

113TH CONGRESS
1ST SESSION

H. R. 3212

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.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 2013

Mr. SMITH of New Jersey (for himself, Mr. MORAN, Mr. WOLF, Mr. MEADOWS, Mr. KENNEDY, Mr. SHERMAN, Mr. LIPINSKI, Mr. HOLDING, and Mr. BURGESS) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

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,*

1 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

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

5 (b) **TABLE OF CONTENTS.**—The table of contents for
 6 this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings; sense of Congress; purposes.
- Sec. 3. Definitions.
- Sec. 4. Funding.

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.

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

8 (a) **FINDINGS.**—Congress finds the following:

9 (1) Sean Goldman, a United States citizen and
 10 resident of New Jersey, was abducted from the
 11 United States in 2004 and separated from his fa-
 12 ther, David Goldman, who spent nearly six years
 13 battling for the return of his son from Brazil before
 14 Sean was finally returned to Mr. Goldman’s custody
 15 on December 24, 2009.

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

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

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

22 (5) The United States and Convention coun-
23 tries have expressed their desire, through the Hague
24 Abduction Convention, “to protect children inter-
25 nationally from the harmful effects of their wrongful

1 removal or retention and to establish procedures to
2 ensure their prompt return to the State of their ha-
3 bitual residence, as well as to secure protection for
4 rights of access.”.

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

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

22 (8) According to the Department of State’s
23 April 2010 Report on Compliance with the Hague
24 Convention on the Civil Aspects of International
25 Child Abduction, “parental child abduction jeopard-

1 izes the child and has substantial long-term con-
2 sequences for both the child and the left-behind par-
3 ent.”.

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

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

20 (11) Left-behind parents who are military par-
21 ents may be unable to leave their military duties to
22 pursue multinational litigation or take leave to at-
23 tend multiple court proceedings, and foreign authori-
24 ties may not schedule proceedings to accommodate
25 such duties.

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

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

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

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

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

24 (4) promote an international consensus that it
25 is in the interest of children to have any issues re-

1 lated to their care and custody determined in the
2 country of their habitual residence;

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

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

16 **SEC. 3. DEFINITIONS.**

17 In this Act:

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

21 (2) **ABDUCTION.**—The term “abduction”
22 means—

23 (A) the alleged wrongful removal of a child
24 from the child’s country of habitual residence;

1 (B) the alleged wrongful retention of a
2 child outside the child’s country of habitual res-
3 idence; or

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

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

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

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

19 (6) APPLICATION.—The term “application”
20 means—

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

24 (B) in the case of an MOU country, the
25 formal document required pursuant to the pro-

1 visions of the applicable MOU to request the re-
2 turn of an abducted child or to request rights
3 of access, as applicable; and

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

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

15 (8) CENTRAL AUTHORITY.—The term “Central
16 Authority” means—

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

20 (B) in the case of an MOU country, the of-
21 ficial entity designated by the government of
22 the MOU country within the applicable MOU
23 pursuant to section 103(b)(1) to discharge the
24 duties imposed on the entity in such MOU; and

1 (C) in the case of a nonparty country, the
2 foreign ministry of such country.

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

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

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

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

21 (A) attributed to such individual or entity,
22 as applicable; and

23 (B) exercised at the time of the abduction
24 or that would have been exercised but for the
25 abduction.

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

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

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

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

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

1 (18) NONPARTY COUNTRY.—The term
2 “nonparty country” means a country that is neither
3 a Convention country nor an MOU country.

4 (19) PATTERN OF NONCOOPERATION.—

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

7 (i) of a Convention country to imple-
8 ment and abide by the provisions of the
9 Hague Abduction Convention; and

10 (ii) of an MOU country to implement
11 and abide by the provisions of the applica-
12 ble MOU.

13 (B) CRITERIA.—Such persistent failure
14 may be evidenced by one or more of the fol-
15 lowing criteria:

16 (i) The existence of 10 or more unre-
17 solved abduction cases.

