

Stat. 1807, known as the Sean and David Goldman International Child Abduction Prevention and Return Act of 2014, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

SHORT TITLE

Pub. L. 113–150, §1(a), Aug. 8, 2014, 128 Stat. 1807, provided that: “This Act [enacting this chapter and section 241 of Title 6, Domestic Security, repealing section 11611 of Title 42, The Public Health and Welfare, and enacting provisions set out as a note under this section] may be cited as the ‘Sean and David Goldman International Child Abduction Prevention and Return Act of 2014.’”

FINDINGS; SENSE OF CONGRESS; PURPOSES

Pub. L. 113–150, §2, Aug. 8, 2014, 128 Stat. 1807, provided that:

“(a) FINDINGS.—Congress finds the following:

“(1) Sean Goldman, a United States citizen and resident of New Jersey, was abducted from the United States in 2004 and separated from his father, David Goldman, who spent nearly 6 years battling for the return of his son from Brazil before Sean was finally returned to Mr. Goldman’s custody on December 24, 2009.

“(2) The Department of State’s Office of Children’s Issues, which serves as the Central Authority of the United States for the purposes of the 1980 Hague Convention on the Civil Aspects of International Child Abduction (referred to in this Act [see Short Title note above] as the ‘Hague Abduction Convention’), has received thousands of requests since 2007 for assistance in the return to the United States of children who have been wrongfully abducted by a parent or other legal guardian to another country.

“(3) For a variety of reasons reflecting the significant obstacles to the recovery of abducted children, as well as the legal and factual complexity involving such cases, not all cases are reported to the Central Authority of the United States.

“(4) More than 1,000 outgoing international child abductions are reported every year to the Central Authority of the United States, which depends solely on proactive reporting of abduction cases.

“(5) Only about one-half of the children abducted from the United States to countries with which the United States enjoys reciprocal obligations under the Hague Abduction Convention are returned to the United States.

“(6) The United States and other Convention countries have expressed their desire, through the Hague Abduction Convention, ‘to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence, as well as to secure protection for rights of access.’

“(7) Compliance by the United States and other Convention countries depends on the actions of their designated central authorities, the performance of their judicial systems as reflected in the legal process and decisions rendered to enforce or effectuate the Hague Abduction Convention, and the ability and willingness of their law enforcement authorities to ensure the swift enforcement of orders rendered pursuant to the Hague Abduction Convention.

“(8) According to data from the Department of State, approximately 40 percent of abduction cases involve children taken from the United States to countries with which the United States does not have reciprocal obligations under the Hague Abduction Convention or other arrangements relating to the resolution of abduction cases.

“(9) According to the Department of State’s April 2010 Report on Compliance with the Hague Convention on the Civil Aspects of International Child Abduction, ‘parental child abduction jeopardizes the

child and has substantial long-term consequences for both the child and the left-behind parent.’

“(10) Few left-behind parents have the extraordinary financial resources necessary—

“(A) to pursue individual civil or criminal remedies in both the United States and a foreign country, even if such remedies are available; or

“(B) to engage in repeated foreign travel to attempt to obtain the return of their children through diplomatic or other channels.

“(11) Military parents often face additional complications in resolving abduction cases because of the challenges presented by their military obligations.

“(12) In addition to using the Hague Abduction Convention to achieve the return of abducted children, the United States has an array of Federal, State, and local law enforcement, criminal justice, and judicial tools at its disposal to prevent international abductions.

“(13) Federal agencies tasked with preventing international abductions have indicated that the most effective way to stop international child abductions is while they are in progress, rather than after the child has been removed to a foreign destination.

“(14) Parental awareness of abductions in progress, rapid response by relevant law enforcement, and effective coordination among Federal, State, local, and international stakeholders are critical in preventing such abductions.

“(15) A more robust application of domestic tools, in cooperation with international law enforcement entities and appropriate application of the Hague Abduction Convention could—

“(A) discourage some parents from attempting abductions;

“(B) block attempted abductions at ports of exit; and

“(C) help achieve the return of more abducted children.

“(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should set a strong example for other Convention countries in the timely location and prompt resolution of cases involving children abducted abroad and brought to the United States.

