

1 Short Title: GSC Uniform Child Abduction Prevention Act.

2 A BILL TO BE ENTITLED

3 AN ACT TO ENACT THE UNIFORM CHILD ABDUCTION PREVENTION ACT.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. The title of Chapter 50A of the General Statutes reads as rewritten:

6 ~~"Uniform Child-Custody Jurisdiction and Enforcement Act and Uniform Deployed~~

7 ~~Parents Custody and Visitation Act. Uniform Acts on Children."~~

8

9 *[Staff Note: Redlining in Section 2 of this draft represents changes to the Uniform Act, not*
10 *current law. Staff also made non-redlined changes to conform to the General Statutes numbering*
11 *system and capitalization conventions.]*

12

13 SECTION 2. Chapter 50A of the General Statutes is amended by adding a new

14 Article to read:

15 "Article 4.

16 "Uniform Child Abduction Prevention Act.

17 "§ 50A-411. Short title.

18 This ~~{aet}~~Article may be cited as the Uniform Child Abduction Prevention Act.

19 "§ 50A-412. Definitions.

20 In this ~~{aet}~~Article, the following definitions apply:

21 (1) ~~"Abduction" means the~~ Abduction. – The wrongful removal or wrongful
22 retention of a child.

23 (2) ~~"Child" means an unemancipated individual who is less than 18 years of age.~~
24 Child. – Defined in G.S. 50A-102.

25 (3) ~~"Child-custody determination" means a judgment, decree, or other order of a~~
26 ~~court providing for the legal custody, physical custody, or visitation with~~
27 ~~respect to a child. The term includes a permanent, temporary, initial, and~~
28 ~~modification order.~~ Child-custody determination. – Defined in G.S. 50A-102.

1 (10) ~~"Wrongful removal" means the~~ Wrongful removal. – The taking of a child that
2 breaches rights of custody or visitation given or recognized under the law of
3 ~~this state.~~ State.

4 (11) ~~"Wrongful retention" means the~~ Wrongful retention. – The keeping or
5 concealing of a child that breaches rights of custody or visitation given or
6 recognized under the law of ~~this state.~~ State.

7
8 *[Staff Note: In S.L. 1999-223, the General Assembly enacted the Uniform Child Custody*
9 *Jurisdiction and Enforcement Act (UCCJEA) as Article 2 of Chapter 50A of the General Statutes.*
10 *The UCCJEA is referenced multiples times in this draft. G.S. 50A-102, the definitions section for*
11 *that article, provides:*

12 **§ 50A-102. Definitions.**

13 *In this Article:*

- 14 (1) *"Abandoned" means left without provision for reasonable and necessary care*
15 *or supervision.*
- 16 (2) *"Child" means an individual who has not attained 18 years of age.*
- 17 (3) *"Child-custody determination" means a judgment, decree, or other order of a*
18 *court providing for the legal custody, physical custody, or visitation with*
19 *respect to a child. The term includes a permanent, temporary, initial, and*
20 *modification order. The term does not include an order relating to child*
21 *support or other monetary obligation of an individual.*
- 22 (4) *"Child-custody proceeding" means a proceeding in which legal custody,*
23 *physical custody, or visitation with respect to a child is an issue. The term*
24 *includes a proceeding for divorce, separation, neglect, abuse, dependency,*
25 *guardianship, paternity, termination of parental rights, and protection from*
26 *domestic violence in which the issue may appear. The term does not include a*
27 *proceeding involving juvenile delinquency, contractual emancipation, or*
28 *enforcement under Part 3 of this Article.*
- 29 (5) *"Commencement" means the filing of the first pleading in a proceeding.*
- 30 (6) *"Court" means an entity authorized under the law of a state to establish,*
31 *enforce, or modify a child-custody determination.*
- 32 (7) *"Home state" means the state in which a child lived with a parent or a person*
33 *acting as a parent for at least six consecutive months immediately before the*
34 *commencement of a child-custody proceeding. In the case of a child less than*
35 *six months of age, the term means the state in which the child lived from birth*
36 *with any of the persons mentioned. A period of temporary absence of any of*
37 *the mentioned persons is part of the period.*
- 38 (8) *"Initial determination" means the first child-custody determination*
39 *concerning a particular child.*
- 40 (9) *"Issuing court" means the court that makes a child-custody determination for*
41 *which enforcement is sought under this Article.*
- 42 (10) *"Issuing state" means the state in which a child-custody determination is*
43 *made.*