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

22 (iii) The failure of the judicial or ad-
23 ministrative branch, as applicable, of the
24 national government of the country to im-
25 plement and comply with the provisions of

1 the Hague Abduction Convention or the
2 MOU, as applicable.

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

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

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

22 (A) attributed to an individual or entity,
23 either individually or jointly, and

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

7 (22) UNRESOLVED ABDUCTION CASE.—

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

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

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

23 (ii) the judicial or administrative
24 branch, as applicable, of the national gov-
25 ernment of the country in which the child

1 is located has implemented and is com-
2 plying with the provisions of the Hague
3 Abduction Convention or the MOU, as ap-
4 plicable, and a final determination is made
5 by such judicial or administrative branch
6 that the child will not be returned to the
7 country of habitual residence; or

8 (iii) the child attains the age of 16.

9 **SEC. 4. FUNDING.**

10 Amounts necessary to carry out this Act shall be
11 taken out of the discretionary funds available to the Sec-
12 retary of State for each of the fiscal years 2014 through
13 2018.

14 **TITLE I—DEPARTMENT OF**
15 **STATE ACTIONS**

16 **SEC. 101. ANNUAL REPORT.**

17 (a) **IN GENERAL.**—Not later than March 31 of each
18 year, the Secretary of State shall submit to the appro-
19 priate congressional committees an Annual Report on
20 International Child Abduction.

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

23 (1) A list of all countries with respect to which
24 there were one or more abduction cases during the
25 preceding year that identifies whether each such

1 country is a Convention country, an MOU country,
2 or a nonparty country.

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

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

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

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

24 (ii) The reason for the delay in submission
25 of each case identified in clause (i) by the Cen-

1 tral Authority of such country to the judicial or
2 administrative authority.

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

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

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

20 (G) The percentage of the total number of
21 abduction cases and access cases, respectively,
22 resolved during the preceding year.

23 (H) Detailed information about each unre-
24 solved abduction case described in subpara-
25 graph (E) and on actions taken by the Depart-

1 ment of State to resolve such case, including
2 the specific actions taken by the United States
3 chief of mission in such country.

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

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

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

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

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

23 (B) The efforts referred to in subparagraph (A)
24 shall include efforts to address pending abduction
25 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 (c) EXCEPTION.—The Annual Report shall not in-
7 clude—

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

10 (2) information that may identify a party in-
11 volved in an abduction case or access case unless the
12 party stipulates in writing to the Central Authority
13 of the United States that such information may be
14 included in the Annual Report.

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

17 (1) information on the number of unresolved
18 abduction cases affecting left-behind parents who
19 are military parents and a summary of assistance of-
20 fered to such left-behind parents;

21 (2) information on the use of airlines in abduc-
22 tions, voluntary airline practices to prevent abduc-
23 tions, and recommendations for best airline practices
24 to prevent abductions;

1 (3) information on actions taken by the Central
2 Authority of the United States to train domestic
3 judges in application of the Hague Abduction Con-
4 vention; and

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

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

16 **SEC. 102. STANDARDS AND ASSISTANCE.**

17 The Secretary of State shall ensure that United
18 States diplomatic and consular missions abroad—

19 (1) maintain a consistent reporting standard
20 with respect to abduction cases and access cases in-
21 volving abducted children in the country in which
22 such mission is located for purposes of the Annual
23 Report;

24 (2) designate at least one official in each such
25 mission to assist left-behind parents from the United

1 States who are visiting such country to resolve cases
2 involving an abduction or rights of access; and

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

6 **SEC. 103. MEMORANDUM OF UNDERSTANDING.**

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

11 (1) identification of the Central Authority;

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

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

21 (4) identification of the judicial or administra-
22 tive authority that will promptly adjudicate abduc-
23 tion cases and access cases;

24 (5) identification of a law enforcement agency
25 and available law enforcement mechanisms and pro-

1 cedures to ensure the immediate enforcement of an
2 order issued by the authority identified pursuant to
3 paragraph (4) to return an abducted child to a left-
4 behind parent, including by—

