

113TH CONGRESS
1ST SESSION

H. R. 3212

AN ACT

To ensure compliance with the 1980 Hague Convention on the Civil Aspects of International Child Abduction by countries with which the United States enjoys reciprocal obligations, to establish procedures for the prompt return of children abducted to other countries, 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 AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Sean and David Goldman International Child Abduction
 6 Prevention and Return Act of 2013”.

7 (b) TABLE OF CONTENTS.—The table of contents for
 8 this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings; sense of Congress; purposes.
- Sec. 3. Definitions.

TITLE I—DEPARTMENT OF STATE ACTIONS

- Sec. 101. Annual report.
- Sec. 102. Standards and assistance.
- Sec. 103. Memorandum of understanding.
- Sec. 104. Notification of congressional representatives.

TITLE II—PRESIDENTIAL ACTIONS

- Sec. 201. Presidential actions in response to unresolved cases.
- Sec. 202. Presidential actions in response to patterns of noncooperation in
cases of international child abductions.
- Sec. 203. Consultations with foreign governments.
- Sec. 204. Report to Congress.
- Sec. 205. Presidential actions.
- Sec. 206. Presidential waiver.
- Sec. 207. Publication in Federal Register.
- Sec. 208. Termination of Presidential actions.

9 **SEC. 2. FINDINGS; SENSE OF CONGRESS; PURPOSES.**

10 (a) FINDINGS.—Congress finds the following:

11 (1) Sean Goldman, a United States citizen and
 12 resident of New Jersey, was abducted from the
 13 United States in 2004 and separated from his fa-
 14 ther, David Goldman, who spent nearly six years
 15 battling for the return of his son from Brazil before

1 Sean was finally returned to Mr. Goldman's custody
2 on December 24, 2009.

3 (2) The Department of State's Office of Chil-
4 dren's Issues, which serves as the Central Authority
5 of the United States for the purposes of the 1980
6 Hague Convention on the Civil Aspects of Inter-
7 national Child Abduction, has received thousands of
8 requests since 2007 for assistance in the return to
9 the United States of children who have been ab-
10 ducted by a parent or other legal guardian to an-
11 other country. For a variety of reasons reflecting the
12 significant obstacles to the recovery of abducted chil-
13 dren, as well as the legal and factual complexity in-
14 volving such cases, not all cases are reported to the
15 Central Authority of the United States.

16 (3) More than one thousand outgoing inter-
17 national child abductions are reported to the Central
18 Authority of the United States every year.

19 (4) Only about half of the children abducted
20 from the United States to countries with which the
21 United States enjoys reciprocal obligations under the
22 Hague Abduction Convention are returned to the
23 United States.

24 (5) The United States and Convention coun-
25 tries have expressed their desire, through the Hague

1 Abduction Convention, “to protect children inter-
2 nationally from the harmful effects of their wrongful
3 removal or retention and to establish procedures to
4 ensure their prompt return to the State of their ha-
5 bitual residence, as well as to secure protection for
6 rights of access.”.

7 (6) Compliance by the United States and Con-
8 vention countries depends on the actions of their
9 designated central authorities, the performance of
10 their judiciaries as reflected in the legal process and
11 decisions rendered to enforce or effectuate the
12 Hague Abduction Convention, and the ability and
13 willingness of their law enforcement to insure the
14 swift enforcement of orders rendered pursuant to the
15 Hague Abduction Convention.

16 (7) According to data compiled by the Central
17 Authority of the United States, approximately 40
18 percent of abduction cases and access cases involve
19 children taken from the United States to countries
20 with which the United States does not have Hague
21 Abduction Convention obligations or other agree-
22 ments relating to the resolution of abduction cases
23 and access cases.

24 (8) According to the Department of State’s
25 April 2010 Report on Compliance with the Hague

1 Convention on the Civil Aspects of International
2 Child Abduction, “parental child abduction jeopard-
3 izes the child and has substantial long-term con-
4 sequences for both the child and the left-behind par-
5 ent.”.

6 (9) Abducted children are at risk of serious
7 emotional and psychological problems and have been
8 found to experience anxiety, eating problems, night-
9 mares, mood swings, sleep disturbances, aggressive
10 behavior, resentment, guilt and fearfulness, and as
11 adults may struggle with identity issues, personal re-
12 lationships, and parenting.

13 (10) Left-behind parents may encounter sub-
14 stantial psychological and emotional problems, and
15 few have the extraordinary financial resources nec-
16 essary to pursue individual civil or criminal remedies
17 in both the United States and a foreign country,
18 even where available, or to engage in repeated for-
19 eign travel to attempt to procure the return of their
20 children by evoking diplomatic and humanitarian
21 remedies.

22 (11) Left-behind parents who are military par-
23 ents may be unable to leave their military duties to
24 pursue multinational litigation or take leave to at-
25 tend multiple court proceedings, and foreign authori-

1 ties may not schedule proceedings to accommodate
2 such duties.

3 (b) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that the United States should set a strong example
5 for Convention countries in the timely location and return
6 of abducted children in the United States whose habitual
7 residence is not the United States.

