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**Jurisdiction in Child Custody and Abduction Cases:
A Judge's Guide to the UCCJA, PKPA,
and the Hague Child Abduction Convention**

by

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Judges' Guide to Criminal Parental Kidnapping Cases

by

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National Council of Juvenile and Family Court Judges

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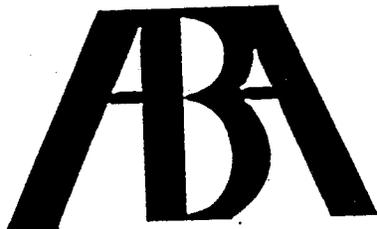
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Jurisdiction in Child Custody and Abduction Cases: A Judge's Guide to the UCCJA, PKPA, and Hague Child Abduction Convention

Foreword

Hundreds of child custody cases are fought across state and national borders every year. Some involve child abduction. Others are the consequence of parents moving with their children to different states or countries following the breakup of their relationships. Very often courts in different states — or countries — exercise custody jurisdiction and issue conflicting orders, raising questions about which order is enforceable.

Litigating custody and pursuing appeals in two different forums can leave parents emotionally and financially exhausted. Worse, children are subjected to long periods of uncertainty and the emotional trauma of being the objects of these prolonged conflicts.

The administration of justice is greatly enhanced when judges have a clear understanding of the complex state, federal and international laws applicable to litigation pending before them. Despite its obvious importance, ongoing judicial education in every aspect of the court's jurisdiction is often difficult, if not impossible. I am sure that most judges would agree that having all of the necessary information available prior to rendering a decision from the bench would be the ideal. However, when considering whether to exercise jurisdiction in an interstate child custody or abduction case all of the necessary information is rarely presented or even available within the state. During heightened litigation, often involving *pro se* litigants, it is often difficult to frame the right questions in order to obtain the information critical to a proper determination. The availability of a handy reference book, to assist the judge in sorting through applicable statutes and ever-changing case facts is an invaluable aid.

This unique volume is the first comprehensive study of jurisdiction in child custody and abduction cases specifically designed for use by the judiciary from the bench. Comprehensive yet succinct, the bench book is a valuable resource for judges faced with deciphering the requirements of the Uniform Child Custody Jurisdiction Act (UCCJA), the federal Parental Kidnapping Prevention Act (PKPA), and the Hague Convention of the Civil Aspects of International Child Abduction (Convention), amidst burgeoning caseloads, limited resources and parties deep in the emotional throes of custody litigation.

However, in order for a bench book to be helpful it must be useable. A judge should be able to peruse it at his or her leisure for detailed understanding or, be able to flip it open, amidst arguments of counsel if need be, and locate information quickly and easily. This well-crafted bench book is designed to assist judges to do just that.

The UCCJA and the PKPA were enacted to prevent jurisdictional gridlock in child custody and abduction cases, and to facilitate interstate enforcement of custody and visitation decrees. The United States ratified the Hague Convention on the Civil Aspects of International Child Abduction (Convention), which requires the prompt return of children who have been wrongfully taken or kept abroad. Federal legislation, the International Child Abduction Remedies Act (ICARA), provides procedures for implementing the Convention in this country.

Judges have a critical role in making these laws work. Yet research conducted by the American Bar Association found that many judges have not applied these laws correctly or at all. Lack of knowledge was identified as a key

reason.¹ The Obstacles Report recommended continuing education for judges and lawyers on the UCCJA, PKPA, Hague Convention and ICARA.² Collaborative efforts between judges' organizations and the ABA were suggested to disseminate information about these laws to the legal community.³ This *Journal* issue implements these recommendations. It is the product of a successful collaboration between the ABA Center on Children and the Law and the National Council of Juvenile and Family Court Judges.

Another effort is underway to improve the handling of interstate child custody and visitation cases. The National Conference of Commissioners on Uniform State Laws (NCCUSL) is in the process of revising the UCCJA. The Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), as the draft bill is called, makes the UCCJA consistent with the PKPA, establishes a uniform procedure for expedited interstate enforcement of custody and visitation orders, clarifies some UCCJA provisions to better reflect the drafter's original intent, and codifies good practice.

The National Council of Juvenile and Family Court Judges and the ABA have been involved, in an advisory capacity, with the NCCUSL committee that is drafting the UCCJEA. The UCCJEA is scheduled for its second reading in July 1997. It is difficult to determine how long it will take the 50 states to enact the UCCJEA once it is available for adoption, presumably in 1998. In the interim, the imperative remains for judges to accurately and efficiently apply the existing statutes as they were intended to be used. This bench book will assist judges to fulfill this mandate.

It is a book for all judges, whether on the family court, the juvenile bench, or a court of general jurisdiction, who preside over any civil case involving child custody. The UCCJA and PKPA apply to a broad range of "custody proceedings" and not solely when custody is at

issue in proceedings for divorce or separation. The book should be consulted routinely whenever custody is at issue. This book does not cover how judges should decide the merits of a custody dispute once it is determined they have jurisdiction.

For those judges who are already knowledgeable about the intricacies of the UCCJA, PKPA and the Hague Convention, a review of the bench book will provide solid evidence that thousands of other judges will soon join the ranks of the well-informed. The rest of us, still struggling to make sense of the UCCJA *et al*, will welcome this bench book with open arms confident that much needed help has arrived.

The authors have made a valuable contribution to the library of judicial resources that improve the courts' ability to administer justice. It is a privilege to be associated with this publication.

Janice Brice Wellington
Board of Trustees
National Council of Juvenile
and Family Court Judges

Chapter 7

Drafting the Custody Order

Summary

This chapter outlines provisions that should be included in custody orders to aid interstate enforcement. When there is risk of child abduction, the court should include preventive measures in the custody order. This chapter also helps judges identify families at risk for child abduction, and suggests appropriate safeguards to put in the order.

CHECKLIST

1. What should be included in every custody order?

- Jurisdiction
 - The legal basis for jurisdiction
 - The factual basis for jurisdiction
- Parties
- Notice and opportunity to be heard
- Specific custody and visitation rights, with supporting facts
- Penalties for violating the provisions of the order

What optional provisions should be included in the custody order to prevent abduction?

- Supervised visitation
- Restrictions on removing the child from the state or the country
- Posting of a bond
- Limitations on access to the child's passport
- "Mirror image" order from a foreign court
- Notification of school personnel and other individuals

2. What risk factors for abduction should prompt the court to order preventive measures?

- Prior threat of or actual abduction

- Distrust due to belief abuse has occurred
- Paranoid or sociopathic parent
- End of mixed culture marriage
- Disenfranchised parents with family/social support
- Likely degree of difficulty to secure a child's return.

