

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1471

By: Weaver

AS INTRODUCED

An Act relating to child abduction prevention; creating the Uniform Child Abduction Prevention Act; providing short title; defining terms; providing for cooperation and communication among courts; authorizing order or petition for abduction prevention measures; authorizing certain warrant; clarifying jurisdiction over certain matters; establishing requirements for certain petition; specifying required contents of certain petition; establishing factors to determine risk of child abduction; authorizing court to consider certain evidence; requiring abduction prevention order to contain certain information; authorizing certain provisions to prevent abduction of child; authorizing order to impose certain conditions on custody or visitation; authorizing certain actions to prevent imminent abduction of child; providing for cumulative remedies; authorizing ex parte warrant for certain purposes; requiring hearing within specified time period; specifying required contents of certain warrant; authorizing order for certain search; requiring service at certain time; clarifying enforceability of certain warrants; allowing court to authorize law enforcement to take certain actions; authorizing award of costs and fees under certain circumstances; specifying duration of certain order; providing for uniformity of application and construction; clarifying application to certain federal acts; providing for codification; and providing an effective date.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 561-1 of Title 43, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Uniform Child Abduction Prevention Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 561-2 of Title 43, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Abduction" means the wrongful removal or wrongful retention of a child;

2. "Child" means an unemancipated individual who is less than eighteen (18) years of age;

3. "Child custody determination" means a judgment, decree, or other court order providing for the legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, initial, and modification order;

4. "Child custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is at issue. The term includes a proceeding for divorce, dissolution of marriage, separation, neglect, abuse, dependency, guardianship,

1 paternity, termination of parental rights, or protection from
2 domestic violence;

3 5. "Court" means an entity authorized under the law of a state
4 to establish, enforce, or modify a child custody determination;

5 6. "Petition" includes a motion or its equivalent;

6 7. "Record" means information that is inscribed on a tangible
7 medium or that is stored in an electronic or other medium and is
8 retrievable in perceivable form;

9 8. "State" means a state of the United States, the District of
10 Columbia, Puerto Rico, the United States Virgin Islands, or any
11 territory or insular possession subject to the jurisdiction of the
12 United States. The term includes a federally recognized Indian
13 tribe or nation;

14 9. "Travel document" means records relating to a travel
15 itinerary, including travel tickets, passes, reservations for
16 transportation, or accommodations. The term does not include a
17 passport or visa;

18 10. "Wrongful removal" means the taking of a child that
19 breaches rights of custody or visitation given or recognized under
20 the laws of this state; and

21 11. "Wrongful retention" means the keeping or concealing of a
22 child that breaches rights of custody or visitation given or
23 recognized under the laws of this state.

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 561-3 of Title 43, unless there
3 is created a duplication in numbering, reads as follows:

4 The provisions of the Uniform Child Custody Jurisdiction and
5 Enforcement Act as provided in Sections 551-110, 551-111, and 551-
6 112 of Title 43 of the Oklahoma Statutes shall apply to cooperation
7 and communications among courts in proceedings under this act.

8 SECTION 4. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 561-4 of Title 43, unless there
10 is created a duplication in numbering, reads as follows:

11 A. A court on its own motion may order abduction prevention
12 measures in a child custody proceeding if the court finds that the
13 evidence establishes a credible risk of abduction of the child.

14 B. A party to a child custody determination or another
15 individual or entity having a right under the laws of this state or
16 any other state to seek a child custody determination for the child
17 may file a petition seeking abduction prevention measures to protect
18 the child under this act.

19 C. As authorized by Section 551-315 of Title 43 of the Oklahoma
20 Statutes, a district attorney may seek a warrant to take physical
21 custody of a child pursuant to Section 9 of this act, or to take
22 other appropriate prevention measures.

1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 561-5 of Title 43, unless there
3 is created a duplication in numbering, reads as follows:

4 A. A petition under this act may be filed only in a court that
5 has jurisdiction to make a child custody determination with respect
6 to the child at issue under Article 2 of the Uniform Child Custody
7 Jurisdiction and Enforcement Act, Section 551-201 et seq. of Title
8 43 of the Oklahoma Statutes.

9 B. A court of this state has temporary emergency jurisdiction
10 under Section 551-204 of Title 43 of the Oklahoma Statutes if the
11 court finds a credible risk of abduction.

