

Testimony on SB2126
January 15, 2025
Gail Hagerty

Chair Larson and Members of the Senate Judiciary Committee:

I'm Gail Hagerty – a former district court judge and current uniform law commissioner. I'm testifying today in support of SB 2126, the Uniform Child Abduction Prevention Act. This Act has been around a while – it was promulgated in 2006. It has been enacted in 18 states, and I've included a map showing those states in the materials accompanying my testimony.

Child abduction is one of the most frightening and heartbreaking crimes faced by parents and families. The majority of child abductions are perpetrated by family members. While there are laws to address parenting determinations and the criminal repercussions of child abductions, they provide inadequate prevention mechanisms.

This act gives the state a valuable tool for deterring both domestic and international child abductions by parents or others acting on behalf of parents.

This act anticipates the need for cooperation and communication between courts of different states. Because abduction situations are likely to involve more than one state, it is vital that courts have the ability to communicate effectively.

Section 1 includes definitions of terms used in this particular act. Those definitions apply only to this act.

Section 2 directs parties to the provisions concerning cooperation and communication between courts. Those provisions are included in the Uniform Child Custody Jurisdiction and Enforcement Act, which North Dakota has enacted.

Section 3 describes the actions to be brought in an effort to prevent abduction. It allows the court on its own motion and a party to a child-custody determination (or a party having a right to bring such an action) to request abduction prevention measures be implemented and allows prosecutors of public authorities to seek a warrant to take custody of a child if appropriate under the act.

Section 4 is the jurisdiction section – it allows the district courts to hear actions under the act.

Section 5 specifies what information a petition brought under the act is to include.

Section 6 lays out the factors to be considered to determine if there is a risk of abduction – those factors are probably what you'd expect. . . previous abduction or attempted abduction, threats to abduct a child, recent activities that may indicate a planned abduction, a history of domestic violence, stalking, or child abuse or neglect, prior refusal to follow a court order dealing with child custody.

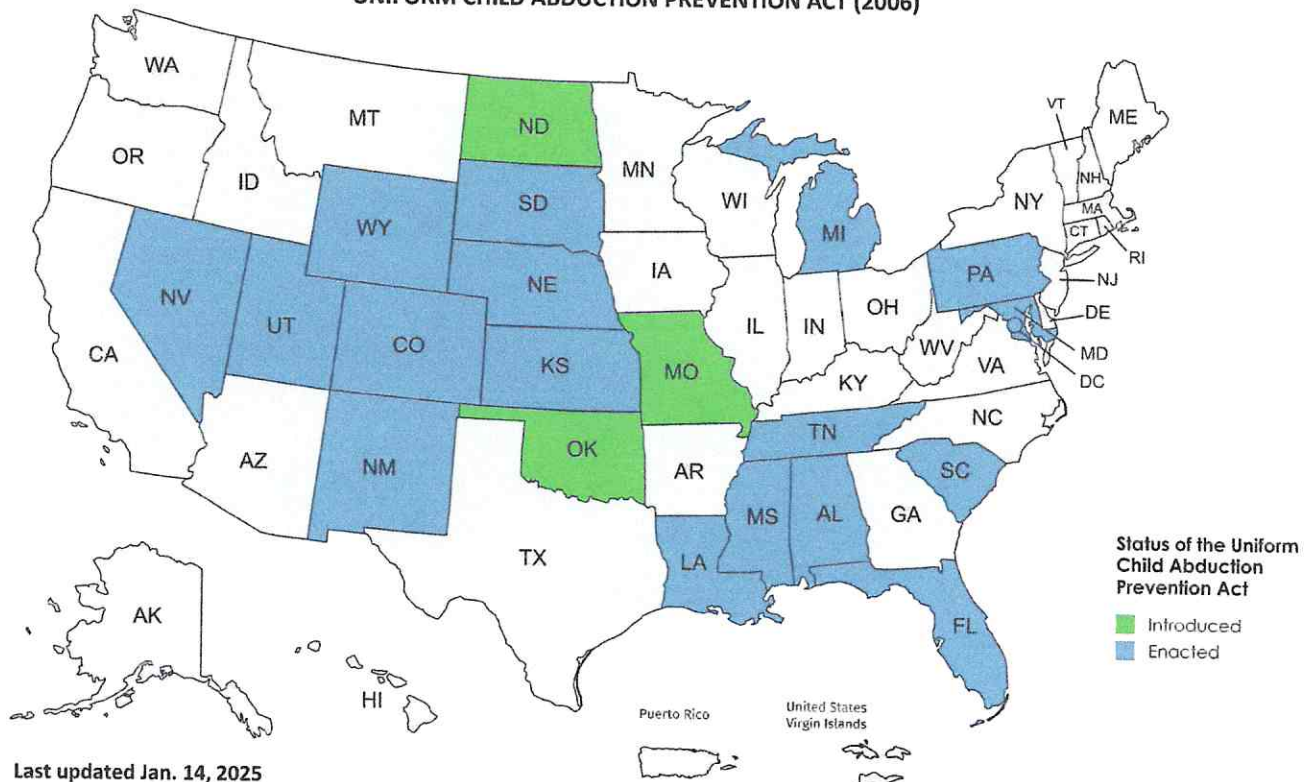
Courts would also consider whether there is a lack of ties to the state or the United States and strong ties to another culture or state or country.



