11 Agreement with The Hague Conference on Private  
12 International Law, which oversees a number of pri-  
13 vate international law agreements, including the  
14 Convention on the Civil Aspects of International  
15 Child Abduction.

16 (8) Through that Memorandum of Agreement,  
17 ICMEC will seek to generate private sector revenues  
18 and support in order to improve the functioning of  
19 the Convention on the Civil Aspects of International  
20 Child Abduction, including establishing a new Inter-  
21 national Training Institute for judges and other  
22 practitioners, and undertaking an outreach effort  
23 with the Islamic world on these issues.

1           (9) ICMEC has conferred with leaders around  
2 the world on how best to strengthen the treaty and  
3 ensure its more effective implementation.

4           (10) ICMEC has concluded that an integral  
5 part of the current problem is that The Hague  
6 budget includes two parts:

7                   (A) A core budget based on a formula that  
8 supports basic functions and operations.

9                   (B) A supplementary budget that the  
10 Hague Permanent Bureau must raise apart  
11 from its formula appropriations.

12           (11) The core budget is relatively small and  
13 thus most of the activities necessary to address the  
14 inconsistencies and problems regarding the Conven-  
15 tion on the Civil Aspects of International Child Ab-  
16 duction are dependent upon supplemental funds.

17           (12) The Permanent Bureau at The Hague  
18 must either request additional funds from member  
19 countries or be dependent upon nongovernmental or-  
20 ganizations like ICMEC to generate additional re-  
21 sources.

22           (13) At the April 1, 2003, meeting at The  
23 Hague of the Special Commission on General Affairs  
24 and Policy, three member countries (the United  
25 Kingdom, Canada, and Australia) expressed support

1 for a fundamental shift in fiscal policy, that is by re-  
2 examining the basic funding formula and increasing  
3 the core budget so that the Permanent Bureau is  
4 able to undertake the vital reforms necessary as part  
5 of its core operations.

6 (14) Although this effort would increase the  
7 amount of the United States contribution required  
8 to support the Permanent Bureau at The Hague  
9 each year, it is central to addressing the complex,  
10 frustrating, problem of international child abduction.

11 (b) SUPPORT FOR INCREASED U.S. SUPPORT FOR  
12 HAGUE PERMANENT BUREAU.—The Congress expresses  
13 its support for increasing the United States contribution  
14 to the Permanent Bureau at The Hague to provide in-  
15 creased resources for the prevention of international child  
16 abduction and other critical activities of the Bureau, in-  
17 cluding—

18 (1) to address the inconsistencies and lack of  
19 uniformity in the implementation of the Convention  
20 on the Civil Aspects of International Child Abduc-  
21 tion, signed at The Hague on October 25, 1980, in-  
22 cluding the establishment of a training institute;

23 (2) to establish guides of good practice for  
24 member countries in addressing the vexing problems

1 of access and enforcement of orders relating to  
2 international child abduction; and

3 (3) to encourage more countries, from all re-  
4 gions of the world, to become parties to the Conven-  
5 tion on the Civil Aspects of International Child Ab-  
6 duction.

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