12 SECTION 6. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 561-6 of Title 43, unless there
14 is created a duplication in numbering, reads as follows:

15 A petition under this act shall be verified and include a copy
16 of any existing child custody determination, if available. The
17 petition shall specify the risk factors for abduction, including the
18 relevant factors described in Section 7 of this act. Subject to the
19 subsection E of Section 551-209 of Title 43 of the Oklahoma
20 Statutes, if reasonably ascertainable, the petition shall contain:

- 21 1. The name, date of birth, and gender of the child;
- 22 2. The customary address and current physical location of the
23 child;

1 3. The identity, customary address, and current physical
2 location of the respondent;

3 4. A statement of whether a prior action to prevent abduction
4 or domestic violence has been filed by a party or other individual
5 or entity having custody of the child, and the date, location, and
6 disposition of the action;

7 5. A statement of whether a party to the proceeding has been
8 arrested for a crime related to domestic violence, stalking, or
9 child abuse or neglect, and the date, location, and disposition of
10 the case; and

11 6. Any other information required to be submitted to the court
12 for a child custody determination pursuant to Section 551-209 of
13 Title 43 of the Oklahoma Statutes.

14 SECTION 7. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 561-7 of Title 43, unless there
16 is created a duplication in numbering, reads as follows:

17 A. In determining whether there is a credible risk of abduction
18 of a child, the court shall consider any evidence that the
19 petitioner or respondent:

20 1. Has previously abducted or attempted to abduct the child;
21 2. Has threatened to abduct the child;
22 3. Has recently engaged in activities that may indicate a
23 planned abduction including but not limited to:

24 a. abandoning employment,

- b. selling a primary residence,
- c. terminating a lease,
- d. closing bank or other financial management accounts, liquidating assets, hiding or destroying financial documents, or conducting any unusual financial activities,
- e. applying for a passport or visa or obtaining travel documents for the respondent, a family member, or the child, or
- f. seeking to obtain the child's birth certificate or school or medical records;

4. Has engaged in domestic violence, stalking, or child abuse or neglect;

5. Has refused to follow a child custody determination;

6. Lacks strong familial, financial, emotional, or cultural ties to the state or the United States;

7. Has strong familial, financial, emotional, or cultural ties to another state or country;

8. Is likely to take the child to a country that:

- a. is not a party to the Hague Convention on the Civil Aspects of International Child Abduction and does not provide for the extradition of an abducting parent or for the return of an abducted child,

1 b. is a party to the Hague Convention on the Civil
2 Aspects of International Child Abduction but:

3 (1) the Hague Convention on the Civil Aspects of
4 International Child Abduction is not in force
5 between the United States and that country,

6 (2) is noncompliant according to the most recent
7 compliance report issued by the United States
8 Department of State, or

9 (3) lacks legal mechanisms for immediately and
10 effectively enforcing a return order under the
11 Hague Convention on the Civil Aspects of
12 International Child Abduction,

13 c. poses a risk that the child's physical or emotional
14 health or safety would be endangered in the country
15 because of specific circumstances relating to the
16 child or because of human rights violations committed
17 against children,

18 d. has laws or practices that would:

19 (1) enable the respondent, without due cause, to
20 prevent the petitioner from contacting the child,

21 (2) restrict the petitioner from freely traveling to
22 or exiting from the country because of the
23 petitioner's gender, nationality, marital status,
24 or religion, or

1 (3) restrict the child's ability to legally leave the
2 country after the child reaches the age of
3 majority because of a child's gender,
4 nationality, or religion,

5 e. is included by the United States Department of State
6 on a current list of state sponsors of terrorism,

7 f. does not have an official United States diplomatic
8 presence in the country, or

9 g. is engaged in active military action or war, including
10 a civil war, to which the child may be exposed;

11 9. Is undergoing a change in immigration or citizenship status
12 that would adversely affect the respondent's ability to remain in
13 the United States legally;

14 10. Has had an application for United States citizenship
15 denied;

16 11. Has forged or presented misleading or false evidence on
17 government forms or supporting documents to obtain or attempt to
18 obtain a passport, a visa, travel documents, a Social Security card,
19 a driver license, or other government-issued identification card or
20 has made a misrepresentation to the United States government;

21 12. Has used multiple names to attempt to mislead or defraud;
22 or

23 13. Has engaged in any other conduct the court considers
24 relevant to the risk of abduction.

1 B. In the hearing on a petition under this act, the court shall
2 consider any evidence that the respondent believed in good faith
3 that the respondent's conduct was necessary to avoid imminent harm
4 to the child or respondent and any other evidence that may be
5 relevant to whether the respondent may be permitted to remove or
6 retain the child.