A Few Facts about
THE UNIFORM CHILD ABDUCTION PREVENTION ACT

- PURPOSE:** The Uniform Child Abduction Prevention Act provides courts with guidelines to follow during custody disputes and divorce proceedings in order to help them identify families at risk for abduction and prevent the abduction of children.
- ORIGIN:** Completed by the Uniform Law Commission in 2006
- ENDORSED BY:** Approved by the American Bar Association; Included as Shared State Legislation by the Council of State Governments (CSG)
- ENACTED BY:** Alabama, Colorado, District of Columbia, Florida, Kansas, Louisiana, Maryland, Michigan, Mississippi, Nebraska, Nevada, New Mexico, Pennsylvania, South Carolina, South Dakota, Tennessee, Utah, and Wyoming

UNIFORM CHILD ABDUCTION PREVENTION ACT (2006)



For further information about the UCAPA, please contact Special Counsel Libby Snyder at lsnyder@uniformlaws.org.

The ULC is a nonprofit formed in 1892 to create nonpartisan state legislation. Over 350 volunteer commissioners—lawyers, judges, law professors, legislative staff, and others—work together to draft laws ranging from the Uniform Commercial Code to acts on property, trusts and estates, family law, criminal law and other areas where uniformity of state law is desirable.



Uniform Law Commission

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WHY STATES SHOULD ADOPT THE UNIFORM CHILD ABDUCTION PREVENTION ACT

The Uniform Law Commission, formerly the National Conference of Commissioners on Uniform State Laws (“NCCUSL”), promulgated the **Uniform Child Abduction Prevention Act (“UCAPA”)** in 2006 to provide states with a valuable tool for deterring domestic and international child abduction—both serious and growing problems. The U.S. Department of Justice reports over 200,000 instances yearly of either a child being taken by a family member in violation of a custody agreement or a family member failing to return or release a child at the end of a legal or agreed upon visit.* In addition, about 1,000 children are abducted annually from the United States and taken to a foreign country.**

While the Uniform Child Custody Jurisdiction and Enforcement Act (“UCCJEA”) provides well-established tools for the return of children abducted within the United States, and the Hague Convention on the Civil Aspects of International Child Abduction facilitates the return of children abducted internationally, these laws presume that a child can be located and, in the case of the Hague Convention, that the child is located in a country which is a signatory to the agreement. UCAPA is intended to provide courts and parties with tools to prevent an unlawful abduction from occurring in the first place, and thus is crucial to ensuring the well-being and safety of children.

UCAPA should be adopted in every state for the following reasons:

- **Consistent With UCCJEA** – UCAPA builds on and is consistent with the interstate jurisdiction and enforcement mechanisms in the UCCJEA (the law in 51 U.S. jurisdictions) by providing tools and guidance for preventing abduction, even prior to the issuance of a final custody decree. Nearly half of all abductions occur before the final custody decree.
- **Uniformity to Child Abduction Laws** – Child custody determinations and child abductions frequently take place across state and international lines, making uniformity across the states particularly necessary.
- **Guidance** – The Act provides clear guidance regarding the warning signs of and risk factors for a potential child abduction, including a past history of abduction or abuse and activities in furtherance of abduction, such as abandoning a job, liquidating assets, or obtaining travel documents.
- **International Issues** – The Act addresses some of the unique problems raised by international child abduction, such as differentiating between nations that are signatories to international child abduction conventions and those that are not.

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