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

7 (B) providing protection to the abducted
8 child after such child is located; and

9 (C) retrieving the abducted child and mak-
10 ing the appropriate arrangements for such child
11 to be returned to the country of habitual resi-
12 dence;

13 (6) a protocol to establish periodic visits be-
14 tween a United States embassy or consular official
15 and an abducted child to allow the official to ascer-
16 tain the child's location and welfare; and

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

19 (b) RULE OF CONSTRUCTION.—

20 (1) IN GENERAL.—Nothing in this Act shall be
21 construed to prohibit the United States from pro-
22 posing and entering into a memorandum of under-
23 standing with a Convention country to further clar-
24 ify the reciprocal obligations of the United States

1 and the Convention country under the Hague Ab-
2 duction Convention.

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

11 **SEC. 104. NOTIFICATION OF CONGRESSIONAL REPRESENT-**
12 **ATIVES.**

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

19 (b) EXCEPTION.—The notification requirement under
20 subsection (a) shall not apply if the left-behind parent
21 does not consent to the notification described in such sub-
22 section.

23 (c) MEMBER OF CONGRESS DEFINED.—In this sec-
24 tion, the term “Member of Congress” means a Represent-

1 ative in, or Delegate or Resident Commissioner to, the
2 Congress.

3 **TITLE II—PRESIDENTIAL**
4 **ACTIONS**

5 **SEC. 201. PRESIDENTIAL ACTIONS IN RESPONSE TO UNRE-**
6 **SOLVED CASES.**

7 (a) RESPONSE TO INTERNATIONAL CHILD ABDUC-
8 TIONS.—

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

11 (A) promote the best interest of children
12 abducted from the United States by estab-
13 lishing legal rights and procedures for their
14 prompt return and by promoting such rights
15 and procedures through actions that ensure the
16 enforcement of reciprocal international obliga-
17 tions; and

18 (B) recognize the international character
19 of the Hague Abduction Convention, and the
20 need for reciprocity pursuant to and the uni-
21 form international interpretation of the Hague
22 Abduction Convention, by promoting the timely
23 resolution of abduction cases through one or
24 more of the actions described in section 205.

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

7 (b) PRESIDENTIAL ACTIONS.—

8 (1) IN GENERAL.—Subject to paragraphs (2)
9 and (3), the President, in consultation with the Sec-
10 retary of State, shall, as expeditiously as practicable
11 in response to the failure described in subsection (a)
12 by the government of a foreign country, take one or
13 more of the actions described in paragraphs (1)
14 through (12) of section 205(a) (or commensurate ac-
15 tion as provided in section 205(b)) with respect to
16 such country.

17 (2) DEADLINE FOR ACTIONS.—

18 (A) IN GENERAL.—Except as provided in
19 subparagraph (B), not later than March 31 of
20 each year, the President shall take one or more
21 of the actions described in paragraphs (1)
22 through (12) of section 205(a) (or commensu-
23 rate action as provided in section 205(b)) with
24 respect to each foreign country the government

1 of which has failed to resolve an unresolved ab-
2 duction case that is pending as of such date.

3 (B) EXCEPTION.—In the case of an action
4 under any of paragraphs (10) through (12) of
5 section 205(a) (or commensurate action as pro-
6 vided in section 205(b))—

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

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

12 (3) AUTHORITY FOR DELAY OF PRESIDENTIAL
13 ACTIONS.—The President may delay action de-
14 scribed in any of the paragraphs (10) through (12)
15 of section 205(a) (or commensurate action as pro-
16 vided in section 205(b)), as required under para-
17 graph (2), if the President determines and certifies
18 to the appropriate congressional committees that an
19 additional, specified period of time is necessary for
20 a continuation of negotiations that have been com-
21 menced with the country to resolve the unresolved
22 case.

