

FIRST REGULAR SESSION

HOUSE BILL NO. 403

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES FRANZ (Sponsor), STEVENSON, NORR, SANDER, WRIGHT,
DENISON AND POLLOCK (Co-sponsors).

1261L.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 452, RSMo, by adding thereto three new sections relating to international parental child abduction.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 452, RSMo, is amended by adding thereto three new sections, to be known as sections 452.426, 452.427, and 452.428, to read as follows:

452.426. 1. In any court proceeding under this chapter, if credible evidence is presented to the court indicating a potential risk of the international abduction of a child by a parent of the child, the court, on its own motion or at the request of a party, shall determine whether it is necessary for the court to take one or more of the measures described in section 452.428 to protect the child from the risk of abduction by the parent.

2. In determining whether to take any of the measures described in section 452.428, the court shall consider the following:

(1) The public policies of this state set forth in sections 452.375 and 452.400, and the relevant custody factors and the best interest of the child as set forth in sections 452.375 and 452.400;

(2) The risk of international abduction of the child by a parent of the child based on the court's evaluation of the risk factors set forth in section 452.427;

(3) Any obstacles, legal or otherwise, to locating, recovering, and returning the child if the child were abducted to a foreign country; and

(4) The potential physical or psychological harm to the child if the child were abducted to a foreign country.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **3. The provisions of sections 452.426 to 452.428 shall apply to all proceedings under**
18 **this chapter pending in a circuit court on the effective date of sections 452.426 to 452.428**
19 **or filed on or after the effective date of sections 452.426 to 452.428.**

452.427. 1. In determining whether there is a risk of the international abduction
2 **of a child by a parent of the child, the court shall consider evidence that the parent:**

3 **(1) Has taken, enticed away, kept, withheld, or concealed a child in violation of**
4 **another person's right of custody, visitation, or access to a child, unless the parent presents**
5 **evidence that the parent believed in good faith that the parent's conduct was necessary to**
6 **avoid imminent harm to the child;**

7 **(2) Has previously threatened to take, entice away, keep, withhold, or conceal a**
8 **child in violation of another person's right of possession of or access to the child;**

9 **(3) Lives outside of the United States or lacks financial reason to stay in the United**
10 **States, including evidence that the parent is financially independent, is able to work outside**
11 **of the United States, or is unemployed;**

12 **(4) Has recently engaged in planning activities that could facilitate the removal of**
13 **the child from the United States by the parent, including any of the following:**

14 **(a) Quitting a job;**

15 **(b) Selling a primary residence;**

16 **(c) Terminating a lease;**

17 **(d) Closing bank accounts;**

18 **(e) Liquidating other assets;**

19 **(f) Hiding or destroying documents;**

20 **(g) Applying for a passport or visa for the parent or the child;**

21 **(h) Applying to obtain the child's birth certificate or school or medical records; or**

22 **(i) Prohibiting the other parent access, when needed, to the child's birth certificate,**
23 **passport, visa, or other documents;**

24 **(5) Has a criminal history or a history of violating court orders.**

25 **2. If the court finds that there is credible evidence of a risk of abduction of the child**
26 **by a parent of the child based on the court's consideration of the factors listed in subsection**
27 **1 of this section, the court shall also consider evidence regarding the following factors to**
28 **evaluate the risk of international abduction of the child by a parent:**

29 **(1) Whether the parent has strong familial, emotional, or cultural ties to another**
30 **country, particularly a country that is not a signatory to or compliant with the Hague**
31 **Convention on the Civil Aspects of International Child Abduction; and**

32 **(2) Whether the parent lacks strong ties to the United States, regardless of whether**
33 **the parent is a citizen or permanent resident of the United States.**

34 **3. If the court finds that there is credible evidence of a risk of abduction of the child**
35 **by a parent of the child based on the court's consideration of the factors in subsection 1 of**
36 **this section, the court may also consider evidence regarding the following factors to**
37 **evaluate the risk of international abduction of the child by a parent:**

38 **(1) Whether the parent is undergoing a change in status with the United States**
39 **Immigration and Naturalization Service that would adversely affect such parent's ability**
40 **to legally remain in the United States;**

41 **(2) Whether the parent's application for United States citizenship has been denied**
42 **by the United States Immigration and Naturalization Service;**