8 (c) PURPOSES.—The purposes of this Act are to—

9 (1) protect children whose habitual residence is
10 the United States from the harmful effects of abduc-
11 tion and to assist left-behind parents to have access
12 to their abducted child in a safe and predictable
13 manner, wherever the child is located, while an ab-
14 duction case is pending;

15 (2) provide left-behind parents, including mili-
16 tary parents, their advocates, and judges the infor-
17 mation they need to enhance the resolution of abduc-
18 tion cases and access cases through established legal
19 procedures, risk assessment tools, and the practical
20 means for overcoming obstacles to recovering an ab-
21 ducted child;

22 (3) establish measured, effective, and predict-
23 able actions to be undertaken by the President on
24 behalf of abducted children whose habitual residence
25 is the United States at the time of the abduction;

1 (4) promote an international consensus that it
2 is in the interest of children to have any issues re-
3 lated to their care and custody determined in the
4 country of their habitual residence;

5 (5) provide the necessary training for officials
6 of the United States Armed Forces and the Depart-
7 ment of Defense to establish policies and provide
8 services to military parents that address the unique
9 circumstances of abductions and violations of rights
10 of access that may occur with regard to military de-
11 pendent children; and

12 (6) encourage the effective implementation of
13 international mechanisms, particularly those estab-
14 lished pursuant to the Hague Abduction Convention,
15 to achieve reciprocity in the resolution of abductions
16 and to protect children from the harmful effects of
17 an abduction.

18 **SEC. 3. DEFINITIONS.**

19 In this Act:

20 (1) **ABDUCTED CHILD.**—The term “abducted
21 child” means a child who is the victim of an abduc-
22 tion.

23 (2) **ABDUCTION.**—The term “abduction”
24 means—

1 (A) the alleged wrongful removal of a child
2 from the child's country of habitual residence;

3 (B) the alleged wrongful retention of a
4 child outside the child's country of habitual res-
5 idence; or

6 (C) the alleged wrongful removal or reten-
7 tion of a military dependent child from the ex-
8 ercise of rights of custody of a military parent.

9 (3) ABDUCTION CASE.—The term “abduction
10 case” means a case involving an application filed
11 with the Central Authority of the United States by
12 a left-behind parent for the resolution of an abduc-
13 tion.

14 (4) ACCESS CASE.—The term “access case”
15 means a case involving an application filed with the
16 Central Authority of the United States by a left-be-
17 hind parent for the establishment of rights of access.

18 (5) ANNUAL REPORT.—The term “Annual Re-
19 port” means the Annual Report on International
20 Child Abduction required under section 101.

21 (6) APPLICATION.—The term “application”
22 means—

23 (A) in the case of a Convention country,
24 the application required pursuant to article 8 of
25 the Hague Abduction Convention;

1 (B) in the case of an MOU country, the
2 formal document required pursuant to the pro-
3 visions of the applicable MOU to request the re-
4 turn of an abducted child or to request rights
5 of access, as applicable; and

6 (C) in the case of a nonparty country, the
7 formal request by the Central Authority of the
8 United States to the Central Authority of such
9 country requesting the return of an abducted
10 child or for rights of access to an abducted
11 child.

12 (7) APPROPRIATE CONGRESSIONAL COMMIT-
13 TEES.—The term “appropriate congressional com-
14 mittees” means the Committee on Foreign Affairs of
15 the House of Representatives and the Committee on
16 Foreign Relations of the Senate.

17 (8) CENTRAL AUTHORITY.—The term “Central
18 Authority” means—

19 (A) in the case of a Convention country,
20 the meaning given such term in article 6 of the
21 Hague Abduction Convention;

22 (B) in the case of an MOU country, the of-
23 ficial entity designated by the government of
24 the MOU country within the applicable MOU

1 pursuant to section 103(b)(1) to discharge the
2 duties imposed on the entity in such MOU; and

3 (C) in the case of a nonparty country, the
4 foreign ministry of such country.

5 (9) CHILD.—The term “child” means an indi-
6 vidual who has not attained the age of 16.

7 (10) CONVENTION COUNTRY.—The term “Con-
8 vention country” means a country other than the
9 United States that has ratified, acceded, or suc-
10 ceeded to the Hague Abduction Convention and with
11 respect to which the United States has entered into
12 a reciprocal agreement pursuant to the Hague Ab-
13 duction Convention.

14 (11) HAGUE ABDUCTION CONVENTION.—The
15 term “Hague Abduction Convention” means the
16 Convention on the Civil Aspects of International
17 Child Abduction, done at The Hague on October 25,
18 1980.

19 (12) LEFT-BEHIND PARENT.—The term “left-
20 behind parent” means an individual or entity, either
21 individually or jointly, who alleges that an abduction
22 has occurred that is in breach of rights of custody—

23 (A) attributed to such individual or entity,
24 as applicable; and

1 (B) exercised at the time of the abduction
2 or that would have been exercised but for the
3 abduction.

4 (13) LEGAL RESIDENCE.—The term “legal resi-
5 dence” means the congressional district and State in
6 which an individual either is residing, or if an indi-
7 vidual is residing temporarily outside the United
8 States, the congressional district and State to which
9 the individual intends to return.

10 (14) MILITARY DEPENDENT CHILD.—The term
11 “military dependent child” means a child whose ha-
12 bitual residence is the United States according to
13 United States law even though the child is residing
14 outside the United States with a military parent.

15 (15) MILITARY PARENT.—The term “military
16 parent” means an individual who has rights of cus-
17 tody over a child and who is serving outside the
18 United States as a member of the United States
19 Armed Forces.

20 (16) MOU.—The term “MOU” means a memo-
21 randum of understanding between the United States
22 and a country that is not a Convention country to
23 resolve abduction cases and access cases.

1 (17) MOU COUNTRY.—The term “MOU coun-
2 try” means a country with respect to which the
3 United States has entered into an MOU.

4 (18) NONPARTY COUNTRY.—The term
5 “nonparty country” means a country that is neither
6 a Convention country nor an MOU country.

7 (19) PATTERN OF NONCOOPERATION.—

8 (A) IN GENERAL.—The term “pattern of
9 noncooperation” means the persistent failure—

10 (i) of a Convention country to imple-
11 ment and abide by the provisions of the
12 Hague Abduction Convention; and

13 (ii) of an MOU country to implement
14 and abide by the provisions of the applica-
15 ble MOU.

