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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2010	.	
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The Committee on Criminal and Civil Justice Appropriations  
(Wilson) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. This act may be cited as the "Child Abduction  
Prevention Act."

Section 2. Section 61.45, Florida Statutes, is amended to  
read:

61.45 Court-ordered parenting plan; risk of violation;  
bond.—

(1) In any proceeding in which the court enters a parenting



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13 plan, including a time-sharing schedule, including in a  
14 modification proceeding, upon the presentation of competent  
15 substantial evidence that there is a risk that one party may  
16 violate the court's parenting plan by removing a child from this  
17 state or country or by concealing the whereabouts of a child, ~~or~~  
18 upon stipulation of the parties, upon the motion of another  
19 individual or entity having a right under the law of this state,  
20 or if the court finds evidence that establishes credible risk of  
21 removal of the child, the court may:

22 (a) Order that a parent may not remove the child from this  
23 state without the notarized written permission of both parents  
24 or further court order;

25 (b) Order that a parent may not remove the child from this  
26 country without the notarized written permission of both parents  
27 or further court order;

28 (c) Order that a parent may not take the child to a country  
29 that has not ratified or acceded to the Hague Convention on the  
30 Civil Aspects of International Child Abduction unless the other  
31 parent agrees in writing that the child may be taken to the  
32 country;

33 (d) Require a parent to surrender the passport of the child  
34 or require that:

35 1. The petitioner place the child's name in the Children's  
36 Passport Issuance Alert Program of the United States Department  
37 of State;

38 2. The respondent surrender to the court or the  
39 petitioner's attorney any United States or foreign passport  
40 issued in the child's name, including a passport issued in the  
41 name of both the parent and the child; and



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42           3. The respondent not apply on behalf of the child for a  
43 new or replacement passport or visa; or

44           (e) Require that a party ~~to~~ post bond or other security in  
45 an amount sufficient to serve as a financial deterrent to  
46 abduction, the proceeds of which may be used to pay the  
47 reasonable expenses of recovery of the child, including  
48 reasonable attorney's fees and costs, if the child is abducted.

49           (2) If the court enters a parenting plan, including a time-  
50 sharing schedule, including in a modification proceeding, that  
51 includes a provision entered under paragraph (1)(b) or paragraph  
52 (1)(c), a certified copy of the order should be sent by the  
53 parent who requested the restriction to the Passport Services  
54 Office of the United States Department of State requesting that  
55 they not issue a passport to the child without their signature  
56 or further court order.

57           (3) If the court enters an order under paragraph (1)(a) or  
58 paragraph (1)(b) to prevent the removal of the child from this  
59 state or country, the order may include one or more of the  
60 following:

61           (a) An imposition of travel restrictions that require that  
62 a party traveling with the child outside a designated geographic  
63 area provide the other party with the following:

64           1. The travel itinerary of the child.

65           2. A list of physical addresses and telephone numbers at  
66 which the child can be reached at specified times.

67           3. Copies of all travel documents.

68           (b) A prohibition of the respondent directly or indirectly:

69           1. Removing the child from this state or country or another  
70 specified geographic area without permission of the court or the



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71 petitioner's written consent;

72 2. Removing or retaining the child in violation of a child  
73 custody determination;

74 3. Removing the child from school or a child care or  
75 similar facility; or

76 4. Approaching the child at any location other than a site  
77 designated for supervised visitation.

78 (c) A requirement that a party register the order in  
79 another state as a prerequisite to allowing the child to travel  
80 to that state.

81 (d) As a prerequisite to exercising custody or visitation,  
82 a requirement that the respondent provide the following:

83 1. An authenticated copy of the order detailing passport  
84 and travel restrictions for the child to the Office of  
85 Children's Issues within the Bureau of Consular Affairs of the  
86 United States Department of State and the relevant foreign  
87 consulate or embassy.

88 2. Proof to the court that the respondent has provided the  
89 information in subparagraph 1.

90 3. An acknowledgment to the court in a record from the  
91 relevant foreign consulate or embassy that no passport  
92 application has been made, or passport issued, on behalf of the  
93 child.

94 4. Proof to the petitioner and court of registration with  
95 the United States embassy or other United States diplomatic  
96 presence in the destination country and with the destination  
97 country's central authority for the Hague Convention on the  
98 Civil Aspects of International Child Abduction, if that  
99 convention is in effect between this country and the destination



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100 country, unless one of the parties objects.

101 5. A written waiver under the Privacy Act, 5 U.S.C. s.  
102 552a, as amended, with respect to any document, application, or  
103 other information pertaining to the child or the respondent  
104 authorizing its disclosure to the court.