- 1 (11) "Modification" means a child-custody determination that changes, replaces,
2 supersedes, or is otherwise made after a previous determination concerning
3 the same child, whether or not it is made by the court that made the previous
4 determination.
- 5 (12) "Person" means an individual, corporation, business trust, estate, trust,
6 partnership, limited liability company, association, joint venture,
7 government; governmental subdivision, agency, or instrumentality; public
8 corporation; or any other legal or commercial entity.
- 9 (13) "Person acting as a parent" means a person, other than a parent, who:
10 a. Has physical custody of the child or has had physical custody for a
11 period of six consecutive months, including any temporary absence,
12 within one year immediately before the commencement of a
13 child-custody proceeding; and
14 b. Has been awarded legal custody by a court or claims a right to legal
15 custody under the law of this State.
- 16 (14) "Physical custody" means the physical care and supervision of a child.
- 17 (15) "State" means a state of the United States, the District of Columbia, Puerto
18 Rico, the United States Virgin Islands, or any territory or insular possession
19 subject to the jurisdiction of the United States.
- 20 (16) "Tribe" means an Indian tribe or band, or Alaskan Native village, which is
21 recognized by federal law or formally acknowledged by a state.
- 22 (17) "Warrant" means an order issued by a court authorizing law enforcement
23 officers to take physical custody of a child.]
24

25 **"§ 50A-413. Cooperation and communication among courts.**

26 Sections ~~[110], [111], and [112]~~ of ~~[insert citation to the provisions of the Uniform Child~~
27 ~~Custody Jurisdiction and Enforcement Act or its equivalent in the state]~~ G.S. 50A-110, 50A-111,
28 and 50A-112 apply to cooperation and communications among courts in proceedings under this
29 ~~[act]~~. Article.

30
31 *[Staff Note: G.S. 50A-110, 50A-111, and 50A-112 provide:*

32
33 **§ 50A-110. Communication between courts.**

- 34 (a) A court of this State may communicate with a court in another state concerning a
35 proceeding arising under this Article.
- 36 (b) The court may allow the parties to participate in the communication. If the parties
37 are not able to participate in the communication, they must be given the opportunity to present
38 facts and legal arguments before a decision on jurisdiction is made.
- 39 (c) Communication between courts on schedules, calendars, court records, and similar
40 matters may occur without informing the parties. A record need not be made of the
41 communication.
- 42 (d) Except as otherwise provided in subsection (c), a record must be made of a
43 communication under this section. The parties must be informed promptly of the communication
44 and granted access to the record.

1 (e) For the purposes of this section, "record" means information that is inscribed on a
2 tangible medium or that is stored in an electronic or other medium and is retrievable in
3 perceivable form.

4 **§ 50A-111. Taking testimony in another state.**

5 (a) In addition to other procedures available to a party, a party to a child-custody
6 proceeding may offer testimony of witnesses who are located in another state, including
7 testimony of the parties and the child, by deposition or other means allowable in this State for
8 testimony taken in another state. The court on its own motion may order that the testimony of a
9 person be taken in another state and may prescribe the manner in which and the terms upon
10 which the testimony is taken.

11 (b) A court of this State may permit an individual residing in another state to be deposed
12 or to testify by telephone, audiovisual means, or other electronic means before a designated court
13 or at another location in that state. A court of this State shall cooperate with courts of other
14 states in designating an appropriate location for the deposition or testimony.

15 (c) Documentary evidence transmitted from another state to a court of this State by
16 technological means that do not produce an original writing may not be excluded from evidence
17 on an objection based on the means of transmission.

18 **§ 50A-112. Cooperation between courts; preservation of records.**

19 (a) A court of this State may request the appropriate court of another state to:

20 (1) Hold an evidentiary hearing;

21 (2) Order a person to produce or give evidence pursuant to procedures of that
22 state;

23 (3) Order that an evaluation be made with respect to the custody of a child
24 involved in a pending proceeding;

25 (4) Forward to the court of this State a certified copy of the transcript of the
26 record of the hearing, the evidence otherwise presented, and any evaluation
27 prepared in compliance with the request; and

28 (5) Order a party to a child-custody proceeding or any person having physical
29 custody of the child to appear in the proceeding with or without the child.

30 (b) Upon request of a court of another state, a court of this State may hold a hearing or
31 enter an order described in subsection (a).

32 (c) Travel and other necessary and reasonable expenses incurred under subsections (a)
33 and (b) may be assessed against the parties according to the law of this State.

34 (d) A court of this State shall preserve the pleadings, orders, decrees, records of hearings,
35 evaluations, and other pertinent records with respect to a child-custody proceeding until the
36 child attains 18 years of age. Upon appropriate request by a court or law enforcement official of
37 another state, the court shall forward a certified copy of those records.]

38
39 **"§ 50A-414. Actions for abduction prevention measures.**

40 (a) A court on its own motion may order abduction prevention measures in a
41 child-custody proceeding if the court finds that the evidence establishes a credible risk of
42 abduction of the child.

43 (b) A party to a child-custody determination or another individual or entity having a right
44 under the law of this ~~state~~-State or any other state to seek a child-custody determination for the

1 child may file a petition seeking abduction prevention measures to protect the child under this
2 ~~{act}~~. Article.