16 (B) CRITERIA.—Such persistent failure
17 may be evidenced by one or more of the fol-
18 lowing criteria:

19 (i) The existence of 10 or more unre-
20 solved abduction cases.

21 (ii) The failure of the Central Author-
22 ity of the country to fulfill its responsibil-
23 ities pursuant to the Hague Abduction
24 Convention or the MOU, as applicable.

1 (iii) The failure of the judicial or ad-
2 ministrative branch, as applicable, of the
3 national government of the country to im-
4 plement and comply with the provisions of
5 the Hague Abduction Convention or the
6 MOU, as applicable.

7 (iv) The failure of law enforcement to
8 locate abducted children or to enforce re-
9 turn orders or determinations of rights of
10 access rendered by the judicial or adminis-
11 trative authorities of the national govern-
12 ment of the country in abduction cases or
13 access cases.

14 (20) RIGHTS OF ACCESS.—The term “rights of
15 access” means the rights of contact between a child
16 and a left-behind parent provided as a provisional
17 measure while an abduction case is pending, by op-
18 eration of law or by reason of judicial or administra-
19 tive determination or by agreement having legal ef-
20 fect, under the law of the country in which the child
21 is located.

22 (21) RIGHTS OF CUSTODY.—The term “rights
23 of custody” means rights of care and custody of an
24 abducted child, including the right to determine the
25 place of residence of an abducted child—

1 (A) attributed to an individual or entity,
2 either individually or jointly, and

3 (B) arising by operation of law or by rea-
4 son of a judicial or administrative decision, or
5 by reason of an agreement having legal effect,
6 under the law of the country in which the child was
7 an habitual resident immediately before the abduc-
8 tion.

9 (22) UNRESOLVED ABDUCTION CASE.—

10 (A) IN GENERAL.—Subject to subpara-
11 graph (B), the term “unresolved abduction
12 case” means an abduction case that remains
13 unresolved for a period that exceeds 180 days
14 after the date on which the completed applica-
15 tion for return of the child is submitted for de-
16 termination to the judicial or administrative au-
17 thority, as applicable, in the country in which
18 the child is located.

19 (B) RESOLUTION OF CASE.—An abduction
20 case shall be considered to be resolved if—

21 (i) the child is returned to the country
22 of habitual residence, pursuant to the
23 Hague Abduction Convention or MOU, if
24 applicable;

(ii) the judicial or administrative branch, as applicable, of the national government of the country in which the child is located has implemented and is complying with the provisions of the Hague Abduction Convention or the MOU, as applicable, and a final determination is made by such judicial or administrative branch that the child will not be returned to the country of habitual residence; or

(iii) the child attains the age of 16.

TITLE I—DEPARTMENT OF STATE ACTIONS

SEC. 101. ANNUAL REPORT.

(a) IN GENERAL.—Not later than March 31 of each year, the Secretary of State shall submit to the appropriate congressional committees an Annual Report on International Child Abduction.

(b) CONTENTS.—Each Annual Report shall include the following:

(1) A list of all countries with respect to which there were one or more abduction cases during the preceding year that identifies whether each such country is a Convention country, an MOU country, or a nonparty country.

1 (2) For each country with respect to which
2 there were 5 or more abduction cases during the
3 preceding year:

4 (A) The number of abduction cases and
5 the number of access cases, respectively, re-
6 ported during the preceding year.

7 (B) The number of abduction cases and
8 the number of access cases, respectively, that
9 are pending as of March 1 of the year in which
10 such Annual Report is submitted.

11 (C)(i) For Convention and MOU countries,
12 the number of abduction cases and the number
13 of access cases, respectively, that were pending
14 at any point for more than 180 days after the
15 date on which the Central Authority of the
16 United States transmitted the complete applica-
17 tion for each such case to the Central Authority
18 of such country, and were not submitted by the
19 Central Authority to the judicial or administra-
20 tive authority, as applicable, of such country
21 within the 180-day period.

22 (ii) The reason for the delay in submission
23 of each case identified in clause (i) by the Cen-
24 tral Authority of such country to the judicial or
25 administrative authority.

1 (D) The number of unresolved abduction
2 cases, and the length of time each case has
3 been pending.

4 (E) The number of unresolved abduction
5 cases in which a completed application has been
6 filed and law enforcement has failed to locate
7 the abducted child or to enforce a return order
8 rendered by the judicial or administrative au-
9 thorities of such country.

10 (F) The median time required for resolu-
11 tion of abduction cases during the preceding
12 year, to be measured from the date on which
13 the application with respect to the abduction
14 case is transmitted by the Central Authority of
15 the United States to the Central Authority of
16 such country to the date on which the abduc-
17 tion case is resolved.

18 (G) The total number and the percentage
19 of the total number of abduction cases and ac-
20 cess cases, respectively, resolved during the pre-
21 ceding year.

22 (H) Detailed information about each unre-
23 solved abduction case described in subpara-
24 graph (E) and on actions taken by the Depart-
25 ment of State to resolve such case, including

1 the specific actions taken by the United States
2 chief of mission in such country.

3 (I) Recommendations to improve resolution
4 of abduction cases and access cases.

5 (3) The number of abducted children from the
6 United States who were returned to the United
7 States from Convention countries, MOU countries,
8 and nonparty countries, respectively.

9 (4) A list of Convention countries and MOU
10 countries that have failed to comply with any of
11 their obligations under the Hague Abduction Con-
12 vention or the MOU, as applicable, with respect to
13 the resolution of abduction cases and access cases.