7 SECTION 8. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 561-8 of Title 43, unless there
9 is created a duplication in numbering, reads as follows:

10 A. If a petition is filed under this act, the court may enter
11 an order that shall include:

- 12 1. The basis for the court's exercise of jurisdiction;
- 13 2. The manner in which notice and opportunity to be heard were
14 given to the persons entitled to notice of the proceeding;
- 15 3. A detailed description of each party's custody and
16 visitation rights and residential arrangements for the child;
- 17 4. A provision stating that a violation of the order may
18 subject the party in violation to civil and criminal penalties; and
- 19 5. Identification of the child's country of habitual residence
20 at the time of the issuance of the order.

21 B. If, at a hearing on a petition under this act or on the
22 court's own motion, the court after reviewing the evidence finds a
23 credible risk of abduction of the child, the court shall enter an
24 abduction prevention order. The order shall include the provisions

1 required by subsection A of this section and measures and
2 conditions, including provisions in subsections C, D, and E of this
3 section, that are reasonably calculated to prevent abduction of the
4 child, giving due consideration to the custody and visitation rights
5 of the parties. The court shall consider the age of the child, the
6 potential harm to the child from an abduction, the legal and
7 practical difficulties of returning the child to the jurisdiction if
8 abducted, and the reasons for the potential abduction, including
9 evidence of domestic violence, stalking, or child abuse or neglect.

10 C. An abduction prevention order may include one or more of the
11 following:

12 1. An imposition of travel restrictions that require that a
13 party traveling with the child outside a designated geographical
14 area provide the other party with the following:

- 15 a. the travel itinerary of the child,
- 16 b. a list of physical addresses and telephone numbers at
17 which the child can be reached at specified times, and
- 18 c. copies of all travel documents;

19 2. A prohibition of the respondent directly or indirectly:

- 20 a. removing the child from this state, the United States,
21 or another geographic area without permission of the
22 court or the petitioner's written consent,
- 23 b. removing or retaining the child in violation of a
24 child custody determination,

- 1 c. removing the child from school or a child-care or
2 similar facility, or
3 d. approaching the child at any location other than a
4 site designated for supervised visitation;

5 3. A requirement that a party register the order in another
6 state as a prerequisite to allowing the child to travel to that
7 state;

8 4. With regard to the child's passport:

- 9 a. a direction that the petitioner place the child's name
10 in the United States Department of State's Child
11 Passport Issuance Alert Program,
12 b. a requirement that the respondent surrender to the
13 court or the petitioner's attorney any United States
14 or foreign passport issued in the child's name,
15 including a passport issued in the name of both the
16 parent and the child, and
17 c. a prohibition upon the respondent from applying on
18 behalf of the child for a new or replacement passport
19 or visa;

20 5. As a prerequisite to exercising custody or visitation, a
21 requirement that the respondent provide:

- 22 a. to the United States Department of State Office of
23 Children's Issues and the relevant foreign consulate
24 or embassy, an authenticated copy of the order

1 detailing passport and travel restrictions for the
2 child,

3 b. to the court:

4 (1) proof that the respondent has provided the
5 information in subparagraph a, and

6 (2) an acknowledgment in a record from the relevant
7 foreign consulate or embassy that no passport
8 application has been made, or passport issued, on
9 behalf of the child,

10 c. to the petitioner, proof of registration with the
11 United States Embassy or other United States
12 diplomatic presence in the destination country and
13 with the Central Authority for the Hague Convention on
14 the Civil Aspects of International Child Abduction, if
15 that Convention is in effect between the United States
16 and the destination country, unless one of the parties
17 objects, and

18 d. a written waiver under the Privacy Act, 5 U.S.C.
19 Section 552a, as amended, with respect to any
20 document, application, or other information pertaining
21 to the child authorizing its disclosure to the court
22 and the petitioner; and

23 6. Upon the petitioner's request, a requirement that the
24 respondent obtain an order from the relevant foreign country
25

1 containing terms identical to the child custody determination issued
2 in the United States.

3 D. In an abduction prevention order, the court may impose
4 conditions on the exercise of custody or visitation that:

5 1. Limit visitation or require that visitation with the child
6 by the respondent be supervised until the court finds that
7 supervision is no longer necessary and order the respondent to pay
8 the costs of supervision;

9 2. Require the respondent to post a bond or provide other
10 security in an amount sufficient to serve as a financial deterrent
11 to abduction, the proceeds of which may be used to pay for the
12 reasonable expenses of recovery of the child, including reasonable
13 attorney fees and costs if there is an abduction; and

14 3. Require the respondent to obtain education on the
15 potentially harmful effects to the child from abduction.