Applicable statutes

FEDERAL

PKPA 28 U.S.C. § 1738A

STATE

UCCJA § 3
UCCJA § 10
UCCJA § 12

What should be included in every custody order?

A well drafted custody order should inform the parties of their rights and obligations about custody of the child and contain provisions that will facilitate enforcement and deter violations. The following provisions should be included in every well structured custody order.

Statement of jurisdiction

Clearly detail the basis for exercising jurisdiction in every custody order. This simple step will facilitate interstate enforcement and reduce the chances of it being modified improperly by a sister state.

If this is the child's home state, say so and state the facts that support this conclusion. With this information in the order, another court can decide whether or not it must be enforced or

accorded full faith and credit or whether it can be modified according to provisions of the UCCJA and PKPA. This information also helps a court decide whether the jurisdictional determination is *res judicata* with respect to the parties, according to UCCJA § 12.

The Full Faith and Credit clause of Article IV of the U.S. Constitution, and its implementing statute, 28 U.S.C. 1738, forbid F2 to re-examine a jurisdictional issue decided in F1, if the law of F1 would forbid an F1 court to re-examine it and F1 provided due process.

Example 1. This court has home state jurisdiction to determine custody in accordance with PKPA, 28 U.S.C. § 1738A(c)(2)(A) and UCCJA § 3(a)(1).¹ The court finds that [name of state] is the "home state" within the meaning of UCCJA § 2(5) and PKPA, 28 U.S.C. 1738A(b)(4). The court should then set forth jurisdictional facts that support the conclusion of law, including the length of time the child has resided in the state. Example: The parties presented evidence to establish jurisdiction and the court finds that the child has lived in this state for four years and three months consecutively with his natural parents. This state is, therefore, the child's home state.

Example 2. This court has significant connection jurisdiction to determine custody in accordance with PKPA, 28 U.S.C. § 1738A(c)(2)(B) and UCCJA § 3(a)(2), the court having found that no other state has "home state" jurisdiction within the meaning of UCCJA § 2(5) and PKPA, 28 U.S.C. 1738A(b)(4) [or that the child's "home state" has deferred to this court].

The court should set forth the jurisdictional facts that support the conclusion of law, including the length of time the child has resided in the state and availability of evidence in the state. Example: The parties presented evidence to establish jurisdiction and the court finds that the child was born in F1 where she lived for three months with her natural parents. The parents subsequently moved to F2 (this state), where the

child lived for five months prior to the time this action for custody was filed. The child continues to reside here with her mother. The father also resides here as do the child's paternal grandparents. The child, therefore, had no home state when this action was filed.

The court further finds that it was in the child's best interest for this court to assume jurisdiction because the child and her parents have significant connections with the state and there is available in this state substantial evidence concerning the child's present and future care, protection, training, and personal relationships.

In these examples, the court states a conclusion of law, *i.e.*, that it had jurisdiction pursuant to a specific section of the PKPA and UCCJA, and the court states the jurisdictional facts that support the conclusions of law.

Parties

The order should state that all persons required to be joined as parties and entitled to notification of the custody proceedings under UCCJA § 4 and § 10 were joined and properly notified. Most often the individuals included here will be grandparents claiming visitation rights pursuant to state statutes or a person who has physical custody of the child.

UCCJA § 10 requires any person, not a party to a custody proceeding, who has physical custody of the child or who claims to have custody or visitation rights with the child, be joined as a party and notified both of the joinder and the proceedings. Section 4 requires notification and opportunity to be heard be given to the contestants, any parent whose parental rights have not previously been terminated, and any person who has physical custody of the child.

These requirements exist to prevent or minimize relitigation of custody and visitation issues by people with legitimate claims. If the state recognizes grandparent visitation rights, grandparents who intend to make claims should

do so at the same time the parents' rights are being determined so these issues can be resolved at one time.² This is important because each time custody and visitation issues are relitigated, the child is put through the stress of new proceedings. Therefore, make sure all persons with legitimate custody claims litigate or get the opportunity to litigate them at one time.

When information showing people with custody claims were properly notified and joined is included in the order, the possibility that any of these persons could successfully collaterally attack the decree is reduced.

Example. All persons required to be joined as parties and notified under UCCJA § 10 and § 4 and § 28 U.S.C. § 1738A(e) were ordered joined and were duly notified of the proceedings and of being joined as a party.

The following persons were ordered joined as parties and were notified of the joinder. Notification was by registered mail, return receipt requested and returned on the date which follows each name (or otherwise served in accordance with UCCJA § 5).

- Maternal grandparents X/X/XX;
- Paternal grandparents X/X/XX;
- Notice and opportunity to be heard

Notice and opportunity to be heard

Both the UCCJA and PKPA require reasonable notice and opportunity to be heard be provided to contestants, parents whose rights have not been terminated and persons with physical custody of the child before making child custody determinations. These basic elements of due process are critical if a resulting order is to be recognized and enforced or given full faith and credit by courts in other jurisdictions.

In addition, UCCJA § 12 notes the *res judicata* effect of orders entered when the parties

have been properly notified and given an opportunity to be heard. For these reasons, the custody order should address these issues. It should state:

- how service of process occurred
- how much notice of the proceedings the party received, and
- what opportunity the party had to be heard.

By including this information in the order, the judge enhances the probability the order will be recognized or given full faith and credit in another jurisdiction. If a party seeks to enforce the order at a later time and in a different state, the order itself demonstrates that the other party was given adequate notice and opportunity to be heard. This makes possible the enforcement court's application of *res judicata* to issues of law and fact decided by the issuing court.

Example. The party was accorded full due process in that he was served with process according to the law of this state and the law of the state where he was located (if not within the jurisdiction) and was given ample notice of the proceedings and a full opportunity to be heard.

The party was personally served with the complaint in this action pursuant to (list appropriate statutory citations, which may be § 5 of the UCCJA) with return of service dated ____ and filed with the court on _____. The party received notice of the custody hearing on _____ which was (20) days in advance of the scheduled hearing. The party was present for the hearing at which he was represented by counsel and fully participated in it.

Note, the example states both findings of fact and conclusions of law. The findings of fact support the conclusion that the party's due process rights were protected.

Specifying custody and visitation rights

Clearly state the custody and visitation rights of each party. This includes grandparents if they have been granted visitation. If custody and visitation rights are clearly established, then parties cannot allege a violation from lack of understanding. For example, if a court awards "reasonable visitation" to a parent, the question of what is "reasonable" may become the subject of post-judgment litigation. The original fact-finder is in the best position to define what 'reasonable visitation' means in concrete terms, and should do so in the court order. The decree will be easier to enforce in another jurisdiction because its terms are precise. Even when parents appear to be working together amicably, it is wise to include specific terms in case the relationship deteriorates.