14 (5) A list of countries demonstrating a pattern
15 of noncooperation, and a summary of the criteria on
16 which the determination of a pattern of noncoopera-
17 tion for each country is based.

18 (6)(A) Information on efforts by the Secretary
19 of State to encourage other countries to become sig-
20 natories to the Hague Abduction Convention or to
21 enter into an MOU.

22 (B) The efforts referred to in subparagraph (A)
23 shall include efforts to address pending abduction
24 cases and access cases in such countries.

1 (7) A description of the efforts of the Secretary
2 of State to encourage Convention countries and
3 MOU countries to facilitate the work of nongovern-
4 mental organizations within their respective coun-
5 tries that assist left-behind parents.

6 (8) The number of cases which were success-
7 fully resolved without abducted children being re-
8 turned to the United States from Convention coun-
9 tries, MOU countries, and nonparty countries, re-
10 spectively.

11 (c) EXCEPTION.—The Annual Report shall not in-
12 clude—

13 (1) the names of left-behind parents or children
14 involved in abduction cases or access cases; or

15 (2) information that may identify a party in-
16 volved in an abduction case or access case unless the
17 party stipulates in writing to the Central Authority
18 of the United States that such information may be
19 included in the Annual Report.

20 (d) ADDITIONAL THEMATIC SECTIONS.—Each An-
21 nual Report shall also include—

22 (1) information on the number of unresolved
23 abduction cases affecting left-behind parents who
24 are military parents and a summary of assistance of-
25 fered to such left-behind parents;

1 (2) information on the use of airlines in abduc-
2 tions, voluntary airline practices to prevent abduc-
3 tions, and recommendations for best airline practices
4 to prevent abductions;

5 (3) information on actions taken by the Central
6 Authority of the United States to train domestic
7 judges in application of the Hague Abduction Con-
8 vention; and

9 (4) information on actions taken by the Central
10 Authority of the United States to train United
11 States Armed Forces legal assistance personnel,
12 military chaplains, and military family support cen-
13 ter personnel about abductions, the risk of loss of
14 access to children, and the legal frameworks avail-
15 able to resolve such cases.

16 (e) REPEAL OF THE HAGUE CONVENTION COMPLI-
17 ANCE REPORT.—Section 2803 of the Foreign Affairs Re-
18 form and Restructuring Act of 1998 (42 U.S.C. 11611)
19 is repealed.

20 **SEC. 102. STANDARDS AND ASSISTANCE.**

21 The Secretary of State shall ensure that United
22 States diplomatic and consular missions abroad—

23 (1) maintain a consistent reporting standard
24 with respect to abduction cases and access cases in-
25 volving abducted children in the country in which

1 such mission is located for purposes of the Annual
2 Report;

3 (2) designate at least one official in each such
4 mission to assist left-behind parents from the United
5 States who are visiting such country to resolve cases
6 involving an abduction or rights of access; and

7 (3) monitor developments in cases involving ab-
8 ducted children in the country in which such mission
9 is located.

10 **SEC. 103. MEMORANDUM OF UNDERSTANDING.**

11 (a) IN GENERAL.—The Secretary of State should
12 seek to enter into an MOU with every country that is not
13 a Convention country and is unlikely to become a Conven-
14 tion country in the foreseeable future, that includes—

15 (1) identification of the Central Authority;

16 (2) a protocol to identify, locate, and effectuate
17 the return of an abducted child identified in an ab-
18 duction case not later than 6 weeks after the appli-
19 cation with respect to the abduction case has been
20 submitted to the judicial or administrative authority,
21 as applicable, of the country in which the abducted
22 child is located;

23 (3) a protocol for the establishment and protec-
24 tion of the rights of access;

1 (4) identification of the judicial or administra-
2 tive authority that will promptly adjudicate abduc-
3 tion cases and access cases;

4 (5) identification of a law enforcement agency
5 and available law enforcement mechanisms and pro-
6 cedures to ensure the immediate enforcement of an
7 order issued by the authority identified pursuant to
8 paragraph (4) to return an abducted child to a left-
9 behind parent, including by—

10 (A) conducting an investigation to ascer-
11 tain the location of the abducted child;

12 (B) providing protection to the abducted
13 child after such child is located; and

14 (C) retrieving the abducted child and mak-
15 ing the appropriate arrangements for such child
16 to be returned to the country of habitual resi-
17 dence;

18 (6) a protocol to establish periodic visits be-
19 tween a United States embassy or consular official
20 and an abducted child to allow the official to ascer-
21 tain the child's location and welfare; and

22 (7) such other provisions as determined to be
23 appropriate by the Secretary of State.

24 (b) RULE OF CONSTRUCTION.—

1 (1) IN GENERAL.—Nothing in this Act shall be
2 construed to prohibit the United States from pro-
3 posing and entering into a memorandum of under-
4 standing with a Convention country to further clar-
5 ify the reciprocal obligations of the United States
6 and the Convention country under the Hague Ab-
7 duction Convention.

8 (2) TREATMENT OF OBLIGATIONS OF CONVEN-
9 TION COUNTRY.—In those instances in which there
10 is a memorandum of understanding as described in
11 paragraph (1), the obligations of the Convention
12 country under such memorandum shall be consid-
13 ered to be obligations of such country under the
14 Hague Abduction Convention for purposes of this
15 Act.

16 **SEC. 104. NOTIFICATION OF CONGRESSIONAL REPRESENT-**
17 **ATIVES.**

18 (a) NOTIFICATION.—Except as provided in sub-
19 section (b), the Secretary of State shall notify in writing
20 the Member of Congress and Senators representing the
21 legal residence of a left-behind parent when such parent
22 reports an abduction to the Central Authority of the
23 United States.