105 6. A written waiver with respect to any document,  
106 application, or other information pertaining to the child or the  
107 respondent in records held by the United States Bureau of  
108 Citizenship and Immigration Services authorizing its disclosure  
109 to the court.

110 7. Upon the court's request, a requirement that the  
111 respondent obtain an order from the relevant foreign country  
112 containing terms identical to the child custody determination  
113 issued in this country.

114 8. Upon the court's request, a requirement that the  
115 respondent be entered in the Prevent Departure Program of the  
116 United States Department of State or a similar federal program  
117 designed to prevent unauthorized departures to foreign  
118 countries.

119 (e) The court may impose conditions on the exercise of  
120 custody or visitation that limit visitation or require that  
121 visitation with the child by the respondent be supervised until  
122 the court finds that supervision is no longer necessary and  
123 orders the respondent to pay the costs of supervision.

124 (4) ~~(3)~~ In assessing the need for a bond or other security,  
125 the court may consider any reasonable factor bearing upon the  
126 risk that a party may violate a parenting plan by removing a  
127 child from this state or country or by concealing the  
128 whereabouts of a child, including but not limited to whether:



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129 (a) A court has previously found that a party previously  
130 removed a child from Florida or another state in violation of a  
131 parenting plan, or whether a court had found that a party has  
132 threatened to take a child out of Florida or another state in  
133 violation of a parenting plan;

134 (b) The party has strong family and community ties to  
135 Florida or to other states or countries, including whether the  
136 party or child is a citizen of another country;

137 (c) The party has strong financial reasons to remain in  
138 Florida or to relocate to another state or country;

139 (d) The party has engaged in activities that suggest plans  
140 to leave Florida, such as quitting employment; sale of a  
141 residence or termination of a lease on a residence, without  
142 efforts to acquire an alternative residence in the state;  
143 closing bank accounts or otherwise liquidating assets; ~~or~~  
144 applying for a passport or visa; or obtaining travel documents  
145 for the respondent or the child;

146 (e) Either party has had a history of domestic violence as  
147 either a victim or perpetrator, child abuse or child neglect  
148 evidenced by criminal history, including but not limited to,  
149 arrest, an injunction for protection against domestic violence  
150 issued after notice and hearing under s. 741.30, medical  
151 records, affidavits, or any other relevant information; ~~or~~

152 (f) The party has a criminal record;~~-~~

153 (g) The party is likely to take the child to a country  
154 that:

155 1. Is not a party to the Hague Convention on the Civil  
156 Aspects of International Child Abduction and does not provide  
157 for the extradition of an abducting parent or for the return of



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158 an abducted child;  
159 2. Is a party to the Hague Convention on the Civil Aspects  
160 of International Child Abduction, but:  
161 a. The Hague Convention on the Civil Aspects of  
162 International Child Abduction is not in force between this  
163 country and that country;  
164 b. Is noncompliant or demonstrating patterns of  
165 noncompliance according to the most recent compliance report  
166 issued by the United States Department of State; or  
167 c. Lacks legal mechanisms for immediately and effectively  
168 enforcing a return order under the Hague Convention on the Civil  
169 Aspects of International Child Abduction;  
170 3. Poses a risk that the child's physical or emotional  
171 health or safety would be endangered in the country because of  
172 specific circumstances relating to the child or because of human  
173 rights violations committed against children;  
174 4. Has laws or practices that would:  
175 a. Enable the respondent, without due cause, to prevent the  
176 petitioner from contacting the child;  
177 b. Restrict the petitioner from freely traveling to or  
178 exiting from the country because of the petitioner's gender,  
179 nationality, marital status, or religion; or  
180 c. Restrict the child's ability to legally leave the  
181 country after the child reaches the age of majority because of a  
182 child's gender, nationality, or religion;  
183 5. Is included by the United States Department of State on  
184 a current list of state sponsors of terrorism;  
185 6. Does not have an official United States diplomatic  
186 presence in the country; or



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187           7. Is engaged in active military action or war, including a  
188 civil war, to which the child may be exposed;

189           (h) The party is undergoing a change in immigration or  
190 citizenship status that would adversely affect the respondent's  
191 ability to remain in this country legally;

192           (i) The party has had an application for United States  
193 citizenship denied;

194           (j) The party has forged or presented misleading or false  
195 evidence on government forms or supporting documents to obtain  
196 or attempt to obtain a passport, a visa, travel documents, a  
197 social security card, a driver's license, or other government-  
198 issued identification card or has made a misrepresentation to  
199 the United States government;

200           (k) The party has used multiple names to attempt to mislead  
201 or defraud;

202           (l) The party has been diagnosed with a mental health  
203 disorder that the court considers relevant to the risk of  
204 abduction; or

205           (m) The party has engaged in any other conduct that the  
206 court considers relevant to the risk of abduction.

