

Uniform Family Law Update

A Publication of the Joint Editorial Board on Uniform Family Law

June 2007

UCAPA Enacted in Six States



Linda D. Elrod and Ron Nelson join Kansas Gov. Kathleen Sebelius at the signing ceremony for the Uniform Child Abduction Prevention Act on May 16, 2007.

After being approved by the National Conference of Commissioners on Uniform State Laws last summer, the Uniform Child Abduction Prevention Act (UCAPA) has garnered widespread support, as six states adopted the act. The states that have en-

acted the UCAPA are Nebraska, Utah, Kansas, South Dakota, Nevada, and Colorado. The act has also been introduced in Connecticut, Texas, Louisiana, and South Carolina.

“To have this many enactments in the first year of the act is exciting and encouraging,” stated Linda D. Elrod, who served as reporter for the act. She added, “This act is a necessary piece of legislation to prevent children from becoming pawns in their parents’ conflicts over custody and to protect children from abduction.”

The purpose of the UCAPA is to deter domestic and international abductions of children in the midst of custody disputes. Figures from the U.S. Department of Justice show that over 260,000 child abductions

occur each year. Family members perpetrated over 75% of abductions, often as an extension of domestic disputes. The uniform act provides courts and parties with tools to prevent an unlawful abduction from occurring and is crucial to ensuring the well-being and safety of children.

Under the act, an individual concerned about the threat of abduction can petition a judge to impose abduction prevention measures such as the clarification of custody decrees, limitations on travel, and supervised visitation. Courts will use provisions of the act to identify situations where a child may be at risk for abduction. The act provides clear guidance regarding the warning signs

Please turn to page 3.

Indiana and South Carolina Adopt UCCJEA

Two recent enactments of the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) in Indiana and South Carolina bring the act closer to nationwide adoption. The UCCJEA has now been enacted in 46 states, the U.S. Virgin Islands, and the District of Columbia.

The National Conference of Commissioners on Uniform State Laws (NCCUSL) promulgated the UCCJEA in 1997 to eliminate inconsistent state interpretations of the Uniform Child Custody Jurisdiction Act (UCCJA), harmonize developments in federal and state law, and add an enforcement mechanism to child custody and visitation orders.

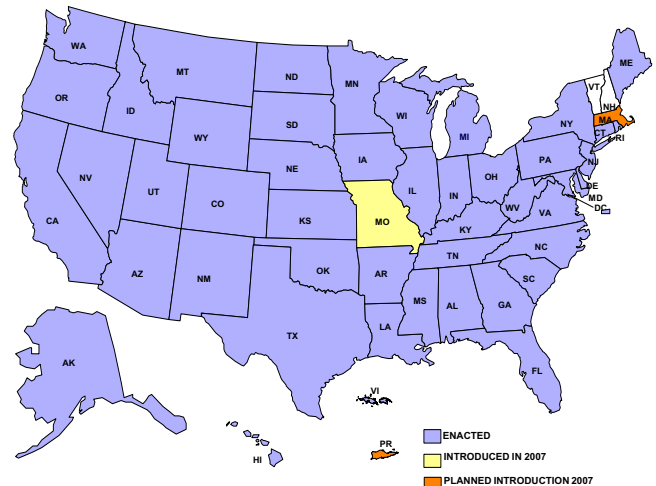
Under the UCCJEA, the home state of the child has priority over any other state in taking jurisdiction of a child custody dispute. Once a state establishes jurisdictional priority it retains continuing exclusive jurisdiction until a determination that no parties have

a significant connection to the state. The inclusion of continuing exclusive jurisdiction removes ambiguities under the UCCJA that led to diverging views on jurisdictions throughout the states.

Furthermore, the UCCJEA provides enforcement mechanisms in interstate visitation and custody cases. UCCJEA requires a state to enforce a custody or visitation order from another state that conforms to the act. The act provides a range of mechanism for enforcements, including use of available civil remedies, such as contempt proceedings, warrants to take custody of an endangered child, and expedited enforcement hearings.

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UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT



Four states have not yet adopted the UCCJEA. These states are Massachusetts, Missouri, New Hampshire and Vermont. There are plans for the act to be translated into Spanish for introduction in Puerto Rico in future legislative sessions.