The need for precision and clarity about the rights of the parents with respect to the child is greater today than ever before, as states adopt new terminology to describe the parent-child relationship that may be unfamiliar to courts in sister states. For instance, the terms "custody and visitation" have been replaced in some states by "parenting responsibilities," "parenting plans," "parental functions," "parenting time," "primary caretaker," etc. The language of parent-child relationships will continue to evolve and enforcement problems will likely result if orders are left vague. Judges can minimize enforcement problems by spelling out when and with whom the child is to be at all times. This will help a court in another jurisdiction implement the plan as it was meant to be implemented.

Restrictions on access to the child in domestic violence cases

If the case involves a battered spouse or abused child or if one party has threatened or harassed another, and as a result, the court intends to permit only supervised visitation, the court should clearly state this in the order. The

order should recite the facts that support the decision to restrict visitation. The order should include specific provisions for the drop-off and pick-up of the child to prevent confrontations between the abused and abusive parent. This information will be useful to any court asked to modify the existing decree. For example, if a party seeks to modify the decree in another state, the judge in the second state would know of the abuse or harassment problem by reading the decree, which could have a significant impact on how the judge would handle the matter. Because the order shows that the issues of abuse or harassment were already litigated by the parties, the finding of fact would not be subject to challenge.

Orders for joint custody

A decision to award joint custody is a substantive one, and therefore, beyond the scope of this manual. However, when considering such an award, the judge is encouraged to consider it in terms of whether it would encourage violations, and the subsequent need for enforcement actions. For example, the judge should be reluctant to order joint custody if the parents appear unable to work cooperatively. If there is a history of, or the potential for, child abuse, spouse abuse, or parental kidnapping, the court should have reservations about the appropriateness of joint custody.³ In addition, if the parents are not in agreement on joint custody and they do not live in geographical proximity to one another, the court should give serious thought to whether joint custody would be appropriate.⁴ When these conditions are present, the likelihood of one party violating the decree increases substantially. If joint custody is ordered, the order should clearly identify residential arrangements for the child at all times.

Penalties for violating the provisions of the order

In every state, a party who violates a custody order can be held in contempt. In addition, every

state has enacted criminal custodial interference statutes, and many states have made these laws applicable to interference with visitation as well.⁵ The court order should state that violating the custody or visitation provisions of the order could result in the violator being held in contempt. It should also state the violator could face criminal charges under state and federal law.

By including this information, the court puts both parties on notice of the possible consequences of violating the decree.

Example. A party who violates the provisions of this order may be held in contempt of court and punished accordingly.

Violation of the provisions of this order could subject the violator to criminal prosecution pursuant to (insert state statute) and penalties of (state the possible penalties) in accordance with (insert state statute).

What safeguards can the court include in the custody order to reduce the risk of abduction?

The court should seriously consider a party's concern that the other parent will abduct the child, particularly if threats to abduct have been made. The court should assess the level of abduction risk, the likelihood of the child being returned promptly if the child were abducted, and the harm the child would likely incur if abducted. Six profiles of abduction risk, with specific preventive measures suited to each, follows this general discussion of prevention. See pages 7-10 to 7-16.

In cases in which there is a high risk of abduction and a low likelihood of recovery, combined with a substantial negative impact on the child should an abduction occur, the court should order the most stringent and restrictive preventive measures. In cases in which there is a low risk of abduction with a high likelihood of recovery, less restrictive measures may be warranted.

Measures courts can use alone or in combination to reduce the risk of abduction include:

- supervised visitation
- removal restrictions
- bonds
- passport restrictions
- "mirror image" orders
- notifying schools of custody orders.

Supervised visitation

Some situations will warrant supervised (or "monitored") visitation orders, such as where an abduction has already occurred,⁶ or threats to abduct the child have been made. The court can order that supervised visitation take place at the home of the custodial parent or at another designated location. There may be a supervised visitation center available for this purpose. The person responsible for supervising the visits may be a law enforcement officer, a social worker, a clergyman, relative, or other person designated by the court.

Example. The mother shall have supervised visitation with the child on alternating Saturdays from noon to six o'clock. Visits are restricted to father's house. Visits are to be supervised at all times by the deputy sheriff.

Restrictions on removing the child from the state or the country

When parents reside in different states or different countries or have the intention of doing so, the possibility that one parent will abduct the child to the other state or nation or refuse to return the child after a visit always exists. If the judge concludes the risk of this is more than minimal based on evidence introduced in the custody proceeding, the judge should consider enjoining the parent from removing the child from the state or nation⁷ without the written consent of the other party or prior consent of the

court.

A provision in the custody order restricting the right of a parent to remove the child from the state or country will enable the other parent to prevent issuance of a passport for the minor child pursuant to federal regulations. 22 C.F.R. 51.27 See "Passport Restrictions," *infra*.

Bond requirements

If flight is a serious concern, the judge must consider ordering the parent to post a bond. The bond would be forfeited to the left-behind parent to cover enforcement and recovery costs, if the parent violated the custody decree by removing the child from state or country. Posting a substantial bond can deter removal of the child. Bonds may also be required to encourage compliance with visitation orders.⁸

Example. The father is ordered to post a cash bond in the amount of [\$5000] with the court. This bond shall be subject to forfeiture to the mother in the event that the father removes the child from the country without securing advance written permission from the mother or the court.

Passport restrictions

If there is a risk one parent will remove the child from the United States, the judge should consider passport restrictions. This could be done by ordering one parent to surrender the child's passport to the other parent, or by enjoining one or both parents from applying for a passport for the child.⁹

Federal regulations governing passport applications for minors are found at 22 C.F.R. 51.27. When custody is in dispute, the regulations provide that the Department of State may deny issuance of a passport for a minor child if a custody order has been filed with the Department which (A) grants sole custody to the objecting parent; or (B) establishes joint legal

custody; or (C) prohibits the child's travel without permission of both parents or the court; or (D) requires written permission of both parents or the court for important decisions. The State Department reserves the right to withhold passports for minor children until the custody conflict is resolved by an appropriate court, and may issue a passport notwithstanding the restrictions noted above if compelling humanitarian or emergency reasons exist.

The State Department will accept a court order from a state court in the U.S. as well as from a foreign court in the child's "home state" or country of habitual residence. In cases involving joint legal custody, written permission of both parents is required before a passport will be issued for a child unless the court specifies otherwise.

The clearer the court order, the easier it is for the State Department to comply with the court's intent regarding passport issuance, thereby safeguarding against the child's removal from the country.