24 (b) EXCEPTION.—The notification requirement under
25 subsection (a) shall not apply if the left-behind parent

1 does not consent to the notification described in such sub-
2 section.

3 (c) TIMING.—At the request of any person who is a
4 left-behind parent, including a left-behind parent who pre-
5 viously reported an abduction to the Central Authority of
6 the United States before the date of the enactment of this
7 Act, notification of a Member of Congress, in accordance
8 with subsections (a) and (b), shall be provided as soon
9 as is practicable.

10 (d) MEMBER OF CONGRESS DEFINED.—In this sec-
11 tion, the term “Member of Congress” means a Represent-
12 ative in, or Delegate or Resident Commissioner to, the
13 Congress.

14 **TITLE II—PRESIDENTIAL** 15 **ACTIONS**

16 **SEC. 201. PRESIDENTIAL ACTIONS IN RESPONSE TO UNRE-** 17 **SOLVED CASES.**

18 (a) RESPONSE TO INTERNATIONAL CHILD ABDUC-
19 TIONS.—

20 (1) UNITED STATES POLICY.—It shall be the
21 policy of the United States to—

22 (A) promote the best interest of children
23 abducted from the United States by estab-
24 lishing legal rights and procedures for their
25 prompt return and by promoting such rights

1 and procedures through actions that ensure the
2 enforcement of reciprocal international obliga-
3 tions; and

4 (B) recognize the international character
5 of the Hague Abduction Convention, and the
6 need for reciprocity pursuant to and the uni-
7 form international interpretation of the Hague
8 Abduction Convention, by promoting the timely
9 resolution of abduction cases through one or
10 more of the actions described in section 205.

11 (2) REQUIREMENT OF PRESIDENTIAL AC-
12 TION.—Whenever the President determines that the
13 government of a foreign country has failed to resolve
14 an unresolved abduction case, the President shall op-
15 pose such failure through one or more of the actions
16 described in subsection (b).

17 (b) PRESIDENTIAL ACTIONS.—

18 (1) IN GENERAL.—Subject to paragraphs (2)
19 and (3), the President, in consultation with the Sec-
20 retary of State, shall, as expeditiously as practicable
21 in response to the failure described in subsection (a)
22 by the government of a foreign country, take one or
23 more of the actions described in paragraphs (1)
24 through (13) of section 205(a) (or commensurate ac-

tion as provided in section 205(b)) with respect to such country.

(2) DEADLINE FOR ACTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), not later than March 31 of each year, the President shall take one or more of the actions described in paragraphs (1) through (13) of section 205(a) (or commensurate action as provided in section 205(b)) with respect to each foreign country the government of which has failed to resolve an unresolved abduction case that is pending as of such date.

(B) EXCEPTION.—In the case of an action under any of paragraphs (10) through (13) of section 205(a) (or commensurate action as provided in section 205(b))—

(i) the action may only be taken after the requirements of sections 203 and 204 have been satisfied; and

(ii) the March 31 deadline to take the action shall not apply.

(3) AUTHORITY FOR DELAY OF PRESIDENTIAL ACTIONS.—The President may delay action described in any of the paragraphs (10) through (13) of section 205(a) (or commensurate action as pro-

1 vided in section 205(b)), as required under para-
2 graph (2), if the President determines and certifies
3 to the appropriate congressional committees that an
4 additional, specified period of time is necessary for
5 a continuation of negotiations that have been com-
6 menced with the country to resolve the unresolved
7 case.

8 (c) IMPLEMENTATION.—

9 (1) IN GENERAL.—In carrying out subsection
10 (b), the President shall—

11 (A) take one or more actions that most ap-
12 propriately respond to the nature and severity
13 of the failure to resolve the unresolved abduc-
14 tion cases; and

15 (B) seek to the fullest extent possible to
16 target action as narrowly as practicable with re-
17 spect to the agencies or instrumentalities of the
18 foreign government that are responsible for
19 such failures, in ways that respect the separa-
20 tion of powers and independence of the judici-
21 ary in foreign countries.

22 (2) GUIDELINES FOR PRESIDENTIAL AC-
23 TIONS.—In addition to the guidelines under para-
24 graph (1), the President, in determining whether to
25 take one or more actions under paragraphs (10)

1 through (13) of section 205(a) (or commensurate ac-
2 tion as provided in section 205(b)), shall seek to
3 minimize any adverse impact on—

4 (A) the population of the country whose
5 government is targeted by the action or actions;
6 and

7 (B) the humanitarian activities of United
8 States and foreign nongovernmental organiza-
9 tions in the country.

10 **SEC. 202. PRESIDENTIAL ACTIONS IN RESPONSE TO PAT-**
11 **TERNS OF NONCOOPERATION IN CASES OF**
12 **INTERNATIONAL CHILD ABDUCTIONS.**

13 (a) RESPONSE TO A PATTERN OF NONCOOPERA-
14 TION.—

15 (1) UNITED STATES POLICY.—It shall be the
16 policy of the United States to—

17 (A) oppose institutional or other systemic
18 failures of foreign governments to fulfill their
19 obligations pursuant to the Hague Abduction
20 Convention or MOU, as applicable, to resolve
21 abduction cases and access cases; and

22 (B) promote reciprocity pursuant to and
23 compliance with the Hague Abduction Conven-
24 tion by Convention countries and compliance
25 with the applicable MOU by MOU countries.

1 (2) REQUIREMENT OF PRESIDENTIAL AC-
2 TION.—Whenever the President determines that the
3 government of a foreign country has engaged in a
4 pattern of noncooperation, the President shall pro-
5 mote the resolution of the unresolved abduction
6 cases through one or more of the actions described
7 in subsection (c).