23 (c) IMPLEMENTATION.—

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

1 (A) take one or more actions that most ap-
2 propriately respond to the nature and severity
3 of the failure to resolve the unresolved abduc-
4 tion cases; and

5 (B) seek to the fullest extent possible to
6 target action as narrowly as practicable with re-
7 spect to the agencies or instrumentalities of the
8 foreign government that are responsible for
9 such failures, in ways that respect the separa-
10 tion of powers and independence of the judici-
11 ary in foreign countries.

12 (2) GUIDELINES FOR PRESIDENTIAL AC-
13 TIONS.—In addition to the guidelines under para-
14 graph (1), the President, in determining whether to
15 take one or more actions under paragraphs (10)
16 through (12) of section 205(a) (or commensurate ac-
17 tion as provided in section 205(b)), shall seek to
18 minimize any adverse impact on—

19 (A) the population of the country whose
20 government is targeted by the action or actions;
21 and

22 (B) the humanitarian activities of United
23 States and foreign nongovernmental organiza-
24 tions in the country.

1 **SEC. 202. PRESIDENTIAL ACTIONS IN RESPONSE TO PAT-**
2 **TERNS OF NONCOOPERATION IN CASES OF**
3 **INTERNATIONAL CHILD ABDUCTIONS.**

4 (a) RESPONSE TO A PATTERN OF NONCOOPERA-
5 TION.—

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

8 (A) oppose institutional or other systemic
9 failures of foreign governments to fulfill their
10 obligations pursuant to the Hague Abduction
11 Convention or MOU, as applicable, to resolve
12 abduction cases and access cases; and

13 (B) promote reciprocity pursuant to and
14 compliance with the Hague Abduction Conven-
15 tion by Convention countries and compliance
16 with the applicable MOU by MOU countries.

17 (2) REQUIREMENT OF PRESIDENTIAL AC-
18 TION.—Whenever the President determines that the
19 government of a foreign country has engaged in a
20 pattern of noncooperation, the President shall pro-
21 mote the resolution of the unresolved abduction
22 cases through one or more of the actions described
23 in subsection (c).

24 (b) DESIGNATIONS OF COUNTRIES WITH PATTERNS
25 OF NONCOOPERATION IN CASES OF INTERNATIONAL
26 CHILD ABDUCTION.—

1 (1) ANNUAL REVIEW.—

2 (A) IN GENERAL.—Not later than March
3 31 of each year, the President shall review the
4 status of abduction cases and access cases in
5 each foreign country to determine whether the
6 government of such country has engaged in a
7 pattern of noncooperation during the preceding
8 12 months or since the date of the last review
9 of such country under this subparagraph,
10 whichever period is longer. The President shall
11 designate each country the government of which
12 has engaged in a pattern of noncooperation as
13 a Country With a Pattern of Noncooperation.

14 (B) BASIS OF REVIEW.—Each review con-
15 ducted under subparagraph (A) shall be based
16 upon information contained in the latest Annual
17 Report and on any other evidence available.

18 (2) DETERMINATIONS OF RESPONSIBLE PAR-
19 TIES.—For the government of each country des-
20 ignated as a Country With a Pattern of Noncoopera-
21 tion under paragraph (1)(A), the President shall
22 seek to determine the agencies or instrumentalities
23 of such government that are responsible for the pat-
24 tern of noncooperation by such government in order

1 to appropriately target actions under this section in
2 response.

3 (3) CONGRESSIONAL NOTIFICATION.—Whenever
4 the President designates a country as a Country
5 With a Pattern of Noncooperation under paragraph
6 (1)(A), the President shall, as soon as practicable
7 after such designation is made, transmit to the ap-
8 propriate congressional committees—

9 (A) the designation of the country, signed
10 by the President; and

11 (B) the identification, if any, of responsible
12 agencies or instrumentalities determined under
13 paragraph (2).

14 (c) PRESIDENTIAL ACTIONS WITH RESPECT TO A
15 COUNTRY WITH A PATTERN OF NONCOOPERATION.—

16 (1) IN GENERAL.—Subject to paragraphs (2)
17 and (3) with respect to each Country With a Pattern
18 of Noncooperation designated under subsection
19 (b)(1)(A), the President shall, after the require-
20 ments of sections 203 and 204 have been satisfied,
21 but not later than 90 days (or 180 days in case of
22 a delay under paragraph (2)) after the date of such
23 designation of the country under such subsection,
24 take one or more of the actions under paragraphs

1 (10) through (12) of section 205(a) (or commensu-
2 rate action as provided in section 205(b)).

