

106TH CONGRESS
2D SESSION

S. CON. RES. 98

Urging compliance with the Hague Convention on the Civil Aspects of
International Child Abduction.

IN THE SENATE OF THE UNITED STATES

MARCH 23, 2000

Mr. DEWINE (for himself, Mr. HELMS, Mr. THURMOND, Mr. WARNER, Mr. ROCKEFELLER, Mr. ROBB, Mr. THOMAS, Mr. DODD, Ms. LANDRIEU, Mr. HATCH, and Mr. STEVENS) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations

CONCURRENT RESOLUTION

Urging compliance with the Hague Convention on the Civil
Aspects of International Child Abduction.

Whereas the Department of State reports that at any given time there are 1,000 open cases of American children either abducted from the United States or wrongfully retained in a foreign country;

Whereas many more cases of international child abductions are not reported to the Department of State;

Whereas the situation has worsened since 1993, when Congress estimated the number of abducted and wrongfully retained American children to be more than 10,000;

Whereas Congress has recognized the gravity of international child abduction in enacting the International Parental

Kidnapping Crime Act of 1993 (18 U.S.C. 1204), the Parental Kidnapping Prevention Act (28 U.S.C. 1738a), and substantial reform and reporting requirements for the Department of State in the fiscal years 1998–1999 and 2000–2001 Foreign Relations Authorization Acts;

Whereas the United States became a contracting party in 1988 to the Hague Convention on the Civil Aspects of International Child Abduction (in this concurrent resolution referred to as the “Hague Convention”) and adopted effective implementing legislation in the International Child Abduction Remedies Act (42 U.S.C. 11601 et seq.);

Whereas the Hague Convention establishes reciprocal rights and duties between and among its contracting states to expedite the return of children to the state of their habitual residence, as well as to ensure that rights of custody and of access under the laws of one contracting state are effectively respected in other contracting states, without consideration of the merits of any underlying child custody dispute;

Whereas article 13 of the Hague Convention provides a narrow exception to the requirement for prompt return of children, which exception releases the requested state from its obligation to return a child to the country of the child’s habitual residence if it is established that there is a “grave risk” that the return would expose the child to “physical or psychological harm or otherwise place the child in an intolerable situation” or “if the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of the child’s views”;

Whereas some contracting states, for example Germany, routinely invoke article 13 as a justification for nonreturn,

rather than resorting to it in a small number of wholly exceptional cases;

Whereas the National Center for Missing and Exploited Children (NCMEC), the only institution of its kind, was established in the United States for the purpose of assisting parents in recovering their missing children;

Whereas article 21 of the Hague Convention provides that the central authorities of all parties to the Convention are obligated to cooperate with each other in order to promote the peaceful enjoyment of parental access rights and the fulfillment of any conditions to which the exercise of such rights may be subject, and to remove, as far as possible, all obstacles to the exercise of such rights;

Whereas some contracting states fail to order or enforce normal visitation rights for parents of abducted or wrongfully retained children who have not been returned under the terms of the Hague Convention; and

Whereas the routine invocation of the article 13 exception, denial of parental visitation of children, and the failure by several contracting parties, most notably Austria, Germany, Honduras, Mexico, and Sweden, to fully implement the Convention deprives the Hague Convention of the spirit of mutual confidence upon which its success depends: Now, therefore, be it

1 *Resolved by the Senate (the House of Representatives*
2 *concurring), That Congress urges—*

3 (1) all contracting parties to the Hague Con-
4 vention, particularly European civil law countries
5 that consistently violate the Hague Convention such
6 as Austria, Germany and Sweden, to comply fully

1 with both the letter and spirit of their international
2 legal obligations under the Convention;

3 (2) all contracting parties to the Hague Con-
4 vention to ensure their compliance with the Hague
5 Convention by enacting effective implementing legis-
6 lation and educating their judicial and law enforce-
7 ment authorities;

8 (3) all contracting parties to the Hague Con-
9 vention to honor their commitments and return ab-
10 ducted or wrongfully retained children to their place
11 of habitual residence without reaching the merits of
12 any underlying custody dispute and ensure parental
13 access rights by removing obstacles to the exercise of
14 such rights;

15 (4) the Secretary of State to disseminate to all
16 Federal and State courts the Department of State's
17 annual report to Congress on Hague Convention
18 compliance and related matters; and

19 (5) each contracting party to the Hague Con-
20 vention to further educate its central authority and
21 local law enforcement authorities regarding the
22 Hague Convention, the severity of the problem of
23 international child abduction, and the need for im-

- 1 mediate action when a parent of an abducted child
- 2 seeks their assistance.

○