

Hague Convention Fact Sheet

Convention on the Civil Aspects of International Child Abduction

Introduction

The Hague Convention on the Civil Aspects of International Child Abduction is a treaty between many nations, including the United States, that helps to secure the quick return of a child who has been internationally abducted. This can help you locate your children and seek their return.

Legal documents (often called custody orders) state who the legal and physical custodial parent is. Sometimes these custody orders are in a decree of divorce. Sometimes, if the parents never married, then there may not be any legal document regarding child custody.

The purposes of the Convention are the protection of children from the harm of international abduction by a parent. It encourages the prompt return of the child to their country of habitual residence, and it organizes and secures effective rights of access to the child. The general idea behind the Convention is that custody and visitation matters should be decided by the proper court in the country in which the child habitually resides.

What Can You Do?

If a child is missing, first contact your local police department, file a missing person report, and request entry of the report into the National Crime Information Center (NCIC). Always keep a copy of birth certificates and a recent photo of each child.

The State Department can provide detailed information about the country where the child was abducted. This can include information about its legal system, family laws, and attorneys willing to accept American clients.

The State Department can also:

- be a point of contact to parents in need
- monitor court or other legal proceedings overseas
- assist parents in contacting local officials in foreign countries

Contacting the State Department

A new toll-free number from the U.S. State Department can give you information you need on international parental child abduction.

Agents are available at 1-202-485-6205 to assist you from 7:15 a.m. to 7:00 p.m. Monday through Friday. Call toll-free 1-888- 407-4747 outside office hours; citizens abroad may call 1-202- 501-4444 outside office hours.

Passport Lookout Database

Parents can also have their child listed in a federal passport lookout database in case a passport is applied for in the child's name.

For more information, visit travel.state.gov and search for "preventing international parental child abduction."

What Kind of Cases Fall Under the Hague Convention?

Filing under the Hague Convention does not guarantee your child will be returned. To obtain return of your child through a Hague proceeding, you must demonstrate:

- the child habitually resided in one Convention country, and was wrongfully removed to or retained in another Convention country
- a removal or retention is considered wrongful if it was in violation of your custodial rights, and you were exercising those rights at the time of the retention or removal, or you would have been exercising them but for the removal or retention
- the Convention must have been in force between the two countries when the wrongful removal or retention occurred
- the child is under the age of 16

Defenses to Petitions for Return of Child

Under the Convention, a court *may* deny the return of an abducted child if one of the following apply:

- a grave risk that the child's return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation
- the child objects to being returned and has obtained an age and degree of maturity at which the court can take the child's wishes into account
- more than one (1) year has passed since the wrongful removal or retention occurred and the child has become settled in his/her new environment
- the party seeking return consented to or subsequently acquiesced to the child's removal or retention
- a return would violate the fundamental principles of human rights and fundamental freedoms in the country where the child is being held
- the party seeking return was not actually exercising rights of custody at the time of the wrongful removal or retention

Highlights

- the Hague Convention does not decide who should have custody; instead, it decides which country has jurisdiction of the case
- the Hague Convention only applies to countries that have signed the treaty
- the United States signed the treaty in 1988; more than 75 other countries have also signed the treaty
- both countries have to be members (by having signed the treaty) of the Hague Convention
- it is only available when a child has been wrongfully removed from their country and taken to another country
- the petitioner (often the other parent) must show that the removal or retention is “wrongful”
- return of the child is to the member nation rather than specifically to the left-behind parent

This fact sheet is a collaboration of the Center for Arkansas Legal Services and Legal Aid of Arkansas, Inc. These nonprofit organizations provide free legal assistance to eligible Arkansans who meet income, asset, and other guidelines. Legal assistance may also include advice and counsel, brief services, or full representation depending on the situation. For more information about civil legal aid in Arkansas, please visit arlegalservices.org. For information specific to Legal Aid of Arkansas, Inc., visit arlegalaid.org. Apply for services online or by calling 1-800-9-LAW-AID (1- 800-952-9243).

The information and statements of law in this fact sheet should not be considered legal advice. This fact sheet is provided as a broad guide to help you understand how certain legal matters are handled in general. Courts may interpret the law differently. Before you take action, talk to an attorney and follow his or her advice. Always do what the court tells you to do.

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