

1-1 By: West, Hinojosa, Shapleigh S.B. No. 491
1-2 (In the Senate - Filed January 15, 2009; February 17, 2009,
1-3 read first time and referred to Committee on Jurisprudence;
1-4 March 19, 2009, reported favorably by the following vote: Yeas 6,
1-5 Nays 0; March 19, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to consideration of family violence in the risk assessment
1-9 for international parental abduction of a child.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 153.502, Family Code, is amended by
1-12 amending Subsection (a) and adding Subsection (a-1) to read as
1-13 follows:

1-14 (a) To determine whether there is a risk of the
1-15 international abduction of a child by a parent of the child, the
1-16 court shall consider evidence that the parent:

1-17 (1) has taken, enticed away, kept, withheld, or
1-18 concealed a child in violation of another person's right of
1-19 possession of or access to the child, unless the parent presents
1-20 evidence that the parent believed in good faith that the parent's
1-21 conduct was necessary to avoid imminent harm to the child or the
1-22 parent;

1-23 (2) has previously threatened to take, entice away,
1-24 keep, withhold, or conceal a child in violation of another person's
1-25 right of possession of or access to the child;

1-26 (3) lacks financial reason to stay in the United
1-27 States, including evidence that the parent is financially
1-28 independent, is able to work outside of the United States, or is
1-29 unemployed;

1-30 (4) has recently engaged in planning activities that
1-31 could facilitate the removal of the child from the United States by
1-32 the parent, including:

1-33 (A) quitting a job;

1-34 (B) selling a primary residence;

1-35 (C) terminating a lease;

1-36 (D) closing bank accounts;

1-37 (E) liquidating other assets;

1-38 (F) hiding or destroying documents;

1-39 (G) applying for a passport or visa or obtaining
1-40 other travel documents for the parent or the child; or

1-41 (H) applying to obtain the child's birth
1-42 certificate or school or medical records;

1-43 (5) has a history of domestic violence that the court
1-44 is required to consider under Section 153.004; or

1-45 (6) has a criminal history or a history of violating
1-46 court orders.

1-47 (a-1) In considering evidence of planning activities under
1-48 Subsection (a)(4), the court also shall consider any evidence that
1-49 the parent was engaging in those activities as a part of a safety
1-50 plan to flee from family violence.

1-51 SECTION 2. The changes in law made by this Act apply to a
1-52 suit affecting the parent-child relationship or suit for
1-53 modification pending in a trial court on the effective date of this
1-54 Act or filed on or after the effective date of this Act.

1-55 SECTION 3. This Act takes effect immediately if it receives
1-56 a vote of two-thirds of all the members elected to each house, as
1-57 provided by Section 39, Article III, Texas Constitution. If this
1-58 Act does not receive the vote necessary for immediate effect, this
1-59 Act takes effect September 1, 2009.

1-60 * * * * *