“(c) PURPOSES.—The purposes of this Act [see Short Title note above] are—

“(1) to protect children whose habitual residence is the United States from wrongful abduction;

“(2) to assist left-behind parents in quickly resolving cases and maintaining safe and predictable contact with their child while an abduction case is pending;

“(3) to protect the custodial rights of parents, including military parents, by providing the parents, the judicial system, and law enforcement authorities with the information they need to prevent unlawful abduction before it occurs;

“(4) to enhance the prompt resolution of abduction and access cases;

“(5) to detail an appropriate set of actions to be undertaken by the Secretary of State to address persistent problems in the resolution of abduction cases;

“(6) to establish a program to prevent wrongful abductions; and

“(7) to increase interagency coordination in preventing international child abduction by convening a working group composed of presidentially appointed and Senate confirmed officials from the Department of State, the Department of Homeland Security, and the Department of Justice.”

SUBCHAPTER I—DEPARTMENT OF STATE ACTIONS

§ 9111. Annual Report

(a) In general

Not later than April 30 of each year, the Secretary of State shall submit to the appropriate

congressional committees an Annual Report on International Child Abduction. The Secretary shall post the Annual Report to the publicly accessible website of the Department of State.

(b) Contents

Each Annual Report shall include—

(1) a list of all countries in which there were 1 or more abduction cases, during the preceding calendar year, relating to a child whose habitual residence is the United States, including a description of whether each such country—

(A) is a Convention country;

(B) is a bilateral procedures country;

(C) has other procedures for resolving such abductions; or

(D) adheres to no protocols with respect to child abduction;

(2) for each country with respect to which there were 5 or more pending abduction cases, during the preceding year, relating to a child whose habitual residence is the United States—

(A) the number of such new abduction and access cases reported during the preceding year;

(B) for Convention and bilateral procedures countries—

(i) the number of abduction and access cases that the Central Authority of the United States transmitted to the Central Authority of such country; and

(ii) the number of abduction and access cases that were not submitted by the Central Authority to the judicial or administrative authority, as applicable, of such country;

(C) the reason for the delay in submission of each case identified in subparagraph (B)(ii) by the Central Authority of such country to the judicial or administrative authority of that country;

(D) the number of unresolved abduction and access cases, and the length of time each case has been pending;

(E) the number and percentage of unresolved abduction cases in which law enforcement authorities have—

(i) not located the abducted child;

(ii) failed to undertake serious efforts to locate the abducted child; and

(iii) failed to enforce a return order rendered by the judicial or administrative authorities of such country;

(F) the total number and the percentage of the total number of abduction and access cases, respectively, resolved during the preceding year;

(G) recommendations to improve the resolution of abduction and access cases; and

(H) the average time it takes to locate a child;

(3) the number of abducted children whose habitual residence is in the United States and who were returned to the United States from—

(A) Convention countries;

(B) bilateral procedures countries;

(C) countries having other procedures for resolving such abductions; or

(D) countries adhering to no protocols with respect to child abduction;

(4) a list of Convention countries and bilateral procedures countries that have failed to comply with any of their obligations under the Hague Abduction Convention or bilateral procedures, as applicable, with respect to the resolution of abduction and access cases;

(5) a list of countries demonstrating a pattern of noncompliance and a description of the criteria on which the determination of a pattern of noncompliance for each country is based;

(6) information on efforts by the Secretary of State to encourage non-Convention countries—

(A) to ratify or accede to the Hague Abduction Convention;

(B) to enter into or implement other bilateral procedures, including memoranda of understanding, with the United States; and

(C) to address pending abduction and access cases;

(7) the number of cases resolved without abducted children being returned to the United States from Convention countries, bilateral procedures countries, or other non-Convention countries;

(8) a list of countries that became Convention countries with respect to the United States during the preceding year; and

(9) information about efforts to seek resolution of abduction cases of children whose habitual residence is in the United States and whose abduction occurred before the Hague Abduction Convention entered into force with respect to the United States.

(c) Exceptions

Unless a left-behind parent provides written permission to the Central Authority of the United States to include personally identifiable information about the parent or the child in the Annual Report, the Annual Report may not include any personally identifiable information about any such parent, child, or party to an abduction or access case involving such parent or child.