43 **(3) Whether the parent has forged or presented misleading or false evidence to**
44 **obtain a visa, passport, Social Security card, or any other identification card, or has made**
45 **any misrepresentation to the United States government; or**

46 **(4) Whether the foreign country to which the parent has ties:**

47 **(a) Presents obstacles, legal or otherwise, to the recovery and return of a child who**
48 **is abducted to the country from the United States;**

49 **(b) Has any legal mechanisms for immediately and effectively enforcing an order**
50 **issued by this state regarding the custody of or access to the child;**

51 **(c) Has local laws or practices that would:**

52 **a. Enable the abducting parent, without due cause, to prevent the child's other**
53 **parent from contacting the child;**

54 **b. Restrict the child's other parent from freely traveling to or exiting from the**
55 **country due to the parent's gender, nationality, or religion; or**

56 **c. Restricts the child's ability to legally leave the country after the child reaches the**
57 **age of majority due to the child's gender, nationality, or religion;**

58 **(d) Is included by the United States Department of State on a list of state sponsors**
59 **of terrorism;**

60 **(e) Is a country for which the United States Department of State has issued a travel**
61 **warning to United States citizens regarding travel to such country;**

62 **(f) Has an embassy of the United States in the country;**

63 **(g) Is engaged in any active military action or war, including a civil war;**

64 **(h) Is a party to and compliant with the Hague Convention on the Civil Aspects of**
65 **International Child Abduction according to the most recent report on compliance issued**
66 **by the United States Department of State;**

67 **(i) Provides for the extradition of a parental abductor and the expeditious return**
68 **of the child to the United States; or**

69 (j) Poses a risk that the child's physical health or safety would be endangered in the
70 country due to specific circumstances relating to the child or due to human rights
71 violations committed against children, including arranged marriages, lack of freedom of
72 religion, child labor, lack of child abuse laws, female genital mutilation, and any form of
73 slavery.

452.428. If the court finds that it is necessary under section 452.426 to take
2 measures to protect a child from international abduction by a parent of the child, in
3 addition to the authority of the court under sections 452.375 and 452.400, the court may
4 take any of the following actions:

5 (1) Appoint a person other than the parent of the child who presents a risk of
6 abducting the child as the sole custodian of the child;

7 (2) Require supervised visitation of the parent until the court finds under section
8 452.400 that supervised visitation is no longer necessary;

9 (3) Enjoin the parent or any person acting on the parent's behalf from:

10 (a) Disrupting or removing the child from the school or child care facility in which
11 the child is enrolled; or

12 (b) Approaching the child at any location other than a site designated for
13 supervised visitation;

14 (4) Order passport and travel controls, including controls that:

15 (a) Prohibit the parent and any person acting on the parent's behalf from removing
16 the child from this state or the United States;

17 (b) Require the parent to surrender any passport issued in the child's name,
18 including any passport issued in the name of both the parent and the child;

19 (c) Prohibit the parent from applying on behalf of the child for a new or
20 replacement passport or international travel visa;

21 (d) Require the parent to surrender his or her passport to court or law enforcement
22 authorities of this state during any supervised or restricted visitation in this state or the
23 United States;

24 (5) Require the parent to provide to:

25 (a) The United States Department of State's Office of Children's Issues and the
26 relevant foreign consulate or embassy:

27 a. Written notice of the court-ordered passport and travel restrictions for the child;
28 and

29 b. A properly authenticated copy of the court order detailing the custody or
30 visitation restrictions and documentation of the parent's agreement to the restrictions; and

31 (b) The court proof of receipt of the written notice required under subparagraph
32 a. of paragraph (a) of this subdivision by the United States Department of State's Office
33 of Children's Issues and the relevant foreign consulate or embassy;

34 (6) Order the parent to execute a bond or deposit security in an amount sufficient
35 to offset the cost of recovering the child if the child is abducted by the parent to a foreign
36 country;

37 (7) Authorize the appropriate law enforcement agencies to take measures to
38 prevent the abduction of the child by the parent; or

39 (8) Include in the court's order provisions:

40 (a) Identifying the United States as the country of habitual residence of the child;

41 (b) Defining the basis for the court's exercise of jurisdiction; and

42 (c) Stating that a party's violation of the order may subject the party to a civil or
43 criminal penalty, or both.

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