

By: Nixon

H.B. No. 1899

A BILL TO BE ENTITLED

AN ACT

relating to the prevention of the international abduction of a child by a parent of the child.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 153, Family Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. PREVENTION OF INTERNATIONAL

PARENTAL CHILD ABDUCTION

Sec. 153.501. NECESSITY OF MEASURES TO PREVENT INTERNATIONAL PARENTAL CHILD ABDUCTION. (a) In a suit, if credible evidence is presented to the court indicating a potential risk of the international abduction of the child by a parent of the child, the court, on its own motion or at the request of a party to the suit, shall determine under this section whether it is necessary for the court to take one or more of the measures described by Section 153.503 to protect the child from the risk of abduction by the parent.

(b) In determining whether to take any of the measures described by Section 153.503, the court shall consider:

(1) the public policies of this state described by Section 153.001(a) and the consideration of the best interest of the child under Section 153.002;

(2) the risk of international abduction of the child by a parent of the child based on the court's evaluation of the risk

1 factors described by Section 153.502;

2 (3) any obstacles to locating, recovering, and
3 returning the child if the child is abducted to a foreign country;
4 and

5 (4) the potential physical or psychological harm to
6 the child if the child is abducted to a foreign country.

7 Sec. 153.502. ABDUCTION RISK FACTORS. (a) To determine
8 whether there is a risk of the international abduction of a child by
9 a parent of the child, the court shall consider evidence that the
10 parent:

11 (1) has taken, enticed away, kept, withheld, or
12 concealed a child in violation of another person's right of
13 possession of or access to the child, unless the parent presents
14 evidence that the parent believed in good faith that the parent's
15 conduct was necessary to avoid imminent harm to the child;

16 (2) has previously threatened to take, entice away,
17 keep, withhold, or conceal a child in violation of another person's
18 right of possession of or access to the child;

19 (3) lacks financial reason to stay in this country,
20 including evidence that the parent is financially independent, is
21 able to work outside of this country, or is unemployed;

22 (4) has recently engaged in planning activities that
23 could facilitate the removal of the child from this country by the
24 parent, including:

25 (A) quitting a job;

26 (B) selling a primary residence;

27 (C) terminating a lease;

1 (D) closing bank accounts;

2 (E) liquidating other assets;

3 (F) hiding or destroying documents;

4 (G) applying for a passport or visa for the
5 parent or the child; or

6 (H) applying to obtain the child's birth
7 certificate or school or medical records;

8 (5) has forged or presented misleading or false
9 evidence to obtain a visa, passport, social security card, or any
10 other identification card or has made any misrepresentation to the
11 United States government regarding the parent's identity;

12 (6) has a history of domestic violence that the court
13 is required to consider under Section 153.004; or

14 (7) has a criminal record or a history of violating
15 court orders.

16 (b) If the court finds that there is credible evidence of a
17 risk of abduction of the child by a parent of the child based on the
18 court's consideration of the factors in Subsection (a), the court
19 may also consider evidence regarding the following factors to
20 evaluate the risk of international abduction of the child by a
21 parent:

22 (1) whether the parent:

23 (A) has strong familial, emotional, or cultural
24 ties to another country, particularly a country that is not a
25 signatory to or compliant with the Hague Convention on the Civil
26 Aspects of International Child Abduction;

27 (B) lacks strong ties to the United States,

1 regardless of whether the parent is a citizen or permanent resident
2 of the United States; or

3 (C) is undergoing a change in status with the
4 United States Immigration and Naturalization Service that would
5 adversely affect that parent's ability to legally remain in the
6 United States;

7 (2) whether the parent's application for United States
8 citizenship has been denied by the United States Immigration and
9 Naturalization Service; and

10 (3) whether the foreign country to which the parent
11 has ties:

12 (A) presents obstacles to the recovery and return
13 of a child who is abducted to the country from the United States;