3 (2) AUTHORITY FOR DELAY OF PRESIDENTIAL
4 ACTIONS.—If, on or before the date that the Presi-
5 dent is required to take action under paragraph (1),
6 the President determines and certifies to the appro-
7 priate congressional committees that a single, addi-
8 tional period of time not to exceed 90 days is nec-
9 essary—

10 (A) for a continuation of negotiations that
11 have been commenced with the government of a
12 country described in such paragraph to bring
13 about a cessation of the pattern of noncoopera-
14 tion by such country, or

15 (B) for a review of corrective action taken
16 by such country after designation of such coun-
17 try as a Country With a Pattern of Non-
18 cooperation under subsection (b)(1)(A) or in
19 anticipation that corrective action will be taken
20 by such country during such 90-day period,

21 the President shall not be required to take such ac-
22 tion until the expiration of such period of time.

23 (3) EXCEPTION FOR ONGOING PRESIDENTIAL
24 ACTION.—

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

5 (i) the President has taken action
6 pursuant to paragraph (1) with respect to
7 such country in a preceding year, such ac-
8 tion is in effect at the time such country
9 is designated as a Country with a Pattern
10 of Noncooperation under subsection
11 (b)(1)(A), and the President submits to
12 the appropriate congressional committees
13 the information described in section 204
14 regarding the actions in effect with respect
15 to such country; or

16 (ii) subject to subparagraph (B), the
17 President determines that such country is
18 subject to multiple, broad-based sanctions
19 imposed in significant part in response to
20 human rights abuses and that such sanc-
21 tions also satisfy the requirements of this
22 subsection.

23 (B) ADDITIONAL REQUIREMENTS.—If the
24 President makes a determination under sub-
25 paragraph (A)(ii)—

1 (i) the report under section 204 and,
2 as applicable, the publication in the Fed-
3 eral Register under section 208, shall
4 specify the specific sanction or sanctions
5 that the President has determined satisfy
6 the requirements of this subsection; and

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

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

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

17 As soon as practicable after the President makes a
18 determination under section 201 in response to failures
19 to resolve unresolved abduction cases and the President
20 decides to take action under paragraphs (10) through (12)
21 of section 205(a) (or commensurate action as provided in
22 section 205(b)) with respect to that country, or not later
23 than 90 days after the President designates a country as
24 a country with a pattern of noncooperation pursuant to
25 section 202(b)(1)(a), the President shall—

1 (1) request consultation with the government of
2 such country regarding the failures giving rise to
3 designation of that country as a Country With a
4 Pattern of Noncooperation regarding the pattern of
5 noncooperation or to action under section 201; and

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

8 **SEC. 204. REPORT TO CONGRESS.**

9 (a) IN GENERAL.—Subject to subsection (b), not
10 later than 90 days after the President makes a determina-
11 tion under section 201 in response to failures to resolve
12 unresolved abduction cases and the President decides to
13 take action under paragraphs (10) through (12) of section
14 205(a) (or commensurate action as provided in section
15 205(b)) with respect to that country, or not later than
16 90 days after the President designates a country as a
17 Country With a Pattern of Noncooperation pursuant to
18 section 202(b)(1)(A), the President shall transmit to the
19 appropriate congressional committees a report on the fol-
20 lowing:

21 (1) IDENTIFICATION OF PRESIDENTIAL AC-
22 TIONS.—An identification of the action or actions
23 described in section 205(a) (or commensurate action
24 as provided in section 205(b)) to be taken with re-
25 spect to such country.

1 (2) DESCRIPTION OF VIOLATIONS.—A descrip-
2 tion of the failure to resolve an unresolved case or
3 the pattern of noncooperation, as applicable, giving
4 rise to the action or actions to be taken by the
5 President.

