

Editorial Notes**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 L. 113–150 repealed section 11611 of Title 42, The Public Health and Welfare.

AMENDMENTS

2021—Subsec. (b)(2)(A). Pub. L. 117–81, § 5702(1)(A), inserted “, respectively,” after “access cases” and “and the number of children involved” before semicolon at end.

Subsec. (b)(2)(D). Pub. L. 117–81, § 5702(1)(B), inserted “respectively, the number of children involved,” after “access cases,”.

Subsec. (b)(7). Pub. L. 117–81, § 5702(2), inserted “, and number of children involved in such cases” before semicolon at end.

Subsec. (b)(10). Pub. L. 117–81, § 5702(3)–(5), added par. (10).

§ 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 previously reported an abduction to the Central Authority of the United States before August 8, 2014, the notification required under subsection (a) shall be provided as soon as is practicable.

(Pub. L. 113–150, title I, § 104, Aug. 8, 2014, 128 Stat. 1816.)

SUBCHAPTER II—ACTIONS BY THE SECRETARY OF STATE**§ 9121. Response to international child abductions****(a) United States policy**

It is the policy of the United States—

(1) to promote the best interest of children wrongfully abducted from the United States by—

(A) establishing legal rights and procedures for their prompt return; and

(B) ensuring the enforcement of reciprocal international obligations under the Hague Abduction Convention or arrangements under bilateral procedures;

(2) to promote the timely resolution of abduction cases through 1 or more of the actions described in section 9122 of this title; and

(3) to ensure appropriate coordination within the Federal Government and between Federal, State, and local agencies involved in abduction prevention, investigation, and resolution.

(b) Actions by the Secretary of State in response to unresolved cases

(1) Determination of action by the Secretary of State

For each abduction or access case relating to a child whose habitual residence is in the United States that remains pending or is otherwise unresolved on the date that is 12 months after the date on which the Central Authority of the United States submits such case to a foreign country, the Secretary of State shall determine whether the government of such foreign country has failed to take appropriate steps to resolve the case. If the Secretary of State determines that such failure occurred, the Secretary should, as expeditiously as practicable—

(A) take 1 or more of the actions described in subsections (d) and (e) of section 9122 of this title; and

(B) direct the Chief of Mission in that foreign country to directly address the resolution of the case with senior officials in the foreign government.

(2) Authority for delay of action by the Secretary of State

The Secretary of State may delay any action described in paragraph (1) if the Secretary determines that an additional period of time, not to exceed 1 year, will substantially assist in resolving the case.

(3) Report

If the Secretary of State delays any action pursuant to paragraph (2) or decides not to take an action described in subsection (d) or (e) of section 9122 of this title after making the determination described in paragraph (1), the Secretary, not later than 15 days after such delay or decision, shall provide a report to the appropriate congressional committees that details the reasons for delaying action or not taking action, as appropriate.

(4) Congressional briefings

At the request of the appropriate congressional committees, the Secretary of State shall provide a detailed briefing, including a written report, if requested, on actions taken to resolve a case or the cause for delay.

(c) Implementation

(1) In general

In carrying out subsection (b), the Secretary of State should—

(A) take 1 or more actions that most appropriately respond to the nature and sever-

ity of the governmental failure to resolve the unresolved abduction case; and

(B) seek, to the fullest extent possible—

(i) to initially respond by communicating with the Central Authority of the country; and

(ii) if clause (i) is unsuccessful, to target subsequent actions—

(I) as narrowly as practicable, with respect to the agencies or instrumentalities of the foreign government that are responsible for such failures; and

(II) in ways that respect the separation of powers and independence of the judiciary of the country, as applicable.

(2) Guidelines for actions by the Secretary of State

In addition to the guidelines under paragraph (1), the Secretary of State, in determining whether to take 1 or more actions under paragraphs (5) through (7) of section 9122(d) of this title or section 9122(e) of this title, shall seek to minimize any adverse impact on—

(A) the population of the country whose government is targeted by the action or actions;

(B) the humanitarian activities of United States and nongovernmental organizations in the country; and

(C) the national security interests of the United States.

(Pub. L. 113–150, title II, §201, Aug. 8, 2014, 128 Stat. 1817.)

§9122. Actions by the Secretary of State in response to patterns of noncompliance in cases of international child abductions

(a) Response to a pattern of noncompliance

It is the policy of the United States—

(1) to oppose institutional or other systemic failures of foreign governments to fulfill their obligations pursuant to the Hague Abduction Convention or bilateral procedures, as applicable, to resolve abduction and access cases;

(2) to promote reciprocity pursuant to, and in compliance with, the Hague Abduction Convention or bilateral procedures, as appropriate; and

(3) to directly engage with senior foreign government officials to most effectively address patterns of noncompliance.

(b) Determination of countries with patterns of noncompliance in cases of international child abduction

(1) Annual review

Not later than April 30 of each year, the Secretary of State shall—

(A) review the status of abduction and access cases in each foreign country in order to determine whether the government of such country has engaged in a pattern of noncompliance during the preceding 12 months; and

(B) report such determination pursuant to section 9111(f) of this title.

(2) Determinations of responsible parties

The Secretary of State shall seek to determine the agencies or instrumentalities of the