8 (b) DESIGNATIONS OF COUNTRIES WITH PATTERNS
9 OF NONCOOPERATION IN CASES OF INTERNATIONAL
10 CHILD ABDUCTION.—

11 (1) ANNUAL REVIEW.—

12 (A) IN GENERAL.—Not later than March
13 31 of each year, the President shall review the
14 status of abduction cases and access cases in
15 each foreign country to determine whether the
16 government of such country has engaged in a
17 pattern of noncooperation during the preceding
18 12 months or since the date of the last review
19 of such country under this subparagraph,
20 whichever period is longer. The President shall
21 designate each country the government of which
22 has engaged in a pattern of noncooperation as
23 a Country With a Pattern of Noncooperation.

24 (B) BASIS OF REVIEW.—Each review con-
25 ducted under subparagraph (A) shall be based

1 upon information contained in the latest Annual
2 Report and on any other evidence available.

3 (2) DETERMINATIONS OF RESPONSIBLE PAR-
4 TIES.—For the government of each country des-
5 ignated as a Country With a Pattern of Noncoopera-
6 tion under paragraph (1)(A), the President shall
7 seek to determine the agencies or instrumentalities
8 of such government that are responsible for the pat-
9 tern of noncooperation by such government in order
10 to appropriately target actions under this section in
11 response.

12 (3) CONGRESSIONAL NOTIFICATION.—Whenever
13 the President designates a country as a Country
14 With a Pattern of Noncooperation under paragraph
15 (1)(A), the President shall, as soon as practicable
16 after such designation is made, transmit to the ap-
17 propriate congressional committees—

18 (A) the designation of the country, signed
19 by the President; and

20 (B) the identification, if any, of responsible
21 agencies or instrumentalities determined under
22 paragraph (2).

23 (c) PRESIDENTIAL ACTIONS WITH RESPECT TO A
24 COUNTRY WITH A PATTERN OF NONCOOPERATION.—

1 (1) IN GENERAL.—Subject to paragraphs (2)
2 and (3) with respect to each Country With a Pattern
3 of Noncooperation designated under subsection
4 (b)(1)(A), the President shall, after the require-
5 ments of sections 203 and 204 have been satisfied,
6 but not later than 90 days (or 180 days in case of
7 a delay under paragraph (2)) after the date of such
8 designation of the country under such subsection,
9 take one or more of the actions under paragraphs
10 (10) through (13) of section 205(a) (or commensu-
11 rate action as provided in section 205(b)).

12 (2) AUTHORITY FOR DELAY OF PRESIDENTIAL
13 ACTIONS.—If, on or before the date that the Presi-
14 dent is required to take action under paragraph (1),
15 the President determines and certifies to the appro-
16 priate congressional committees that a single, addi-
17 tional period of time not to exceed 90 days is nec-
18 essary—

19 (A) for a continuation of negotiations that
20 have been commenced with the government of a
21 country described in such paragraph to bring
22 about a cessation of the pattern of noncoopera-
23 tion by such country, or

24 (B) for a review of corrective action taken
25 by such country after designation of such coun-

1 try as a Country With a Pattern of Non-
2 cooperation under subsection (b)(1)(A) or in
3 anticipation that corrective action will be taken
4 by such country during such 90-day period,
5 the President shall not be required to take such ac-
6 tion until the expiration of such period of time.

7 (3) EXCEPTION FOR ONGOING PRESIDENTIAL
8 ACTION.—

9 (A) IN GENERAL.—The President shall not
10 be required to take action under paragraph (1)
11 with respect to a Country With a Pattern of
12 Noncooperation if—

13 (i) the President has taken action
14 pursuant to paragraph (1) with respect to
15 such country in a preceding year, such ac-
16 tion is in effect at the time such country
17 is designated as a Country with a Pattern
18 of Noncooperation under subsection
19 (b)(1)(A), and the President submits to
20 the appropriate congressional committees
21 the information described in section 204
22 regarding the actions in effect with respect
23 to such country; or

24 (ii) subject to subparagraph (B), the
25 President determines that such country is

1 subject to multiple, broad-based sanctions
2 imposed in significant part in response to
3 human rights abuses and that such sanc-
4 tions also satisfy the requirements of this
5 subsection.

6 (B) ADDITIONAL REQUIREMENTS.—If the
7 President makes a determination under sub-
8 paragraph (A)(ii)—

9 (i) the report under section 204 and,
10 as applicable, the publication in the Fed-
11 eral Register under section 208, shall
12 specify the specific sanction or sanctions
13 that the President has determined satisfy
14 the requirements of this subsection; and

15 (ii) such sanctions shall remain in ef-
16 fect subject to section 209.

17 (d) RULE OF CONSTRUCTION.—A determination
18 under this section that a foreign country has engaged in
19 a pattern of noncooperation shall not be construed to re-
20 quire the termination of assistance or other activities with
21 respect to such country under any other provision of law,
22 including section 116 or 502B of the Foreign Assistance
23 Act of 1961 (22 U.S.C. 2151(n) or 2304).

1 **SEC. 203. CONSULTATIONS WITH FOREIGN GOVERNMENTS.**

2 As soon as practicable after the President makes a
3 determination under section 201 in response to failures
4 to resolve unresolved abduction cases and the President
5 decides to take action under paragraphs (10) through (13)
6 of section 205(a) (or commensurate action as provided in
7 section 205(b)) with respect to that country, or not later
8 than 90 days after the President designates a country as
9 a country with a pattern of noncooperation pursuant to
10 section 202(b)(1)(a), the President shall—

11 (1) request consultation with the government of
12 such country regarding the failures giving rise to
13 designation of that country as a Country With a
14 Pattern of Noncooperation regarding the pattern of
15 noncooperation or to action under section 201; and

16 (2) if agreed to, enter into such consultations
17 with such country, privately or publicly.