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

8 (4) EVALUATION.—

9 (A) DESCRIPTION.—An evaluation, in con-
10 sultation with the Secretary of State, the par-
11 ties described in section 203(b), and other par-
12 ties the President determines appropriate, of
13 the anticipated impact of the Presidential ac-
14 tion upon—

15 (i) pending abduction cases in such
16 country;

17 (ii) the government of such country;

18 (iii) the population of such country;

19 (iv) the United States economy;

20 (v) other interested parties; and

21 (vi) if such country is a Convention
22 country or an MOU country, the reciprocal
23 fulfillment of obligations pursuant to such
24 Convention or applicable MOU, as applica-
25 ble.

1 (B) FORM.—The evaluation under sub-
2 paragraph (A) shall be transmitted in unclassi-
3 fied form, but may contain a classified annex if
4 necessary.

5 (5) STATEMENT OF POLICY OPTIONS.—A state-
6 ment that noneconomic policy options designed to
7 resolve the unresolved case or bring about the ces-
8 sation of the pattern of noncooperation have reason-
9 ably been exhausted, including the consultations re-
10 quired in section 203.

11 (b) DELAY IN TRANSMITTAL OF REPORT.—If, on or
12 before the date that the President is required to submit
13 a report under subsection (a) to the appropriate congres-
14 sional committees, the President determines and certifies
15 to such committees that a single, additional period of time
16 not to exceed 90 days is necessary pursuant to section
17 202(c)(2), the President shall not be required to submit
18 the report to such committees until the expiration of such
19 period of time.

20 **SEC. 205. PRESIDENTIAL ACTIONS.**

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

- 24 (1) A private demarche.
25 (2) An official public demarche.

1 (3) A public condemnation.

2 (4) A public condemnation within one or more
3 multilateral fora.

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

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

8 (7) The denial of one or more working, official,
9 or state visits.

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

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

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

20 (11) The withdrawal, limitation, or suspension
21 of United States security assistance in accordance
22 with section 502B of the Foreign Assistance Act of
23 1961 (22 U.S.C. 2304).

24 (12) Ordering the heads of the appropriate
25 United States agencies not to issue any (or a speci-

1 fied number of) specific licenses, and not to grant
2 any other specific authority (or a specified number
3 of authorities), to export any goods or technology to
4 such government or to the agency or instrumentality
5 of such government determined by the President to
6 be responsible for such unresolved case or pattern of
7 noncooperation, as applicable, under—

8 (A) the Export Administration Act of 1979
9 (as continued in effect under the International
10 Emergency Economic Powers Act);

11 (B) the Arms Export Control Act;

12 (C) the Atomic Energy Act of 1954; or

13 (D) any other statute that requires the
14 prior review and approval of the United States
15 Government as a condition for the export or re-
16 export of goods or services.

17 (b) COMMENSURATE ACTION.—Except as provided in
18 subsection (c), the President may substitute any other ac-
19 tion authorized by law for any action described in sub-
20 section (a) if such action is commensurate in effect to the
21 action substituted and if such action would further the
22 purposes of this Act as specified in section 2(c). The Presi-
23 dent shall seek to take all appropriate and feasible actions
24 authorized by law to resolve the unresolved case or to ob-
25 tain the cessation of such pattern of noncooperation, as

1 applicable. If commensurate action is taken under this
2 subsection, the President shall transmit to the appropriate
3 congressional committees a report on such action, together
4 with an explanation for taking such action.

5 (c) EXCEPTIONS.—

6 (1) HUMANITARIAN EXCEPTION.—Any action
7 taken pursuant to subsection (a) or (b) may not pro-
8 hibit or restrict the provision of medicine, medical
9 equipment or supplies, food, or other life-saving hu-
10 manitarian assistance.

