

H. Res. 125

In the House of Representatives, U. S.,

March 11, 2009.

Whereas David Goldman has been trying unsuccessfully since June 17, 2004, to secure the return of his son Sean to the United States where Sean maintained his habitual residence until his mother, Bruna Bianchi Ribeiro Goldman, removed Sean to Brazil;

Whereas on August 26, 2004, the Superior Court of New Jersey awarded custody to Mr. Goldman, ordered Mrs. Goldman and her parents to immediately return Sean to the United States, and indicated to Mrs. Goldman and her parents that their continued behavior constituted parental kidnaping under United States law;

Whereas on September 3, 2004, Mr. Goldman filed an application for the immediate return of Sean to the United States under the 1980 Hague Convention on the Civil Aspects of International Child Abduction (the “Hague Convention”) to which both the United States and Brazil are party and which entered into force between Brazil and the United States on December 1, 2003;

Whereas on August 22, 2008, Mrs. Goldman passed away in Brazil leaving Sean without a mother and separated from his biological father in the United States;

Whereas Mr. João Paulo Lins e Silva, whom Mrs. Goldman married in Brazil, has petitioned the Brazilian courts for custody rights over Sean Goldman and to replace Mr. Goldman's name with his own name on a new birth certificate to be issued to Sean, despite the fact that Mr. Goldman, not Mr. Lins e Silva, is Sean's biological father;

Whereas furthermore, the United States and Brazil have expressed their desire, through the Hague Convention, "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";

Whereas according to the Department of State, there are 51 cases involving 65 children who were habitual residents of the United States and who were removed to Brazil by a parent and have not been returned to the United States as required under the Hague Convention;

Whereas according to the Department of State's April 2008 Report on Compliance with the Hague Convention on the Civil Aspects of International Child Abduction, "parental child abduction jeopardizes the child and has substantial long-term consequences for both the child and the left-behind parent";

Whereas the Department of State's Office of Children's Issues, while not always notified of international child abductions, is currently handling approximately 1,900 open cases of parental abduction to other countries involving more than 2,800 children abducted from the United States;

Whereas in fiscal year 2007, the United States Central Authority responded to cases involving 821 children abducted from the United States to countries with which the United States partners under the Hague Convention, but during that same time period only 217 children were returned from Hague Convention partner countries to the United States;

Whereas according to the Department of State, Honduras has not acted in compliance with the terms it agreed to as a party to the Hague Convention, and Brazil, Bulgaria, Chile, Ecuador, Germany, Greece, Mexico, Poland, and Venezuela have demonstrated patterns of noncompliance based on their Central Authority performance, judicial performance, or law enforcement performance of the obligations of the Hague Convention;

Whereas according to the Department of State, in fiscal year 2008, the United States Central Authority counted 306 cases of parental abductions involving 455 children taken from the United States to other countries that are not partners with the United States under the Hague Convention, currently including 101 children in Japan, 67 children in India, and 37 children in Russia;

Whereas three-year-old Melissa Braden is among the children who have been wrongfully abducted to Japan, a United States ally which does not recognize intra-familial child abduction as a crime, and though its family laws do not discriminate by nationality, Japanese courts give no recognition to the parental rights of the non-Japanese parent, fail to enforce United States court orders relating to child custody or visitation, and place no effective obligation on the Japanese parent to allow parental visits for their child;

Whereas Melissa was taken from Los Angeles, California to Japan on March 16, 2006, when she was 11-months-old, despite a California court's prior order forbidding Melissa's removal to Japan and granting joint custody to her father Patrick Braden;

Whereas despite his extensive efforts, Mr. Braden and his daughter have not seen each other since her abduction;

Whereas according to the Department of State, abducted children are at risk of serious emotional and psychological problems and have been found to experience anxiety, eating problems, nightmares, mood swings, sleep disturbances, aggressive behavior, resentment, guilt and fearfulness, and as adults may struggle with identity issues, their own personal relationships and parenting; and

Whereas left-behind parents may encounter substantial psychological, emotional, and financial problems and many may not have the financial resources to pursue civil or criminal remedies for the return of their children in foreign courts or political systems: Now, therefore, be it:

Resolved, That—

(1) the House of Representatives—

(A) calls on Brazil to, in accordance with its obligations under the Hague Convention and with extreme urgency, bring about the return of Sean Goldman to his father, David Goldman, in the United States;

(B) urges all countries determined by the Department of State to have issues of non-compliance

with the Hague Convention to fulfill their obligation under international law to take all appropriate measures to secure within their respective territories the implementation of the Hague Convention and to use the most expeditious procedures available; and

(C) calls on all other nations to join the Hague Convention and to establish procedures to promptly and equitably address the tragedy of child abductions, given the increase of transnational marriages and births, the number of international child abduction cases and the serious consequences to children of not expeditiously resolving these cases; and

(2) it is the sense of the House of Representatives that the United States should—

(A) review its diplomatic procedures and the operations available to United States citizens through its central authority under the Hague Convention to ensure that effective assistance is provided to Mr. Goldman and other United States citizens in obtaining the expeditious return of their children from Brazil and other countries that have entered into the reciprocal obligations with the United States under the Hague Convention;

(B) take other appropriate measures to ensure that Hague Convention partners return abducted children to the United States in compliance with the Hague Convention's provisions;

(C) diplomatically urge other nations to become parties to the Hague Convention and establish systems to effectively discharge their reciprocal responsibilities under the Convention; and

(D) continue to work aggressively for the return of children abducted from the United States to other nations and for visitation rights for their left-behind parents when return is not yet achieved.

Attest:

Clerk.