Restricting access to passports is not fail safe in the case of children and parents with dual nationality. Foreign embassies and consulates are not required to comply with a U.S. court order forbidding the foreign national parent from obtaining a passport for himself/herself and the children, although some countries will comply voluntarily. The court should consider additional safeguards in dual citizenship cases. For instance, the court may order the foreign parent to advise his/her consulate in writing as to any court restrictions on obtaining original or replacement passports for the parent and child, and to obtain a written acknowledgment from the consulate, addressed to the court, evidencing that the foreign parent has neither applied for nor received passports for himself/herself or the child.

Example. Surrendering passport - The father is hereby ordered to surrender the child's

passport to the mother prior to visitation with the child. The visitation schedule shall not take effect until after the passport is surrendered. The mother shall provide the father with a written receipt for the passport and is ordered to retain the passport in a secure location. The mother is also required to file an Acknowledgment of Receipt of Passport with the court, with a copy provided to the father. This Acknowledgment shall inform the court of the date the passport was surrendered.

“Mirror image” orders

The court may direct a parent who lives (or is likely to live) abroad to obtain an order from a court in the foreign country recognizing the jurisdiction of the U.S. court, and agreeing to enforce the order should that be necessary. The state court may require the parent to obtain such a “mirror image” order from a foreign court before the child is permitted to travel abroad to visit.

Example. Before the child is permitted to travel overseas to visit the mother, the mother shall obtain an order from a tribunal in [] [specify the country]. The order shall recognize the continuing jurisdiction of this court over child custody matters, and shall recognize an obligation to enforce the order of this court in the event the mother refuses to return the child at the end of the lawful visitation period.

Notification of school personnel and other individuals

When custody proceedings are hostile and there are restrictions on access to the child by one party, the court should consider requiring that school personnel and certain individuals be informed of the restrictions. If, for example, a mother is granted visitation only in the presence of the father, the court should consider ordering the father to notify school personnel of the court order and its restrictions. Similarly, grand-

parents and other relatives or child care providers should be informed of the contents of the order. If they know of the restrictions on access to the child by the mother, they are less likely to allow the mother unsupervised contact with the child. Finally, by requiring a parent to notify these people, the court may deter anyone who might assist the mother in abducting the child, because they might be subject to contempt.¹⁰

Example. The custodial parent is ordered to provide a copy of this order to the following individuals:

- The principal of the child's school;
- The child's teacher;
- The driver of the child's bus;
- The child's maternal and paternal grandparents;
- The child's maternal and paternal aunts and uncles;
- The child's after school day care provider.

Alternatively, the court may admonish the custodial parent to provide copies of the custody order to the noted individuals.

SAMPLE CUSTODY ORDER¹¹

[Provisions to be included in every custody order]

It is ordered adjudged and decreed that:

Jurisdiction [Home State Jurisdiction]

This court has home state jurisdiction to determine custody pursuant to the Uniform Child Custody Jurisdiction Act (UCCJA) § 3(a)(1) and consistently with the Parental Kidnapping Prevention Act (PKPA) 28 U.S.C. § 1738A(c)(2)(A). The court finds that _____ is the child's “home state” within the meaning of UCCJA § 2(5) and PKPA, 28 U.S.C. 1738A(b)(4).

The parties presented evidence to establish jurisdiction and the court finds that the child has lived in this state for four years and three months consecutively with his natural parents immediately before the commencement of this proceeding. This state is, therefore, the child's home state.

[Significant connection jurisdiction when there is no home state]

This court has jurisdiction to determine custody pursuant to UCCJA § 3(a)(2) and consistently with the PKPA, 28 U.S.C. § 1738A(c)(2)(B), the court having found that no other state has jurisdiction as the child's "home state" within the meaning of UCCJA § 2(5) and PKPA, 28 U.S.C. § 1738A(b)(4).

The parties presented evidence to establish jurisdiction. The court finds that the child was born in FI where she resided for three months with her natural parents. The parents then moved to (this state) where the child lived for five months prior to the time this action for custody was filed. The child continues to live here with her mother. The father also resides here as do the child's paternal grandparents. The child, therefore, had no home state when this action was commenced. The court finds that it is in the child's best interest for this court to assume jurisdiction because the child and her parents have significant connections with the state and there is available in this state substantial evidence concerning the child's present and future care, protection, training, and personal relationships.

[Emergency jurisdiction]¹²

The court has emergency jurisdiction pursuant to UCCJA § 3(a)(3) because the child is physically present in this state and has been [abandoned, subjected to or threatened with mistreatment or abuse, or is otherwise neglected or dependent]. [Court should set forth supporting facts.]

[Last resort (vacuum) jurisdiction]

This state has jurisdiction to make a child custody determination under UCCJA § 3(a)(4), and consistently with PKPA, 28 U.S.C. 1738A(c)(2)(D), because [it appears that no other state has jurisdiction under UCCJA § 3 or continuing jurisdiction under PKPA, 28 U.S.C. 1738A(d)] or [another state has declined to exercise jurisdiction because this State is the more appropriate forum to determine custody] and it is in the child's best interest that this court assume jurisdiction.

[Declining jurisdiction on inconvenient forum grounds]

State the basis of the court's jurisdiction. See above. Then add: The court finds that this state is an inconvenient forum under UCCJA § 7. The court further finds that [insert name of state] is a more appropriate forum to determine custody because [insert reasons, referring to factors set forth in § 7(c)]. Accordingly, this court [dismisses] [stays] this proceeding. If, however, [insert name of state] declines to exercise jurisdiction over custody of the subject child, this court shall exercise jurisdiction and determine custody. [If the forum is clearly inappropriate the court can order the petitioner to pay the costs of the proceedings, and necessary travel and other expenses, including attorneys' fees, incurred by other parties or their witnesses. Payment is to be made to the clerk of the court for remittance to the proper party.]

[Declining jurisdiction based on petitioner's unclean hands]

Declining jurisdiction to make an initial custody determination. This court declines to exercise jurisdiction to make an initial custody determination because petitioner has wrongfully taken the child from another state or has engaged in similar reprehensible conduct. [Court should describe the conduct that supports the decision to

decline jurisdiction.]

Declining modification jurisdiction. This court declines to modify a custody decree made by [insert name of State] because petitioner, unilaterally and without consent [improperly removed the child from the physical custody of the person entitled to custody][improperly retained the child after a visit or other temporary relinquishment of physical custody] [violated a provision of the custody decree]. [Court should set forth supporting facts.]

Attorneys' fees. The court orders petitioner to pay necessary travel and other expenses, including attorneys' fees, to respondent and [insert names of witnesses], incurred in connection with this proceeding.

