

SESSION OF 2007

SUPPLEMENTAL NOTE ON SENATE BILL NO. 18

As Recommended by Senate Committee on
Judiciary

Brief*

SB 18 would enact the Uniform Child Abduction Prevention Act (UCAPA). It would provide courts with guidelines to follow during custody disputes and divorce proceedings, help courts identify families at risk for abduction, and provide measures to prevent the abduction of children where the evidence establishes a credible risk that a child may be abducted.

The bill would attempt to prevent abduction of children by parents or others acting with them by providing judges with information on risk factors and allowing judges to order appropriate measures or restrictions to prevent child abduction. The major factors include: has the parent previously abducted or attempted to abduct the child; has the parent threatened to abduct the child; has the parent recently engaged in activities that may indicate a planned abduction such as abandoning employment, selling a residence, terminating a lease, liquidating assets, applying for a passport for the respondent, a family member or the child, or seeking the child's birth certificate or school or medical records; has the parent engaged in domestic violence; has the parent refused to follow a child-custody determination; does the parent lack strong familial, financial, emotional or cultural ties to the state or to the U.S; does the parent have strong ties to another state or country; or the parent demonstrates other conduct the court considers relevant to the risk of abduction. These risk factors are based on research done by the U.S. Department of Justice and the American Bar Association.

If a judge finds a credible risk of abduction, the court may issue an abduction prevention order. The order may impose measures such as travel restrictions, a prohibition against removing the child from this state, restrictions on the child's passport, and restrictions on custody or visitation. If a judge finds a credible risk of imminent abduction, the court may issue a warrant to take physical custody of the child.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Background

The UCAPA was promulgated and adopted in 2006 by the National Conference of Commissioners on Uniform State Laws (NCCUSL). NCCUSL is a non-governmental body formed in 1892 upon the recommendation of the American Bar Association for the purpose of promoting uniformity in state laws on all subjects where uniformity is deemed desirable and practicable. All of the Commissioners are licensed to practice law in their respective states. The Commissioners from Kansas are James Concannon, John Hayes, Richard Hite, Representative Michael O'Neal, Elwaine Pomeroy, Glee Smith, and Senator John Vratil.

The Special Committee on Judiciary was charged by the Legislative Coordinating Council to study UCAPA during the 2006 Interim and to make a recommendation on the topic. The Special Committee recommended the bill be introduced in the Senate. The Special Committee expressed a mild concern with credible risk as a new standard of proof.

The proponents of the bill included Erik Fish, Legislative Counsel for NCCUSL; Ronald Nelson, Attorney; and Linda Elrod, Professor of Law at Washburn University. Professor Elrod served as the Reporter to the NCCUSL drafting committee on UCAPA.

Sandy Barnett, Executive Director of the Kansas Coalition Against Sexual and Domestic Violence, provided neutral testimony on the bill.

There was no testimony in opposition to the bill.

The fiscal note from the Division of Budget states that passage of SB 18 would not have a fiscal effect on state revenues or expenditures.