14 (B) has any legal mechanisms for immediately and
15 effectively enforcing an order regarding the possession of or
16 access to the child issued by this state;

17 (C) has local laws or practices that would:

18 (i) enable the parent to prevent the child's
19 other parent from contacting the child without due cause;

20 (ii) restrict the child's other parent from
21 freely traveling to or exiting from the country because of that
22 parent's gender, race, or religion; or

23 (iii) restrict the child's ability to legally
24 leave the country after the child reaches the age of majority
25 because of the child's gender, race, or religion;

26 (D) is included by the United States Department
27 of State on a list of state sponsors of terrorism;

1 (E) is a country for which the United States
2 Department of State has issued a travel warning to United States
3 citizens regarding travel to the country;

4 (F) has an embassy of the United States in the
5 country;

6 (G) is engaged in any active military action or
7 war, including a civil war;

8 (H) is a signatory to or compliant with the Hague
9 Convention on the Civil Aspects of International Child Abduction
10 according to the most recent report on compliance issued by the
11 United States Department of State;

12 (I) provides for the extradition of a parental
13 abductor and child to the United States; or

14 (J) poses a risk that the child's physical health
15 or safety would be endangered in the country because of specific
16 circumstances relating to the child or because of human rights
17 violations committed by the country's government against children,
18 including arranged marriages, lack of freedom of religion, child
19 labor, lack of child abuse laws, female genital mutilation, and any
20 form of slavery.

21 Sec. 153.503. ABDUCTION PREVENTION MEASURES. If the court
22 finds that it is necessary under Section 153.501 to take measures to
23 protect a child from international abduction by a parent of the
24 child, the court may take any of the following actions:

25 (1) render an order restricting or limiting the
26 parent's right to possession of or access to the child, including an
27 order:

1 (A) appointing a person other than the parent of
2 the child who presents a risk of abducting the child as the sole
3 managing conservator of the child; and

4 (B) requiring supervised visitation of the
5 parent by a visitation center or independent organization;

6 (2) enjoin the parent or any person acting on the
7 parent's behalf from:

8 (A) disrupting or removing the child from the
9 school or child-care facility in which the child is enrolled; or

10 (B) approaching the child at any location other
11 than a site designated for supervised visitation;

12 (3) order passport and travel controls, including
13 controls that:

14 (A) prohibit the parent and any person acting on
15 the parent's behalf from removing the child from this state or this
16 country;

17 (B) require the parent to surrender any passport
18 issued in the child's name, including any passport issued in the
19 name of both the parent and the child; or

20 (C) prohibit the parent from applying on behalf
21 of the child for a new or replacement passport or international
22 travel visa;

23 (4) require the parent to provide:

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

27 (i) written notice of the court-ordered

1 passport and travel restrictions for the child; and

2 (ii) a properly authenticated copy of the
3 court order detailing the restrictions and documentation of the
4 parent's agreement to the restrictions; and

5 (B) to the court proof of receipt of the written
6 notice required by Subparagraph (A)(i) by the United States
7 Department of State's Office of Children's Issues and the relevant
8 foreign consulate or embassy;

9 (5) order the parent to execute a bond or deposit
10 security in an amount sufficient to offset the cost of recovering
11 the child if the child is abducted by the parent to a foreign
12 country;

13 (6) authorize the appropriate law enforcement
14 agencies to take measures to prevent the abduction of the child by
15 the parent; or

16 (7) include in the court's order provisions:

17 (A) identifying the United States as the country
18 of habitual residence of the child;

19 (B) defining the basis for the court's exercise
20 of jurisdiction; and

21 (C) stating that a party's violation of the order
22 may subject the party to a civil penalty or criminal penalty or to
23 both civil and criminal penalties.

24 SECTION 2. The changes in law made by this Act apply to a
25 suit affecting the parent-child relationship pending in a trial
26 court on the effective date of this Act or filed on or after the
27 effective date of this Act.

1 SECTION 3. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2003.