Parties

All persons required to be joined as parties pursuant to UCCJA § 10 were ordered joined and were duly notified of the proceedings and of being joined as a party. The following persons were ordered joined as parties and were notified of the joinder. Notification was by registered mail, return receipt requested, and returned on the date which follows each name (or otherwise served in accordance with UCCJA § 5):

- Maternal grandparents X/X/XX;
- Paternal grandparents X/X/XX.

Notice and opportunity to be heard

The party was accorded full due process in that he was served with process in accordance with the law of this state (the law of the state where he was residing) and was given ample notice of the proceedings and a full opportunity to be heard.

The party was personally served with the complaint in this action pursuant to (list statutory citation, which may be § 5 of the UCCJA) with return of service dated ____ and filed with the

court on _____. The party received notice of the custody hearing on _____ which was (20) days in advance of the scheduled hearing. The party was present for the hearing, where he was represented by counsel.

Custody and visitation

Mother is awarded primary custody of the child and shall provide primary residence for the child. The father shall have visitation with the child at his residence every other weekend beginning (insert date). Visitation with father shall begin at 2:30 p.m. on Friday and shall end at 7:30 p.m. Sunday evening. The father shall have visitation from July 1 at 2:30 p.m. until July 31 at 7:30 p.m. Mother shall have unlimited telephone access with the child in July. The child shall alternate the following holidays with each parent:

1. New Year's Eve and Day
2. [Passover][Easter]
3. Memorial Day Weekend
4. Fourth of July Weekend
5. Labor Day Weekend
6. Thanksgiving
7. [Christmas][Chanukah]

The child shall spend holidays 1, 2, 4, and 6 with the mother in odd-numbered years and with the father in even-numbered years. The child will spend holidays 3, 5, and 7 with the mother in even-numbered years and with the father in odd-numbered years.

Parents may alter this schedule temporarily upon mutual agreement. They shall put each agreement for a temporary change in writing and shall both sign it. Note: Temporary changes are not enforceable; however, compliance with a temporary change that has been put in writing and agreed to by the parties cannot serve as the basis for a finding of contempt.

Grandparent visitation - (1) Maternal grandparents are hereby awarded visitation rights as follows. Visitation shall occur one weekend

per month beginning Saturday at 1:00 p.m. and ending Sunday at 1:00 p.m. This visit shall occur on the first weekend of the month the child would normally spend with the mother unless that weekend coincides with a holiday, in which case, it shall be the next weekend the child is scheduled to spend with the mother.

(2) Paternal grandparents are hereby awarded visitation rights as follows. Visitation shall occur one weekend per month beginning Saturday at 1:00 p.m. and ending Sunday at 1:00 p.m. This visit shall occur on the first weekend of the month that the child would normally spend with the Father unless that weekend coincides with a holiday, in which case, it shall be the next weekend the child is scheduled to spend with the father.

[Optional provisions][‘Mother’ should be substituted for ‘father’ as appropriate]

1. Restrictions on movement - The father is prohibited from removing the child from this country for any reason unless he first obtains the express written consent of the mother or receives advance permission from the court.

2. Surrender of passport - The father is hereby ordered to surrender the child's passport to the mother prior to the first visitation with the child. The visitation schedule shall not take effect until after the passport is surrendered. The mother shall provide the father with a written receipt for the passport and is ordered to retain the passport in a secure location. The mother is also required to file an Acknowledgment of Receipt of Passport with the court, with a copy provided to the father. This Acknowledgment shall inform the court of the date that the passport was surrendered. [The court may order the passport surrendered to the court, to an attorney, to the court clerk, etc., instead of to the other parent. The court may dispense with the requirement that the parent file an Acknowledgment with the court, if this is too burdensome. This paragraph would be modified accordingly.]

3. Posting of bond - The father is ordered to post a cash bond in the amount of [\$5000] with the court. This bond shall be forfeited to the mother if the father removes the child from [the state] [the country] without securing advance written permission from the mother or the court.

Notify school personnel and individuals

The custodial parent is required to provide a copy of this order to the following individuals:

- The principal of the child's school;
- The child's teacher;
- The driver of the child's bus;
- The child's maternal and paternal grandparents;
- The child's maternal and paternal aunts and uncles;
- The child's after school day care provider.

Violating the terms of the order

A party who violates the provisions of this order may be held in contempt of court and punished accordingly. A violation of the provisions of this order may subject the violator to criminal prosecution under state and federal law.

RISK PROFILES OF ABDUCTION

Six profiles of abduction risk have been identified in the recent groundbreaking research on “Prevention of Parent and Family Abduction through Early Identification of Risk Factors.”¹³ The profiles are descriptive of abductors and must be used with caution as a predictive device. The court should consider the reasonableness of the parent's concern about the abduction, any previous threats or actual abductions or custody violations, the degree of social support for the person who may abduct, and the person's entrenchment in the community. The court should hear evidence regarding specific planning activities, such as changing jobs, applying for passports, etc., because any planning activities

significantly increase the risk determined by the profile.

The six profiles of abduction risk, discussed below, are:

- when there has been a prior threat of or actual abduction
- when a parent is suspicious and distrustful due to belief abuse has occurred and has social support for the beliefs
- when a parent is paranoid or sociopathic
- when one or both parents are foreigners ending a mixed-culture marriage
- when the parents are disenfranchised but have family/social support.

Profile 1. When there has been a prior threat of or actual abduction.

When parents have made credible threats to abduct a child or have a history of hiding the child, withholding visitation, or snatching the child back and forth, there is obviously great distrust and a heightened risk of custody violation. This profile of abduction risk is usually combined with one or more of the other profiles, and in such instances other underlying psychological and social dynamics need to be understood and addressed. General indicators of imminent threat of flight with the child where other risk factors are also present are: (1) when a parent is unemployed, homeless and without emotional or financial ties to the area, and/or (2) when they have divulged plans to abduct and have the resources to survive in hiding or the support of extended kin and underground networks to keep themselves hidden.

There are a number of specific measures that can be taken when there is imminent threat or a history of prior abduction. The safeguards identified earlier in this chapter should be included in the order in these cases.

Profile 2. When a parent is suspicious and distrustful due to belief abuse has occurred and has social support for these beliefs.

Families that meet this criterion are characterized by one of the parents having a fixed belief that the other parent is dangerous to the child (either abusive, molesting or neglectful) without there being sufficient substantiating evidence for the court to take action on these allegations. Moreover, the parent is supported in these beliefs by an extended family or social network which can collude in a child abduction in order to "protect the child."

First, order that a prompt, careful and thorough investigation of the allegations be undertaken. During this investigative stage, precautions need to be taken to ensure that there is no ongoing abuse, or, alternatively, to protect an innocent parent from further allegations. Such precautions may include supervised visitation, especially if the child is very young, clearly frightened, or distressed and symptomatic in response to visits.

