

## Parental Child Abductions

### Statistics on Child Abductions

According to the National Center for Missing and Exploited Children, several hundred children are abducted every year in the United States. The U.S. Department of Justice divides child kidnapping cases into three categories: those committed by a relative of the victim, those performed by an acquaintance, and those committed by strangers. Of these three categories, the largest category of abductions involves one of the victim's parents. In parental kidnappings, mothers flee with the children 54% of the cases, while fathers abscond with the children 46% of the time. Abductions occur more frequently to children under 6 years old, and equally to children of both sexes.

### Definition of "Abduction"

The definition of a custodial abduction is the removal of a child from the home jurisdiction in contravention of an existing custody order. In the absence of an existing order there can be no custodial abduction, and either parent is within his or her rights to take the child anywhere they choose. For this reason, the first step in preventing abduction is to obtain a custody order addressing rights of travel. The easiest way to get an order is to file a Petition for Dissolution, as the automatic injunctions against travel become effective upon proper service. For unmarried parties, however, this is not a possibility because the filing of an allocation of parental responsibilities (APR) action does not trigger temporary injunctions against travel. Where the parties are unmarried, the party seeking to prevent abduction must motion the court for a temporary injunction against travel concurrently with the filing of an APR action. Depending upon the specific statutory basis for the injunction request, it can be obtained ex-parte.

The practical effect of this definition of custodial abduction is that parties seeking to prevent an abduction must file to obtain a custody order before any legal action can be taken: If the abduction happens before the entry of an order, it does not meet the definition of abduction and the remedies available to a party are limited.

## Vulnerability

Parental abductions occur regardless of state, national, or international laws and most often occur prior to a pending child-custody proceeding, or when a parent fears losing the child following court proceedings. Families are most vulnerable when the parents' relationship is strained, and early warning signs of a possible abduction include a parent who has:

- Previously threatened to abduct the child
- Mental or emotional issues
- Close ties to a foreign country
- Problems aligning themselves with the prevailing legal system
- A propensity to use the child as a weapon against the other parent

## Prevention

Family law attorney Rich Harris, President of The Harris Law Firm says that "Although the tragedy associated with parental child abductions in Colorado is not common, the statistics still indicate that parents need to know how to protect themselves and their children. Prevention is worth a pound of cure in these cases, and when parents and children learn together how kidnappings occur, they can reduce the chances of it happening to them."

## Safety Measures

Due to the highly emotional nature associated with family law matters, Rich Harris says that separated or divorced parents should consider the following safety measures to prevent a possible parental child abduction:

- Retain originals of your child's birth certificate and passport.
- Maintain current photographs of your child that can be easily distributed via manual and electronic means.
- Keep an updated written description of your child that includes hair and eye color, height, weight, and date of birth. Include identifying information such as glasses, contacts, braces, birthmarks, piercings, and/or tattoos.

- Have your local law-enforcement agency fingerprint your child.
- Provide written instructions to your child's school authorities, day care providers, and doctor's office personnel not to release information about your child to unauthorized sources.
- Teach young children to spell their full name and memorize their home telephone number.
- Show young children how to use the telephone, (landline, cell phone, pay phone) how to make a collect call, reach the operator, and dial 911.

### Copy of the Court Order

Harris also recommends that the primary custodial parent obtain a court order that clearly defines parenting time arrangements. The order should specify the exact times and locations for the visitation and the exchange, and require the written consent of the Court, or the custodial parent, before the non-custodial parent can take the child out of the area.

Obtain several certified copies of the custody decree from the court that issued the document and ask your child's school officials, babysitters, and day care providers to maintain the paperwork in their files. Also provide school personnel with the names of individuals who have authority to transport your children to and from school, and/or to whom your child may be released in case of emergency. A copy of the parenting agreement should also be given to individuals who may be acting *in loco parentis*.

### Domestic Abductions

If your child is abducted, you should immediately:

- File a "missing person report" with the local police department and request that your child's name and the child's description be entered into the National Crime Information Center (NCIC) files.