(d) Additional sections

Each Annual Report shall also include—

(1) information on the number of unresolved abduction cases affecting military parents;

(2) a description of the assistance offered to such military parents;

(3) information on the use of airlines in abductions, voluntary airline practices to prevent abductions, and recommendations for best airline practices to prevent abductions;

(4) information on actions taken by the Central Authority of the United States to train domestic judges in the application of the Hague Abduction Convention; and

(5) information on actions taken by the Central Authority of the United States to train United States Armed Forces legal assistance personnel, military chaplains, and military family support center personnel about—

(A) abductions;

(B) the risk of loss of contact with children; and

(C) the legal means available to resolve such cases.

(e) Omitted

(f) Notification to Congress on countries in non-compliance

(1) In general

The Secretary of State shall include, in a separate section of the Annual Report, the Secretary's determination, pursuant to the provisions under section 9122(b) of this title, of whether each country listed in the report has engaged in a pattern of noncompliance in cases of child abduction during the preceding 12 months.

(2) Contents

The section described in paragraph (1)—

(A) shall identify any action or actions described in section 9122(d) of this title (or commensurate action as provided in section 9122(e) of this title) that have been taken by the Secretary with respect to each country;

(B) shall describe the basis for the Secretary's determination of the pattern of non-compliance by each country;

(C) shall indicate whether noneconomic policy options designed to resolve the pattern of noncompliance have reasonably been exhausted, including the consultations required under section 9123 of this title.

(Pub. L. 113-150, title I, § 101, Aug. 8, 2014, 128 Stat. 1813.)

CODIFICATION

Section is comprised of section 101 of Pub. L. 113-150. Subsec. (e) of section 101 of Pub. L. 113-150 repealed section 11611 of Title 42, The Public Health and Welfare.

§ 9112. Standards and assistance

The Secretary of State shall—

(1) ensure that United States diplomatic and consular missions abroad—

(A) maintain a consistent reporting standard with respect to abduction and access cases;

(B) designate at least 1 senior official in each such mission, at the discretion of the Chief of Mission, to assist left-behind parents from the United States who are visiting such country or otherwise seeking to resolve abduction or access cases; and

(C) monitor developments in abduction and access cases; and

(2) develop and implement written strategic plans for engagement with any Convention or non-Convention country in which there are 5 or more cases of international child abduction.

(Pub. L. 113-150, title I, § 102, Aug. 8, 2014, 128 Stat. 1815.)

§ 9113. Bilateral procedures, including memoranda of understanding

(a) Development

(1) In general

Not later than 180 days after August 8, 2014, the Secretary of State shall initiate a process to develop and enter into appropriate bilateral

procedures, including memoranda of understanding, as appropriate, with non-Convention countries that are unlikely to become Convention countries in the foreseeable future, or with Convention countries that have unresolved abduction cases that occurred before the Hague Abduction Convention entered into force with respect to the United States or that country.

(2) Prioritization

In carrying out paragraph (1), the Secretary of State shall give priority to countries with significant abduction cases and related issues.

(b) Elements

The bilateral procedures described in subsection (a) should include provisions relating to—

(1) the identification of—

(A) the Central Authority;

(B) the judicial or administrative authority that will promptly adjudicate abduction and access cases;

(C) the law enforcement agencies; and

(D) the implementation of procedures to ensure the immediate enforcement of an order issued by the authority identified pursuant to subparagraph (B) to return an abducted child to a left-behind parent, including by—

(i) conducting an investigation to ascertain the location of the abducted child;

(ii) providing protection to the abducted child after such child is located; and

(iii) retrieving the abducted child and making the appropriate arrangements for such child to be returned to the child's country of habitual residence;

(2) the implementation of a protocol to effectuate the return of an abducted child identified in an abduction case not later than 6 weeks after the application with respect to the abduction case has been submitted to the judicial or administrative authority, as applicable, of the country in which the abducted child is located;

(3) the implementation of a protocol for the establishment and protection of the rights of interim contact during pendency of abduction cases; and

(4) the implementation of a protocol to establish periodic visits between a United States embassy or consular official and an abducted child, in order to allow the official to ascertain the child's location and welfare.

(Pub. L. 113-150, title I, § 103, Aug. 8, 2014, 128 Stat. 1815.)

§ 9114. Report to congressional representatives

(a) Notification

The Secretary of State shall submit written notification to the Member of Congress and Senators, or Resident Commissioner or Delegate, as appropriate, representing the legal residence of a left-behind parent if such parent—

(1) reports an abduction to the Central Authority of the United States; and

(2) consents to such notification.

(b) Timing

At the request of any person who is a left-behind parent, including a left-behind parent who