Along with the investigation, the alleging parent should be shown how to respond to the child and how to make accurate observations without confounding the evaluation process. Whenever possible, the concerned extended kin and other social support persons are also involved in this intervention. All relevant professionals involved with the family should be authorized by the parents to talk with one another so that they can support the family cohesively during the evaluation process and not incite anxiety with discrepant, premature conclusions.

As the data about the allegations and the child's symptomatic behavior are assembled by the investigating professionals (preferably with expertise in both child abuse and the dynamics of highly conflictual divorcing families), there should be a careful sifting through of the

evidence for a differential diagnosis and reasoned conclusions. All of these are to be shared in a timely manner with both parents and important supportive others.

In some rare cases, especially where there is severe psychopathology in both parents or their extended families, the child can be placed in the temporary care of a neutral third party with supervised visitation to both parents. This may help sort out who or what is fueling the extremely troubling, persistent claims of abuse.

Unsubstantiated allegations of abuse are usually not equivalent to proof of innocence of the accused. Rather, a huge degree of mistrust and anger is often the legacy of unproven accusations, which can shadow the fragmented divorced family for years, putting the child at risk for continued emotional, if not physical, abuse. A structure for rebuilding trust between parents and ensuring protection of the child needs to be put into place for the long term in these families.

This structure includes one or more of the following: (1) mandated counseling for one or both parents to ensure appropriate parenting practices where there has been poor judgment or unclear boundaries on the part of a parent; (2) appointment of a special master (coparenting coordinator and arbitrator) to help parents communicate and reality-test their distrust of one another, to monitor the situation and make necessary decisions in an ongoing way; (3) provision of long-term therapy for the child which offers a safe place for the child to sort through their realistic fears and phobias and to disclose abuse should it occur or recur; and (4) appointment of a guardian ad litem to represent the child in any ongoing litigation.

Profiles 3 and 4. When a parent is paranoid or sociopathic

These two profiles of abduction-risk require similar kinds of response by the family courts. Although only a small percentage of parents fit

these profiles, these parents present the greatest potential risk of harm to the child.

In the case of the paranoid profile, parents hold markedly irrational or psychotic delusions that the other parent will definitely harm them and/or the child. Believing themselves to be betrayed and exploited by their ex-partner, these parents urgently take what they consider to be necessary measures to protect themselves and the child.

The psychotic parent does not perceive the child as a separate other person, but rather he or she is either experienced as fused with the self as a victim (in which case they take unilateral measures to rescue their offspring), or the child is viewed as part of the hated other (in which case the child can be precipitously abandoned or even destroyed). In general, the marital separation and the instigation of the custody dispute triggers an acute phase of danger, which can mount to the threat not only of abduction but also of murder/suicide.

In the case of the sociopathic parent, he or she usually has a long history of flagrant violations of the law and contempt for any authority, including that of the legal system. Relationships with other people are self-serving, exploitive, and highly manipulative. These people are also likely to hold exaggerated beliefs about their own superiority and entitlement and are highly gratified by being able to exert unilateral power and control over others. As with the paranoid personality, they are unable to perceive their children as having separate needs or rights so that their offspring are often used blatantly as instruments of revenge, punishment, or trophies in their fight with the ex-partner. The sociopathic parent believes that domestic violence and child abduction can be perpetrated with impunity.

To the extent that a parent meets either the criteria for paranoid psychosis or severe sociopathic personality disorder, traditional

therapy or mediation is an inappropriate and possibly dangerous intervention. The family court needs to have mechanisms and procedures to protect the child in cases where there is serious delusional thinking or dangerous sociopathy in one of the parents. If the disturbed person is the noncustodial parent, visitation should be supervised in a facility with high security, and the other parent should be counseled about how to devise a safety plan for themselves and the child for all other times.

Visitation with the child may need to be suspended if there are repeated violations of the visitation order; if the child is highly distressed by the contact; or if the parent uses his or her time with the child to denigrate the other parent, obtain information about the other parent's whereabouts, or transmit messages of physical harm, death threats or child abduction.

Reinstatement of access to the child may be permitted after clear conditions are met by the offending parent, and upon careful evaluation and recommendation by a designated agency (child protective or family court services). If the evaluation determines that reinstatement of parent-child contact is appropriate, any "in person" contact should typically begin with supervised visitation, preferably in the presence of a mental health professional.

If the disturbed person is the custodial or primary care person for the child, extreme care needs to be taken in order that the litigation and evaluation process does not precipitate abduction or violence. The family court may need to obtain an emergency psychiatric screening, and use emergency *ex parte* hearings that might result in the temporary removal of the child to the other parent, or to a third party, while a more comprehensive psychiatric and custody evaluation is being undertaken. In these emergency situations there needs to be some waiver of confidentiality permissible that will allow all relevant professionals to share information about the case with one another. The

psychotic parent may need legal representation and an attorney for the child may also need to be appointed in any subsequent litigation.

Where there is blatant disregard of custody orders and violations of restraining orders by a sociopathic parent, the court should prosecute, fine or impose jail time to send a clear message that it will not tolerate contempt of its authority. A coparenting coordinator with arbitration powers (as stipulated by parents and ordered by the court), who is prepared to testify in court, may be needed over the longer term to monitor the family situation for any further threat of abuse or abduction. Only when these control mechanisms are in place can it be expected that counseling and therapy for the child will be beneficial.

Profile 5: When one or both parents are foreigners ending a mixed-culture marriage.

Parents who are citizens of another country (or who have dual citizenship with the U.S.) and also have strong ties to their extended family in their country of origin have long been recognized as abduction risks. The risk is especially acute at the time of parental separation and divorce, when they feel cast adrift from a mixed-culture marriage and need to return to their ethnic or religious roots for emotional support and to reconstitute a shaken self-identity. Often in reaction to being rendered helpless, or to the insult of feeling rejected and discarded by the ex-spouse, a parent may try to take unilateral action by returning with the child to their family of origin. This is a way of insisting that their cultural identity be given preeminent status in the child's upbringing.

Culturally sensitive counseling that will discern and address these underlying psychological dynamics is needed to help these parents settle their internal conflicts. They also have to be reminded of the child's need for both

parents, and how it is important to provide opportunities for the child to appreciate and integrate his or her mixed cultural and/or racial identities.

Often the parent will have idealized their own culture, childhood and family of origin, and may need to be encouraged to adopt a more realistic perspective. It may also be necessary to provide the homesick parent with alternative emotional support and financial assistance to stay in the area; or to help them make a custody plan that allows for visiting their homeland with the child, with the approval of the other parent.