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

14 (A) in the case of procurement of defense
15 articles or defense services—

16 (i) under existing contracts or sub-
17 contracts, including the exercise of options
18 for production quantities, to satisfy re-
19 quirements essential to the national secu-
20 rity of the United States;

21 (ii) if the President determines in
22 writing and transmits to the appropriate
23 congressional committees a report that the
24 government or the agency or instrumen-
25 tality of such government to which such

1 action would otherwise be applied is a sole
2 source supplier of such defense articles or
3 services, that such defense articles or serv-
4 ices are essential, and that alternative
5 sources are not readily or reasonably avail-
6 able; or

7 (iii) if the President determines in
8 writing and transmits to the appropriate
9 congressional committees a report that
10 such defense articles or services are essen-
11 tial to the national security of the United
12 States under defense co-production agree-
13 ments; or

14 (B) to products or services provided under
15 contracts entered into before the date on which
16 the President publishes in the Federal Register
17 notice of such action in accordance with section
18 208.

19 **SEC. 206. PRESIDENTIAL WAIVER.**

20 (a) IN GENERAL.—Subject to subsection (b), the
21 President may waive the application of any of the actions
22 described in paragraphs (10) through (12) of section
23 205(a) (or commensurate action as provided in section
24 205(b)) with respect to a country, if the President deter-

1 mines and so reports to the appropriate congressional
2 committees that—

3 (1) the government of such country has satis-
4 factorily resolved any abduction case giving rise to
5 the application of any of such actions and—

6 (A) if such country is a Convention coun-
7 try, such country has taken measures to ensure
8 future compliance with the provisions of the
9 Hague Abduction Convention;

10 (B) if such country is an MOU country,
11 such country has taken measures to ensure fu-
12 ture compliance with the provisions of the MOU
13 at issue; or

14 (C) if such country was a nonparty country
15 at the time the abductions or denials of rights
16 of access resulting in the abduction cases or ac-
17 cess cases occurred, such country has become a
18 Convention country or an MOU country;

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

21 (3) the important national interest of the
22 United States requires the exercise of such waiver
23 authority.

24 (b) CONGRESSIONAL NOTIFICATION.—Not later than
25 the date of the exercise of a waiver under subsection (a),

1 the President shall notify the appropriate congressional
2 committees of such waiver or the intention to exercise such
3 waiver, together with a detailed justification thereof.

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

5 (a) IN GENERAL.—Subject to subsection (b), the
6 President shall ensure publication in the Federal Register
7 of the following:

8 (1) DETERMINATIONS OF GOVERNMENTS,
9 AGENCIES, INSTRUMENTALITIES OF COUNTRIES
10 WITH PATTERNS OF NONCOOPERATION.—Any des-
11 ignation of a country that the President has des-
12 ignated as a Country With a Pattern of Noncoopera-
13 tion under section 202(b)(1)(A), together with, when
14 applicable and to the extent practicable, the identi-
15 ties of agencies or instrumentalities determined to be
16 responsible for such pattern of noncooperation.

17 (2) PRESIDENTIAL ACTIONS.—A description of
18 any action under paragraphs (10) through (12) of
19 section 205(a) (or commensurate action as provided
20 in section 205(b)) and the effective date of such ac-
21 tion.

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

1 (4) WAIVERS.—Any waiver issued under section
2 206.

3 (b) LIMITED DISCLOSURE OF INFORMATION.—The
4 President may limit publication of information under this
5 section in the same manner and to the same extent as
6 the President may limit the publication of findings and
7 determinations described in section 654(e) of the Foreign
8 Assistance Act of 1961 (22 U.S.C. 2414(e)), if the Presi-
9 dent determines that the publication of such informa-
10 tion—

11 (1) would be harmful to the national security of
12 the United States; or

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

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

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

18 (1) Not later than two years after the effective
19 date of such action unless expressly reauthorized by
20 law.

21 (2) The date on which the President transmits
22 to Congress a certification containing a determina-
23 tion of the President that the government of such
24 country has resolved any unresolved abduction case
25 or has taken substantial and verifiable steps to cor-

- 1 rect the pattern of noncooperation at issue, as appli-
- 2 cable, that gave rise to such action.

○