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Continued from Page 1

and risk factors of a potential child abduction, including a past history of abduction or abuse and activities in furtherance of abduction such as the abandonment of a job, the liquidation of assets, or obtaining travel documents.

Preventing abduction in cases involving the possibility of flight to a foreign country is especially important. International abductions raise many obstacles to the successful return of the child to the United States. If the country is not a signatory to the Hague Convention on the Civil Aspects of Child Abduction the difficulties are substantially increased.

NCCUSL encourages state bar associations and other interested groups to study the act and introduce it in upcoming legislative sessions. The act has been endorsed by the American Bar Association and the Family Law Section of the ABA. Please contact the NCCUSL Chicago Office for more information and support.

Why States Should Enact UCAPA

- *Provides states with a valuable tool for deterring both domestic and international child abductions*
- *Brings uniformity of law to child abduction prevention, particularly necessary due to the number of abductions that take place across state and international lines*
- *Guides courts with factors that should be considered in determining whether there is a credible risk that a child will be abducted*

JEB Addresses Hague, ICPC during Monterey Meeting

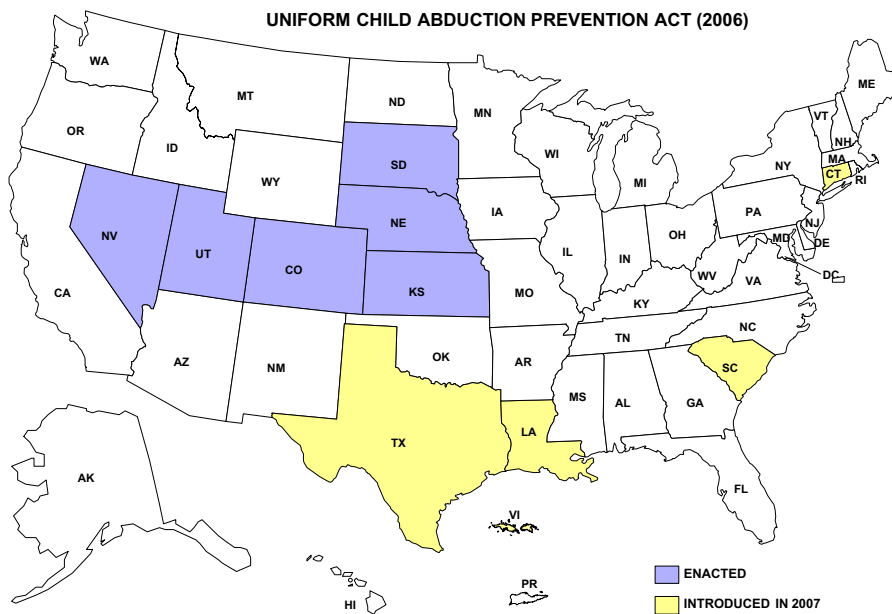
The Joint Editorial Board for Uniform Family Law Acts (JEB) met in Monterey, California on April 27, 2007 during the Spring Conference of the ABA Family Law Section.

Mary Helen Carlson, liaison for the United States Department of State, made a presentation to the JEB regarding the 1996 Hague Convention on the Protection of Children and the 2000 Hague Convention on Child Maintenance. The 1996 Convention sets international standards of jurisdiction and enforcement in custody cases while the 2000 Convention updates provisions for international child support.

The JEB also resolved to oppose the Interstate Compact on the Placement of Children (ICPC). Opposition to the ICPC was based on the interaction of the compact with the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). It was the sense of the board that ICPC interferes with the operation of the UCCJEA, which is the controlling law in 46 states.

Also discussed at the meeting was the progress of the Uniform Representation of Children Act and future projects. The JEB prioritized projects in the following areas of law—2000 Hague Convention, Collaborative Law, 1996 Hague Convention, Relocation of Children and Third Party Access to Children. A supporting resolution was sent to the NCCUSL Executive Board.

Minutes for the Monterey meeting are available at www.nccusl.org. The next scheduled meeting of the JEB will be in Washington, D.C. in December 2007.



In its first year, the **Uniform Child Abduction Prevention Act** has been enacted in six states and introduced in four others. The success of the act in its first year of introduction is indicative of the importance of protecting children from harm incurred during custody disputes.

This newsletter is published periodically by the Joint Editorial Board on Uniform Family Law

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