207           (5)-(4) The court must consider the party's financial  
208 resources prior to setting the bond amount under this section.  
209 Under no circumstances may the court set a bond that is  
210 unreasonable.

211           (6)-(5) Any deficiency of bond or security does shall not  
212 absolve the violating party of responsibility to pay the full  
213 amount of damages determined by the court.

214           (7)-(6)(a) Upon a material violation of any parenting plan  
215 by removing a child from this state or ~~this~~ country or by





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216 concealing the whereabouts of a child, the court may order the  
217 bond or other security forfeited in whole or in part.

218 (b) This section, including the requirement to post a bond  
219 or other security, does not apply to a parent who, in a  
220 proceeding to order or modify a parenting plan or time-sharing  
221 schedule, is determined by the court to be a victim of an act of  
222 domestic violence or provides the court with reasonable cause to  
223 believe that he or she is about to become the victim of an act  
224 of domestic violence, as defined in s. 741.28. An injunction for  
225 protection against domestic violence issued pursuant to s.  
226 741.30 for a parent as the petitioner which is in effect at the  
227 time of the court proceeding shall be one means of demonstrating  
228 sufficient evidence that the parent is a victim of domestic  
229 violence or is about to become the victim of an act of domestic  
230 violence, as defined in s. 741.28, and shall exempt the parent  
231 from this section, including the requirement to post a bond or  
232 other security. A parent who is determined by the court to be  
233 exempt from the requirements of this section must meet the  
234 requirements of s. 787.03(6) if an offense of interference with  
235 the parenting plan or time-sharing schedule is committed.

236 (8)~~(7)~~(a) Upon an order of forfeiture, the proceeds of any  
237 bond or other security posted pursuant to this subsection may  
238 only be used to:

239 1. Reimburse the nonviolating party for actual costs or  
240 damages incurred in upholding the court's parenting plan.

241 2. Locate and return the child to the residence as set  
242 forth in the parenting plan.

243 3. Reimburse reasonable fees and costs as determined by the  
244 court.



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245 (b) Any remaining proceeds shall be held as further  
246 security if deemed necessary by the court, and if further  
247 security is not found to be necessary; applied to any child  
248 support arrears owed by the parent against whom the bond was  
249 required, and if no arrears exists; all remaining proceeds will  
250 be allocated by the court in the best interest of the child.

251 (9)~~(8)~~ At any time after the forfeiture of the bond or  
252 other security, the party who posted the bond or other security,  
253 or the court on its own motion may request that the party  
254 provide documentation substantiating that the proceeds received  
255 as a result of the forfeiture have been used solely in  
256 accordance with this subsection. Any party using such proceeds  
257 for purposes not in accordance with this section may be found in  
258 contempt of court.

259 (10) A violation of this section may subject the party  
260 committing the violation to civil or criminal penalties or a  
261 federal or state warrant under federal or state laws, including  
262 the International Parental Kidnapping Crime Act, and may subject  
263 the violating parent to apprehension by a law enforcement  
264 officer.

265 Section 3. This act shall take effect January 1, 2011.

266  
267 ===== T I T L E A M E N D M E N T =====

268 And the title is amended as follows:

269  
270 Delete everything before the enacting clause  
271 and insert:

272 A bill to be entitled  
273 An act relating to child abduction prevention;



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274 providing a short title; amending s. 61.45, F.S.;

275 authorizing additional persons to move to have certain

276 restrictions placed in parenting plans upon showing of

277 a risk that one party may violate the court's

278 parenting plan by removing a child from this state or

279 country or by concealing the child's whereabouts;

280 authorizing courts to impose certain restrictions in

281 parenting plans upon a specified finding; authorizing

282 a court to impose certain restrictions in addition to

283 or in lieu of a requirement that a child's passport be

284 surrendered; authorizing a court to impose specified

285 restrictions upon entry of an order to prevent removal

286 of a child from this state or country; providing

287 additional factors that may be considered in assessing

288 the risk that a party may violate a parenting plan by

289 removing a child from this state or country or by

290 concealing the child's whereabouts; providing that

291 violations may subject a violator to specified

292 penalties or other consequences; providing an

293 effective date.