If their country of origin is not a party to the Hague Convention on the Civil Aspects of International Child Abduction, the stakes are particularly high, as recovery can be difficult, if not impossible. One possible solution is for the parents to file the same custody agreement (which also specifies jurisdictional authority) in both the U.S. courts and those of the other country, to increase the likelihood the order will be enforced in both countries. A number of other controls can also be put in place as precautions (such as holding passports and posting bonds), as discussed earlier in this chapter.

Profile 6: When the parents are disenfranchised but have family/social support.

A large group of potential abductors are parents who feel disenfranchised by the judicial system. Many of these parents are economically indigent and poorly educated. They lack knowledge of custody and abduction laws and cannot afford legal representation or psychological counseling. Those who have extended family or other social, emotional and economic support in another geographical community may be abduction risks. Many parents do not access the court system, because they can't afford to, they are unaware of the need to, or they do not believe it is responsive to their

values or their plight. Parents belonging to certain ethnic, religious, or cultural groups that hold views about child rearing contrary to the prevailing custody laws (emphasizing the rights of both parents regardless of gender) often prefer seeking resolution of custody disputes outside the courts, sometimes by abducting or snatching back and forth.

Parents having had a transient unmarried relationship often view the child as the property of the mother and are supported in this belief by extended family. Finally, victims of domestic violence are at risk for abducting, especially when the courts and community have failed to take the necessary steps to protect them from abuse or to hold the abuser accountable. In these cases, the violent partners may be successful in obscuring the facts about the abuse and in activating the abduction laws to regain control of their victims.¹⁴

Of all the profiles of risk, these disenfranchised parents have the best prognosis for an effective preventive intervention, limited only by the lack of resources in the community available to help them. First, they need legal counseling and advocacy, *i.e.*, access to information and education about custody and abduction laws, and about the rights of both parents even where there has been no marriage or sustained relationship between them. If unable to afford representation in court, they need a user-friendly court system, a cooperative clerical staff, and support persons who will accompany them through the legal process and language translation services.

Second, they need access to affordable psychological counseling services for themselves and their children that will help them manage their emotional distress and vulnerability and strengthen their parenting capacities at the time of separation and divorce. Third, they need family advocates who can help them bridge the cultural, economic and logistical chasms to other community resources, such as domestic violence

services, substance abuse monitoring and counseling, training and employment opportunities, and mental health services. Finally, important members of their informal extended social networks may need to be included in any brief intervention in order to guide their efforts to support and protect the disenfranchised family, fractured by separation and divorce, over the long-term process of abduction prevention and family restructuring.

Likelihood of return

If a child is abducted, how likely is it that the child will be promptly recovered and returned and that the court order will be promptly enforced? By considering the obstacles to the location, recovery and return of the child,¹⁵ the court can assess the likelihood of the child being returned promptly, if abducted. Preventive measures are especially needed when, in the event of an abduction, numerous difficult obstacles exist to the prompt location, recovery, and return of the child.

Obstacles are greater when the abduction is to or from a state or country not covered by laws which would facilitate the apprehension of the abductor and the recovery of the child. If the state's criminal custodial interference statute would not apply to the case in the event of an abduction, it presents a major obstacle.

Examples: Soon after the court awards the parents joint custody, the father disappears with the child. An abduction by a joint custodial parent is not a criminal violation under the state's law. An unwed father, with no custody order, tries to locate his child. Precustodial abductions are not a criminal violation under the state's law. Because criminal custodial interference is a misdemeanor offense in this state, law enforcement makes no effort to locate the child. The courts in the state in which the child resides claims not to have jurisdiction in the criminal custodial interference case because the retention

of the child after a visitation took place in another state.

If the state does not have flagging statutes¹⁶ that mandate that birth and school records of missing children be flagged and that law enforcement be notified if an abductor requests the records, it can present an obstacle to locating the child.

If an international abduction is suspected, chances for return of the child are better if the country is a party to the Hague Convention on the Civil Aspects of International Child Abduction. However, if the application of the Hague Convention has not led to prompt returns in other cases, the seeming advantage of the Convention may be lost, presenting an additional obstacle.

If the country is not a party to the Hague Convention, the child may never be returned, although this varies somewhat depending on the country. Countries with family laws that have a strong religious base and give preferential rights to one gender over another, such as Islamic countries, are the most problematic. No abducted children have been returned from some of these countries. In other cases, for instance Jordan, returns to the U.S. have only been possible with the highest level of diplomacy and particularly heinous circumstances surrounding the abduction, such as the case in which the father murdered the mother and abducted the two children from New Jersey. He was tried in Jordan for the murder charge, and the children were returned to the U.S.

If there is no extradition treaty covering criminal custodial interference cases with a particular country or the state is unwilling to pay for extradition, the obstacles to recovering the child are great. It is also an obstacle when there is an extradition treaty, but the actual practice is not to extradite.

If the courts in the country to which the child

is likely to be abducted do not provide the left-behind parent an equal chance at custody, then the child may not be returned. For example, the courts may be hostile to American parents or may not give equal rights to women in custody disputes.

If citizenship laws in a parent's home country provide that person, and perhaps the children, with dual citizenship, the parent can obtain a passport even if a U.S. passport has been denied.

When local law enforcement agencies are not pro-active, they become obstacles to locating, recovering, and returning the child. According to research, this continues to be a problem in communities across the United States. Obstacles exist when local law enforcement delay or refuse to take missing child reports or to enter missing children and their abductors into the National Crime Information Center (NCIC), despite the mandate of the National Child Search Assistance Act. Additional obstacles exist when local law enforcement delay or refuse to proceed with investigations as to the whereabouts of parentally abducted children or to obtain Unlawful Flight to Avoid Prosecution (UFAP) warrants when felony charges exist and the abductors are suspected of having left the state. Further obstacles exist if local law enforcement avoid involvement in the civil enforcement of child custody orders, when directed to do so by the court.

Obstacles are more likely to exist when the abduction is premeditated and well-supported or when the left-behind parent has few resources. When an abduction is methodically planned and resources exist to sustain it, it becomes more difficult to locate and recover the child. The left-behind parent is handicapped if he or she cannot afford to bring an enforcement action (possibly involving attorneys in two states or countries), to hire a private investigator, or to cover travel expenses related to recovery and return. If the left-behind parent needs to take time off work due to stress and recovery efforts, financial resources and stability may be further diminished.

Potential harm to the child

Clearly it is not in the best interests of children to be abducted. However, the degree of harm that a child may experience in an abduction depends on numerous variables. These include the relationship of the child to the abducting parent, the consequences of the rupture of the relationship of the child with the left-behind parent, the degree of stability or lack thereof provided by the abducting parent, the degree of familiarity or lack thereof of the new surroundings, etc.