- Contact The National Center for Missing and Exploited Children (NCMEC) and request that your child's photograph and description be circulated to the media.
- Consider hiring a private investigator to focus on the case and work in concert with law enforcement agencies to assist them in locating your child.

### International Abductions

Since the late 1970's, more than 16,000 families have been involved in international parental child abductions in the United States. Harris and his Associate, Mike Cheroutes Jr., agree that that abduction cases become even more challenging when they involve other countries. Cheroutes, who has recently handled international child abduction cases in Mexico, Japan, and Turkey, also agrees that prevention is key when the threat of an international kidnapping exists.

### Passport Alerts

Cheroutes recommends that divorced or separated parents request that their attorney register their U.S. citizen children into the U.S. Department of State Passport Services Lookout System. The registration will enable them to be contacted and informed if anyone applies for a new or replacement U.S. passport for their child. The system will also alert all national passport agencies and U.S. embassies and consulates abroad if a parent registers an objection to the issuance of a passport for the child. Although the agency has no legal authority to track the use of, or cancel, a passport, it can provide an alert that international travel may be pending.

Cheroutes warns, however, that the inability of parents to obtain a U.S. passport for their child through the Children's Passport Issuance Alert Program will not prevent a dual-national child from securing and traveling on a foreign passport. Foreign embassies are under no obligation to honor requests or U.S. court orders

restricting the issuance or denial of passports to U.S. citizen children who have dual nationality.

#### Preventative Measures for International Abductions:

In addition to registration with the Passport Lookout System and the preventative measures already discussed, the practical realities associated with international travel provide other opportunities for monitoring and prevention. Cheroutes recommends that a parent who is concerned about the possibility of an international abduction take some or all of the following steps:

1. Closely monitor all joint bank and credit card accounts for unusual or increased financial activity by the other parent: The costs of international travel are significant and in many cases it is found that the abducting parent had been making financial preparations for months in advance. Additionally, a parent suspecting that an abduction is being planned should review billing statements for purchases that indicate travel preparation, such as significant and unusual purchases of children's clothing or medicines.
2. Monitor joint telephone billing statements for increased or unusual international telephone activity: In the majority of cases the abducting parent has close ties to the country to which they plan to remove the child, and often pre-arrangements for the abduction have been made by telephone for many months in advance. Email is also increasingly being used in planning, and in some cases the abducting parent makes frequent trips to the country in question prior to the abduction.
3. Many parents planning an international abduction seek to obtain consent from the other parent to leave the country with the children using a pretext such as a sick relative or special occasion: Be

suspicious of all requests to leave the country that do not include both parents. Often, a wise strategy is to initially agree to the requested travel in order to buy the time to obtain the necessary orders.

4. To the extent possible, do not engage in conflict with the other parent or participate in conduct that could hasten or precipitate an abduction.
5. Consult a qualified attorney as soon as an abduction is suspected.

#### International Assistance

In cases where a parent believes that the other parent has taken the child out of the United States, your attorney will contact the following organizations for assistance:

- The international criminal police organization, INTERPOL, will request that the local police department search for the child in the country where it is believed the child has been taken.
- In cases where the Hague Convention on the Civil Aspects of International Child Abduction applies, the U.S. State Department can provide information about the legal system of the country to which the child was abducted, and a list of attorneys willing to work with a lawyer in the U.S. The Hague Convention is the primary international treaty that offers support to cooperating governments and assistance to parents whose children have been wrongfully removed from the U.S. by one of the parents.

As of 2005, more than 70 countries had adopted the treaty and become signatory countries of the Hague Convention.

## Conclusion

Whether kidnapping occurs within the U.S. or across international borders, parental child abduction is often a long and painful process for the child and for the parent who has been left behind. Rich Harris and Mike Cheroutes Jr. agree that paying close attention to safety measures is important when dealing with the possibility of a domestic or intercontinental abduction, and being proactive in regard to prevention is imperative.