

108TH CONGRESS
2D SESSION

S. 2202

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.

IN THE SENATE OF THE UNITED STATES

MARCH 11, 2004

Mrs. FEINSTEIN (for herself, Mr. FEINGOLD, and Mrs. LINCOLN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

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.

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 “Bring Our Children
5 Home Act”.

6 **SEC. 2. JURISDICTION OVER COMPETING STATE CUSTODY**
7 **ORDERS.**

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

1 “(i) If a court of 1 State makes a child custody deter-
 2 mination in accordance with subsection (c) and if that de-
 3 termination is in conflict with a determination made by
 4 another State in accordance with subsection (c), a contest-
 5 ant for whom such a determination was made may bring
 6 an action in the district court of the United States the
 7 district of which includes the resident of such contestant
 8 to determine, on the basis of the best interests of the child
 9 involved, which determination shall prevail.”.

10 **SEC. 3. NATIONAL REGISTRY OF CUSTODY ORDERS.**

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

14 (1) certified copies of custody and visitation de-
 15 terminations made by courts throughout the United
 16 States (and foreign custody orders concerning chil-
 17 dren temporarily or permanently resident in the
 18 United States);

19 (2) information identifying pending proceedings
 20 in courts throughout the United States for initial,
 21 modification, or enforcement orders; and

22 (3) information identifying proceedings filed in
 23 any court in the United States pursuant to the
 24 Hague Convention on the Civil Aspects of Inter-

1 national Child Abduction and the International
2 Child Abduction Remedies Act, and resulting orders.

3 (b) COOPERATION.—The Attorney General shall seek
4 the cooperation of Federal and State courts in each State,
5 and the District of Columbia, in providing relevant infor-
6 mation to the registry on an ongoing basis. The Attorney
7 General shall provide such financial and technical assist-
8 ance as necessary.

9 (c) ACCESS.—The registry shall be accessible to
10 courts, law enforcement officials, custody contestants, and
11 their legal representatives.

12 **SEC. 4. DETENTION OF CHILDREN LISTED AS MISSING.**

13 Law enforcement officers of any State or local gov-
14 ernment may hold, for not more than 24 hours or until
15 a disposition can be made, any child listed under any cat-
16 egory of the Missing Person File by the National Crime
17 Information Center for the proper disposition of the child
18 in accordance with the latest valid custody determination
19 applicable to the child.

20 **SEC. 5. INTERNATIONAL CHILD ABDUCTION REMEDIES.**

21 (a) LEGAL ASSISTANCE FOR VICTIMS OF PARENTAL
22 KIDNAPPING.—Section 7 of the International Child Ab-
23 duction Remedies Act (42 U.S.C. 11606) is amended by
24 adding at the end the following:

1 “(f) LEGAL ASSISTANCE FOR VICTIMS OF PARENTAL
2 KIDNAPPING GRANTS.—

3 “(1) FUNDING TO LEGAL SERVICES PRO-
4 VIDERS.—The Central Authority shall establish a
5 program to provide funding to legal services pro-
6 viders, including private attorneys, public officials
7 acting pursuant to the Uniform Child Custody Ju-
8 risdiction and Enforcement Act, legal aid programs,
9 and law school clinical programs, to provide direct
10 legal or advocacy services on behalf of persons seek-
11 ing remedies under the Convention, or other civil or
12 criminal remedies in interstate or international pa-
13 rental kidnapping cases.

14 “(2) TRAINING AND TECHNICAL ASSISTANCE.—
15 The Central Authority, directly or through grants,
16 shall provide training and technical assistance to re-
17 cipients of funds under paragraph (1) to improve
18 their capacity to offer legal assistance described in
19 paragraph (1).”.

20 (b) LEGAL SERVICES CORPORATION.—The Legal
21 Services Corporation may use funds made available to the
22 Corporation for programs to represent aliens in pro-
23 ceedings brought in the United States under the Conven-
24 tion—

1 (1) if the individuals to whom the representa-
2 tion is provided otherwise meet the criteria of the
3 Corporation for eligible clients under the Legal Serv-
4 ices Corporation Act; and

5 (2) whether or not such individuals are resident
6 in the United States.

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

10 (1) by redesignating paragraphs (2) and (3) as
11 paragraphs (3) and (4), respectively;

12 (2) by striking paragraph (1) and inserting the
13 following: “(1) No court costs may be assessed on a
14 petitioner in connection with a petition seeking the
15 return of, or rights of access to, a child located in
16 the United States, pursuant to this Act.

17 “(2) Petitioners may be required to bear the costs
18 of legal counsel or advisors, court costs incurred in connec-
19 tion with their petitions (other than petitions described in
20 paragraph (1)) and travel costs for the return of the child
21 involved and any accompanying persons, except as pro-
22 vided in paragraphs (3) and (4).”; and

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

24 (A) by striking “paragraph (3)” and in-
25 serting “paragraph (4)”; and

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

4 (d) RESPONSIBILITIES OF UNITED STATES CENTRAL
 5 AUTHORITY.—Section 7 of the International Child Abduc-
 6 tion Remedies Act (42 U.S.C. 11606) is amended by add-
 7 ing at the end the following:

8 “(f) TECHNICAL ASSISTANCE.—The United States
 9 Central Authority shall encourage the Chief Justice of
 10 every State and the District of Columbia to designate a
 11 single court, or a limited number of courts, in which cases
 12 brought under the Convention may be heard. The Central
 13 Authority may provide technical assistance (including
 14 computers and Internet access) as necessary to foster con-
 15 solidation of jurisdiction and implementation of the Con-
 16 vention, consistent with the purposes of the Convention.