At the least harmful level, the abduction may be experienced as a relocation that cuts off a child's relationship with a parent who was abusive and requires the child to adjust to new peers, school, and community. The most harmful situations involve abductions by parents who are severely disturbed and abusive, including those who may kill the child and themselves. In some cases,¹⁷ child protective services in a new state have placed abused children in foster care, not knowing that the other parent has been searching for them.

Conclusion

There are no precise predictive measures that can determine for certain that a specific parent will abduct his or her child. However, preventive measures should be granted when a risk for abduction exists. More restrictive preventive measures may be warranted when the risk for abduction is higher, when obstacles to recovering the child would be difficult to overcome, or when the conditions of the abduction are likely to be particularly harmful to the child.

Endnotes

1. The court should insert appropriate UCCJA state law citation here, and in all other places where reference is made to the Uniform Act.
2. Some states, by statute, permit grandparents to seek visitation, either in divorce or custody proceedings between parents or through independent actions. See Patricia Hoff et al, NATIONAL CENTER ON WOMEN AND FAMILY LAW, INTERSTATE CHILD CUSTODY DISPUTES AND PARENTAL KIDNAPPING: POLICY, PRACTICE AND LAW S2-3 to S2-4 (Supp. 1990).
3. See the Model Joint Custody Statute adopted by the American Bar Association in 1989, which states "[j]oint custody is inappropriate in cases in which spouse abuse, child abuse, or parental kidnapping is likely to occur."
4. *Id.* § 3(c).
5. See Patricia Hoff et al, NATIONAL CENTER ON WOMEN AND FAMILY LAW, INTERSTATE CHILD CUSTODY DISPUTES AND PARENTAL KIDNAPPING: POLICY, PRACTICE AND LAW S8-14 - S8-16 (Supp. 1990).
6. See, e.g., Brewington v. Serrato, 336 S.E.2d 444 (N.C. Ct. App. 1985) (court upheld severe restrictions on visitation - in custodial parent's home - based on trial court's specific findings of fact that the non-custodial parent had previously taken the child to Texas under false pretenses and refused to return the child to North Carolina.); Frenke v. Frenke, 496 N.Y.S. 2d 521 (A.D.2 Dept. 1985) (Father's visitation to be supervised pending hearing on the issue of whether supervised or unsupervised visitation is in child's best interest in light of prior abduction and child's unwillingness to attend unsupervised visits).
7. See, e.g., People v. Beach, 194 Cal. App. 3d 955, 240 Cal. Rptr. 50 (Ct. App. 1987) (threatened abduction from state sufficient for exercise of emergency jurisdiction and 'no removal from state' order); Mitchell v. Mitchell, 311 S.E.2d 456 (Ga. 1984) (restrictions on removal of children from country upheld based on findings that father would have no means of enforcing Georgia order if mother took children to United Arab Emirates, but restrictions on removal from state violated state case law); Soltanich v. King, 826 P.2d 1076 (Utah Ct. App. 1992) (risk of flight to Iran warrants order restricting father from removing child from the country.).
8. See, e.g., Rayford v. Rayford, 456 So. 2d 833 (Ala. Civ. App. 1984) (trial court required noncustodial father to post \$5000 bond to insure his compliance with visitation orders where the father had violated a visitation order and concealed the children for three years); Bullard v. Bullard, 647 P.2d 294 (Haw. Ct. App. 1982) (court upheld order requiring father to execute \$2500 bond conditioned on the return of the child to Hawaii after visitation, while noting that bond requirements are viewed with disfavor and should only be imposed if there is substantial likelihood that the order will be violated.); Caldwell v. Fisk, 523 So. 2d 464 (Ala. Civ. App. 1988) (Trial court was justified in forfeiting father's bond due to his failure to comply with prior court orders and requiring him to post a new bond to guarantee compliance with the present orders).
9. See, e.g., Mitchell v. Mitchell, 311 S.E.2d 456 (Ga. 1984) (The court enjoined both parents from procuring or applying for passports for the children without the written agreement of the other parent.); Al-Zouhayli v. Al-Zouhayli, 486 N.W.2d 10 (Minn. Ct. App. 1992) (mother directed to retain child's passport and father prohibited from applying for a replacement passport without mother's written consent. The father was a national of the U.S. and Syria and had family ties in Saudi Arabia.). Requests to prevent issuance of a passport, accompanied by a copy of the court order, should be sent to the U.S. Department of State, Office of Passport Services, 1111 19th Street, N.W., Suite 260, Washington, D.C. 20522-6705; Telephone-(202)955-0377; Fax-(202)955-0230.
10. See, e.g., Commonwealth ex rel. Zaubi v. Zaubi, 423 A.2d 333 (Pa. 1981) (Grandparents cited for contempt for assisting their son in thwarting a court order); Hendershot v. Hadlan, 248 S.E.2d 273 (W. Va. 1978) (paternal grandparents held in contempt for aiding their son in violating a court order).
11. This sample order is not intended to be comprehensive. It does, however, contain examples of the types of provisions discussed above.

12. If emergency jurisdiction is founded on the child being abandoned, or threatened with or subjected to mistreatment or abuse, the order should also state that "jurisdiction is exercised consistently with PKPA, 28 U.S.C. 1738A(c)(2)(C)." An order based on emergency jurisdiction should be temporary, for a specified short period of time, and should direct the petitioner to petition for custody in a court with jurisdiction to make or modify permanent orders.

13. This section is by Dr. Janet Johnston and Dr. Linda Girdner, based on their research entitled "Prevention of Parent and Family Abduction through Early Identification of Risk Factors," funded by the Office of Juvenile Justice and Delinquency Prevention under grant number 92-MC-CX-0007, awarded to the American Bar Association Fund for Justice and Education and carried out collaboratively by the ABA Center on Children and the Law and the Wallerstein Center on the Family in Transition. Copies of the final research report will be available in 1997 through the Juvenile Justice Clearinghouse at 1-800-638-8736 or from Dr. Linda Girdner at 202-662-1722.

14. See Chapter 9 for further discussion of domestic violence.

15. This section is by Dr. Linda Girdner, based primarily on Final Report: Obstacles to the Recovery and Return of Parentally Abducted Children, eds. Linda Girdner and Patricia Hoff (Washington, D.C.: United States Department of Justice, OJJDP 1993). The work was carried out by the ABA Center on Children and the Law under cooperative agreement number 90-MC-CX-K001 awarded to the ABA Fund for Justice and Education. The Research Summary, Final Report, and Appendices are available from the Juvenile Justice Clearinghouse at 1-800-638-8736.

16. About half of the states have statutes requiring a missing child's school records and/or birth certificate be flagged. Flagging statutes aid in locating an abducted child by requiring that law enforcement be notified whenever a request for a missing child's school record or birth certificate is made.