16 E. To prevent imminent abduction of a child, a court may:

17 1. Issue a warrant to take physical custody of the child under
18 Section 9 or the laws of this state other than this act;

19 2. Direct the use of law enforcement to take any action
20 reasonably necessary to locate the child, obtain return of the
21 child, or enforce a custody determination under this act or the laws
22 of this state other than this act; or

23 3. Grant any other relief allowed under the laws of this state
24 other than this act.

1 F. The remedies provided in this act are cumulative and do not
2 affect the availability of other remedies to prevent abduction.

3 SECTION 9. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 561-9 of Title 43, unless there
5 is created a duplication in numbering, reads as follows:

6 A. If a petition under this act contains allegations, and the
7 court finds that there is a credible risk that the child is
8 imminently likely to be wrongfully removed, the court may issue an
9 ex parte warrant to take physical custody of the child.

10 B. The respondent on a petition under subsection A of this
11 section shall be afforded an opportunity to be heard at the earliest
12 possible time after the ex parte warrant is executed, but not later
13 than the next judicial day unless a hearing on that date is
14 impossible. In such event, the court shall hold the hearing on the
15 first judicial day possible.

16 C. An ex parte warrant under subsection A of this section to
17 take physical custody of a child shall:

18 1. Recite the facts upon which a determination of a credible
19 risk of imminent wrongful removal of the child is based;

20 2. Direct law enforcement officers to take physical custody of
21 the child immediately;

22 3. State the date and time for the hearing on the petition; and

23 4. Provide for the safe interim placement of the child pending
24 further order of the court.

1 D. If feasible, before issuing a warrant and before determining
2 the placement of the child after the warrant is executed, the court
3 may order a search of the relevant databases of the National Crime
4 Information Center system and similar state databases to determine
5 if either the petitioner or respondent has a history of domestic
6 violence, stalking, or child abuse or neglect.

7 E. The petition and warrant shall be served on the respondent
8 when or immediately after the child is taken into physical custody.

9 F. A warrant to take physical custody of a child, issued by
10 this state or another state, is enforceable throughout this state.
11 If the court finds that a less intrusive remedy will not be
12 effective, it may authorize law enforcement officers to enter
13 private property to take physical custody of the child. If required
14 by exigent circumstances, the court may authorize law enforcement
15 officers to make a forcible entry at any hour.

16 G. If the court finds, after a hearing, that a petitioner
17 sought an ex parte warrant under subsection A of this section for
18 the purpose of harassment or in bad faith, the court may award the
19 respondent reasonable attorney fees, costs, and expenses.

20 H. This act does not affect the availability of relief allowed
21 under the laws of this state other than this act.

22 SECTION 10. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 561-10 of Title 43, unless there
24 is created a duplication in numbering, reads as follows:

1 An abduction prevention order remains in effect until the
2 earliest of the:

- 3 1. Time stated in the order;
 - 4 2. Emancipation of the child;
 - 5 3. Child's attaining 18 years of age; or
 - 6 4. Time the order is modified, revoked, vacated, or superseded
- 7 by a court with jurisdiction under Sections 551-201 through 551-203
8 of Title 43 of the Oklahoma Statutes or other applicable laws of
9 this state.

10 SECTION 11. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 561-11 of Title 43, unless there
12 is created a duplication in numbering, reads as follows:

13 In applying and construing this uniform act, consideration shall
14 be given to the need to promote uniformity of the law with respect
15 to its subject matter among states that enact it.

16 SECTION 12. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 561-12 of Title 43, unless there
18 is created a duplication in numbering, reads as follows:

19 This act modifies, limits, and supersedes the federal Electronic
20 Signatures in Global and National Commerce Act, 15 U.S.C. Section
21 7001, et seq., but does not modify, limit, or supersede Section
22 101(c) of the act, 15 U.S.C. Section 7001(c), of that act or
23 authorize electronic delivery of any of the notices described in
24 Section 103(b) of that act, 15 U.S.C. Section 7003(b).

1 SECTION 13. This act shall become effective November 1, 2024.

2
3 59-2-2667 TEK 12/15/2023 5:55:58 PM
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25