18 **SEC. 204. REPORT TO CONGRESS.**

19 (a) IN GENERAL.—Subject to subsection (b), not
20 later than 90 days after the President makes a determina-
21 tion under section 201 in response to failures to resolve
22 unresolved abduction cases and the President decides to
23 take action under paragraphs (10) through (13) of section
24 205(a) (or commensurate action as provided in section
25 205(b)) with respect to that country, or not later than
26 90 days after the President designates a country as a

1 Country With a Pattern of Noncooperation pursuant to
2 section 202(b)(1)(A), the President shall transmit to the
3 appropriate congressional committees a report on the fol-
4 lowing:

5 (1) IDENTIFICATION OF PRESIDENTIAL AC-
6 TIONS.—An identification of the action or actions
7 described in section 205(a) (or commensurate action
8 as provided in section 205(b)) to be taken with re-
9 spect to such country.

10 (2) DESCRIPTION OF VIOLATIONS.—A descrip-
11 tion of the failure to resolve an unresolved case or
12 the pattern of noncooperation, as applicable, giving
13 rise to the action or actions to be taken by the
14 President.

15 (3) PURPOSE OF PRESIDENTIAL ACTIONS.—A
16 description of the purpose of the action or actions.

17 (4) EVALUATION.—

18 (A) DESCRIPTION.—An evaluation, in con-
19 sultation with the Secretary of State, the par-
20 ties described in section 203(b), and other par-
21 ties the President determines appropriate, of
22 the anticipated impact of the Presidential ac-
23 tion upon—

24 (i) pending abduction cases in such
25 country;

- 1 (ii) the government of such country;
- 2 (iii) the population of such country;
- 3 (iv) the United States economy;
- 4 (v) other interested parties; and
- 5 (vi) if such country is a Convention
- 6 country or an MOU country, the reciprocal
- 7 fulfillment of obligations pursuant to such
- 8 Convention or applicable MOU, as applica-
- 9 ble.

10 (B) FORM.—The evaluation under sub-

11 paragraph (A) shall be transmitted in unclassi-

12 fied form, but may contain a classified annex if

13 necessary.

14 (5) STATEMENT OF POLICY OPTIONS.—A state-

15 ment that noneconomic policy options designed to

16 resolve the unresolved case or bring about the ces-

17 sation of the pattern of noncooperation have reason-

18 ably been exhausted, including the consultations re-

19 quired in section 203.

20 (b) DELAY IN TRANSMITTAL OF REPORT.—If, on or

21 before the date that the President is required to submit

22 a report under subsection (a) to the appropriate congres-

23 sional committees, the President determines and certifies

24 to such committees that a single, additional period of time

25 not to exceed 90 days is necessary pursuant to section

1 202(c)(2), the President shall not be required to submit
2 the report to such committees until the expiration of such
3 period of time.

4 **SEC. 205. PRESIDENTIAL ACTIONS.**

5 (a) DESCRIPTION OF PRESIDENTIAL ACTIONS.—Ex-
6 cept as provided in subsection (c), the Presidential actions
7 referred to in this subsection are the following:

8 (1) A private demarche.

9 (2) An official public demarche.

10 (3) A public condemnation.

11 (4) A public condemnation within one or more
12 multilateral fora.

13 (5) The delay or cancellation of one or more
14 scientific exchanges.

15 (6) The delay or cancellation of one or more
16 cultural exchanges.

17 (7) The denial of one or more working, official,
18 or state visits.

19 (8) The delay or cancellation of one or more
20 working, official, or state visits.

21 (9) A formal request to the foreign country con-
22 cerned to extradite an individual who is engaged in
23 abduction and who has been formally accused of,
24 charged with, or convicted of an extraditable offense.

1 (10) The withdrawal, limitation, or suspension
2 of United States development assistance in accord-
3 ance with section 116 of the Foreign Assistance Act
4 of 1961 (22 U.S.C. 2151n).

5 (11) The withdrawal, limitation, or suspension
6 of United States security assistance in accordance
7 with section 502B of the Foreign Assistance Act of
8 1961 (22 U.S.C. 2304).

9 (12) The withdrawal, limitation, or suspension
10 of assistance to the central government of a country
11 pursuant to chapter 4 of part II of the Foreign As-
12 sistance Act of 1961 (22 U.S.C. 2346 et seq.; relat-
13 ing to the Economic Support Fund).

14 (13) Ordering the heads of the appropriate
15 United States agencies not to issue any (or a speci-
16 fied number of) specific licenses, and not to grant
17 any other specific authority (or a specified number
18 of authorities), to export any goods or technology to
19 such government or to the agency or instrumentality
20 of such government determined by the President to
21 be responsible for such unresolved case or pattern of
22 noncooperation, as applicable, under—

23 (A) the Export Administration Act of 1979
24 (as continued in effect under the International
25 Emergency Economic Powers Act);

1 (B) the Arms Export Control Act;
2 (C) the Atomic Energy Act of 1954; or
3 (D) any other statute that requires the
4 prior review and approval of the United States
5 Government as a condition for the export or re-
6 export of goods or services.

7 (b) COMMENSURATE ACTION.—Except as provided in
8 subsection (c), the President may substitute any other ac-
9 tion authorized by law for any action described in sub-
10 section (a) if such action is commensurate in effect to the
11 action substituted and if such action would further the
12 purposes of this Act as specified in section 2(c). The Presi-
13 dent shall seek to take all appropriate and feasible actions
14 authorized by law to resolve the unresolved case or to ob-
15 tain the cessation of such pattern of noncooperation, as
16 applicable. If commensurate action is taken under this
17 subsection, the President shall transmit to the appropriate
18 congressional committees a report on such action, together
19 with an explanation for taking such action.