17 “(g) TRAINING.—The United States Central Author-
 18 ity shall provide or promote training of State court judges,
 19 lawyers, and law students on the civil and criminal laws
 20 pertaining to interstate and international parental kidnap-
 21 ping. To carry out this subsection, the United States Cen-
 22 tral Authority may make available funds under subsection
 23 (e) to State judicial educators, national, State, and local
 24 bar associations, and law schools. The United States Cen-
 25 tral Authority shall require recipients of such funds to re-

1 port on the training programs they present, including the
 2 number of participants.”.

3 (e) FEDERAL JUDICIAL CENTER.—Section 620 of
 4 title 28, United States Code, is amended by adding at the
 5 end the following:

6 “(c) CONTINUING EDUCATION AND TRAINING PRO-
 7 GRAMS.—The Center shall include in its continuing edu-
 8 cation and training programs, including the training pro-
 9 grams for newly appointed judges, information on the
 10 Hague Convention on the Civil Aspects of International
 11 Child Abduction, the International Child Abduction Rem-
 12 edies Act, the International Parental Kidnapping Crime
 13 Act, and other Federal statutes pertaining to parental kid-
 14 napping within the jurisdiction of the Federal courts, and
 15 shall prepare materials necessary to carry out this sub-
 16 section.”.

17 **SEC. 6. REPORTS RELATING TO INTERNATIONAL CHILD AB-**
 18 **DUCTION.**

19 (a) REPORT ON PROGRESS IN NEGOTIATING BILAT-
 20 ERAL TREATIES WITH NON-HAGUE CONVENTION COUN-
 21 TRIES.—The Secretary of State shall prepare and submit
 22 to the Congress an annual report on progress made by
 23 the United States in negotiating and entering into bilat-
 24 eral treaties (or other international agreements) relating
 25 to international child abduction with countries that are not

1 contracting parties to the Hague Convention on the Civil
 2 Aspects of International Child Abduction.

3 (b) REPORT ON HUMAN RIGHTS PRACTICES.—(1)

4 Section 116(d) of the Foreign Assistance Act of 1961 (22
 5 U.S.C. 2151n(d)) is amended—

6 (A) in paragraph (7), by striking “and” at the
 7 end and inserting a semicolon;

8 (B) in paragraph (8), by striking the period at
 9 the end and inserting “; and”; and

10 (C) by adding at the end the following:

11 “(9) the status of efforts in each country to
 12 prohibit international child abduction, including—

13 “(A) efforts to expedite the return of chil-
 14 dren to the country of their habitual residence;
 15 and

16 “(B) the extent to which the country re-
 17 spects the rights of custody and of access under
 18 the laws of other countries.”.

19 (2) Section 502B(b) of the Foreign Assistance Act
 20 of 1961 (22 U.S.C. 2304(b)) is amended by inserting after
 21 the sixth sentence the following: “Each report under this
 22 section shall include information on the status of efforts
 23 in each country to prohibit international child abduction,
 24 including efforts to expedite the return of children to the
 25 country of their habitual residence and the extent to which

1 the country respects the rights of custody and of access
 2 under the laws of other countries.”.

3 (c) REPORT ON ENFORCEMENT OF SECTION 1204 OF
 4 TITLE 18, UNITED STATES CODE.—The Attorney Gen-
 5 eral, in consultation with the Secretary of State, shall pre-
 6 pare and submit to the Congress an annual report that
 7 contains a description of the status of each case involving
 8 a request during the preceding year for extradition to the
 9 United States of an individual alleged to have violated sec-
 10 tion 1204 of title 18, United States Code.

11 **SEC. 7. SUPPORT FOR UNIFORM CHILD CUSTODY JURIS-**
 12 **DICTION AND ENFORCEMENT ACT.**

13 From amounts made available to carry out this sec-
 14 tion, the Attorney General shall support, directly or
 15 through grants and contracts, the adoption and implemen-
 16 tation by the States of the Uniform Child Custody Juris-
 17 diction and Enforcement Act, as adopted by the National
 18 Conference of Commissioners on Uniform State Laws (in
 19 this section referred to as the “UCCJEA”). The support
 20 provided under this section shall include the following ac-
 21 tivities:

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

24 (2) Activities to provide training to lawyers and
 25 to judges and other appropriate public officials to

1 ensure that the UCCJEA is implemented effectively
2 and uniformly throughout the United States.

3 (3) Activities to provide guidance and funding
4 to States to facilitate and expedite the enforcement
5 by those States of the custody and visitation provi-
6 sions of the UCCJEA.

7 **SEC. 8. FEDERAL JUDICIAL CENTER EDUCATION PRO-**
8 **GRAMS ON PARENTAL KIDNAPPING.**

9 The Federal Judicial Center, in fulfilling its function
10 to stimulate, create, develop, and conduct programs of
11 continuing education and training for personnel of the ju-
12 dicial branch of the Government and other persons (as
13 specified in section 620(b)(3) of title 28, United States
14 Code), shall ensure that those programs include education,
15 training, and materials on the Hague Convention on the
16 Civil Aspects of International Child Abduction, the Inter-
17 national Child Abduction Remedies Act, the International
18 Parental Kidnapping Crime Act, and such other inter-
19 national and Federal laws relating to parental kidnapping
20 as are within the jurisdiction of the Federal courts.

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”.

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