20 (c) EXCEPTIONS.—

21 (1) HUMANITARIAN EXCEPTION.—Any action
22 taken pursuant to subsection (a) or (b) may not pro-
23 hibit or restrict the provision of medicine, medical
24 equipment or supplies, food, or other life-saving hu-
25 manitarian assistance.

1 (2) DEFENSE AND NATIONAL SECURITY EXCEP-
2 TION.—The President shall not be required to apply
3 or maintain any action under section 205—

4 (A) in the case of procurement of defense
5 articles or defense services—

6 (i) under existing contracts or sub-
7 contracts, including the exercise of options
8 for production quantities, to satisfy re-
9 quirements essential to the national secu-
10 rity of the United States;

11 (ii) if the President determines in
12 writing and transmits to the appropriate
13 congressional committees a report that the
14 government or the agency or instrumen-
15 tality of such government to which such
16 action would otherwise be applied is a sole
17 source supplier of such defense articles or
18 services, that such defense articles or serv-
19 ices are essential, and that alternative
20 sources are not readily or reasonably avail-
21 able; or

22 (iii) if the President determines in
23 writing and transmits to the appropriate
24 congressional committees a report that
25 such defense articles or services are essen-

1 tial to the national security of the United
2 States under defense co-production agree-
3 ments; or

4 (B) to products or services provided under
5 contracts entered into before the date on which
6 the President publishes in the Federal Register
7 notice of such action in accordance with section
8 208.

9 **SEC. 206. PRESIDENTIAL WAIVER.**

10 (a) IN GENERAL.—Subject to subsection (b), the
11 President may waive the application of any of the actions
12 described in paragraphs (10) through (13) of section
13 205(a) (or commensurate action as provided in section
14 205(b)) with respect to a country, if the President deter-
15 mines and so reports to the appropriate congressional
16 committees that—

17 (1) the government of such country has satis-
18 factorily resolved any abduction case giving rise to
19 the application of any of such actions and—

20 (A) if such country is a Convention coun-
21 try, such country has taken measures to ensure
22 future compliance with the provisions of the
23 Hague Abduction Convention;

24 (B) if such country is an MOU country,
25 such country has taken measures to ensure fu-

1 ture compliance with the provisions of the MOU
2 at issue; or

3 (C) if such country was a nonparty country
4 at the time the abductions or denials of rights
5 of access resulting in the abduction cases or ac-
6 cess cases occurred, such country has become a
7 Convention country or an MOU country;

8 (2) the exercise of such waiver authority would
9 further the purposes of this Act; or

10 (3) the important national interest of the
11 United States requires the exercise of such waiver
12 authority.

13 (b) CONGRESSIONAL NOTIFICATION.—Not later than
14 the date of the exercise of a waiver under subsection (a),
15 the President shall notify the appropriate congressional
16 committees of such waiver or the intention to exercise such
17 waiver, together with a detailed justification thereof.

18 **SEC. 207. PUBLICATION IN FEDERAL REGISTER.**

19 (a) IN GENERAL.—Subject to subsection (b), the
20 President shall ensure publication in the Federal Register
21 of the following:

22 (1) DETERMINATIONS OF GOVERNMENTS,
23 AGENCIES, INSTRUMENTALITIES OF COUNTRIES
24 WITH PATTERNS OF NONCOOPERATION.—Any des-
25 ignation of a country that the President has des-

1 ignated as a Country With a Pattern of Noncoopera-
2 tion under section 202(b)(1)(A), together with, when
3 applicable and to the extent practicable, the identi-
4 ties of agencies or instrumentalities determined to be
5 responsible for such pattern of noncooperation.

6 (2) PRESIDENTIAL ACTIONS.—A description of
7 any action under paragraphs (10) through (13) of
8 section 205(a) (or commensurate action as provided
9 in section 205(b)) and the effective date of such ac-
10 tion.

11 (3) DELAYS IN TRANSMITTAL OF PRESI-
12 DENTIAL ACTION REPORTS.—Any delay in trans-
13 mittal of a report required under section 204.

14 (4) WAIVERS.—Any waiver issued under section
15 206.

16 (b) LIMITED DISCLOSURE OF INFORMATION.—The
17 President may limit publication of information under this
18 section in the same manner and to the same extent as
19 the President may limit the publication of findings and
20 determinations described in section 654(c) of the Foreign
21 Assistance Act of 1961 (22 U.S.C. 2414(c)), if the Presi-
22 dent determines that the publication of such informa-
23 tion—

24 (1) would be harmful to the national security of
25 the United States; or

1 (2) would not further the purposes of this Act.

2 **SEC. 208. TERMINATION OF PRESIDENTIAL ACTIONS.**

3 Any action taken under this Act or any amendment
4 made by this Act with respect to a foreign country shall
5 terminate on the earlier of the following two dates:

6 (1) Not later than two years after the effective
7 date of such action unless expressly reauthorized by
8 law.

9 (2) The date on which the President transmits
10 to Congress a certification containing a determina-
11 tion of the President that the government of such
12 country has resolved any unresolved abduction case
13 or has taken substantial and verifiable steps to cor-
14 rect the pattern of noncooperation at issue, as appli-
15 cable, that gave rise to such action.

Passed the House of Representatives December 11,
2013.

Attest:

Clerk.

113TH CONGRESS
1ST SESSION

H. R. 3212

AN ACT

To ensure compliance with the 1980 Hague Convention on the Civil Aspects of International Child Abduction by countries with which the United States enjoys reciprocal obligations, to establish procedures for the prompt return of children abducted to other countries, and for other purposes.