3 ~~(c) A prosecutor or public authority designated under [insert citation to Section 315 of~~
4 ~~the Uniform Child Custody Jurisdiction and Enforcement Act or applicable law of this state] may~~
5 ~~seek a warrant to take physical custody of a child under Section 9 or other appropriate prevention~~
6 ~~measures.~~

7
8 *[Staff Note: The NC Conference of District Attorneys commented that the district attorneys are*
9 *not in a place to take on the role envisioned by subsection (c). G.S. 50A-315 (based on Section*
10 *315 of the UCCJEA) provides:*

11
12 **§ 50A-315. Role of prosecutor or public official.**

13 (a) *In a case arising under this Article or involving the Hague Convention on the Civil*
14 *Aspects of International Child Abduction, the prosecutor or other appropriate public official may*
15 *take any lawful action, including resort to a proceeding under this Part or any other available*
16 *civil proceeding to locate a child, obtain the return of a child, or enforce a child-custody*
17 *determination if there is:*

- 18 (1) *An existing child-custody determination;*
19 (2) *A request to do so from a court in a pending child-custody proceeding;*
20 (3) *A reasonable belief that a criminal statute has been violated; or*
21 (4) *A reasonable belief that the child has been wrongfully removed or retained in*
22 *violation of the Hague Convention on the Civil Aspects of International Child*
23 *Abduction.*

24 (b) *A prosecutor or appropriate public official acting under this section acts on behalf of*
25 *the court and may not represent any party.]*

26
27 **"§ 50A-415. Jurisdiction.**

28 (a) A petition under this ~~{act}~~Article may be filed only in a court that has jurisdiction to
29 make a child-custody determination with respect to the child at issue under ~~[insert citation to~~
30 ~~Uniform Child Custody Jurisdiction and Enforcement Act or the Uniform Child Custody~~
31 ~~Jurisdiction Act]~~. Article 2 of this Chapter.

32 (b) A court of this ~~state~~State has temporary emergency jurisdiction under ~~[insert citation~~
33 ~~to Section 204 of the Uniform Child Custody Jurisdiction and Enforcement Act or Section 3(a)(3)~~
34 ~~of the Uniform Child Custody Jurisdiction Act]~~G.S. 50A-204 if the court finds a credible risk of
35 abduction.

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2 [Staff Note: G.S. 50A-204 provides:

3
4 **§ 50A-204. Temporary emergency jurisdiction.**

5 (a) A court of this State has temporary emergency jurisdiction if the child is present in
6 this State and the child has been abandoned or it is necessary in an emergency to protect the
7 child because the child, or a sibling or parent of the child, is subjected to or threatened with
8 mistreatment or abuse.

9 (b) If there is no previous child-custody determination that is entitled to be enforced
10 under this Article and a child-custody proceeding has not been commenced in a court of a state
11 having jurisdiction under G.S. 50A-201 through G.S. 50A-203, a child-custody determination
12 made under this section remains in effect until an order is obtained from a court of a state having
13 jurisdiction under G.S. 50A-201 through G.S. 50A-203. If a child-custody proceeding has not
14 been or is not commenced in a court of a state having jurisdiction under G.S. 50A-201 through
15 G.S. 50A-203, a child-custody determination made under this section becomes a final
16 determination if it so provides, and this State becomes the home state of the child.

17 (c) If there is a previous child-custody determination that is entitled to be enforced under
18 this Article, or a child-custody proceeding has been commenced in a court of a state having
19 jurisdiction under G.S. 50A-201 through G.S. 50A-203, any order issued by a court of this State
20 under this section must specify in the order a period that the court considers adequate to allow
21 the person seeking an order to obtain an order from the state having jurisdiction under
22 G.S. 50A-201 through G.S. 50A-203. The order issued in this State remains in effect until an
23 order is obtained from the other state within the period specified or the period expires.

24 (d) A court of this State which has been asked to make a child-custody determination
25 under this section, upon being informed that a child-custody proceeding has been commenced
26 in, or a child-custody determination has been made by, a court of a state having jurisdiction
27 under G.S. 50A-201 through G.S. 50A-203 shall immediately communicate with the other court.
28 A court of this State which is exercising jurisdiction pursuant to G.S. 50A-201 through
29 G.S. 50A-203, upon being informed that a child-custody proceeding has been commenced in, or
30 a child-custody determination has been made by, a court of another state under a statute similar
31 to this section shall immediately communicate with the court of that state to resolve the
32 emergency, protect the safety of the parties and the child, and determine a period for the duration
33 of the temporary order.]

34
35 **"§ 50A-416. Contents of petition.**

36 A petition under this ~~act~~ Article must be verified and include a copy of any existing
37 child-custody determination, if available. The petition must specify the risk factors for abduction,
38 including the relevant factors described in ~~Section 7-~~ G.S. 50A-417. Subject to ~~insert citation to~~
39 ~~Section 209(e) of the Uniform Child Custody Jurisdiction and Enforcement Act or cite the law~~
40 ~~of this state providing for the confidentiality of procedures, addresses, and other identifying~~
41 ~~information~~, G.S. 50A-209(e), if reasonably ascertainable, the petition must ~~contain~~ contain all
42 of the following:

- 1 (1) The name, date of birth, and gender of the ~~child~~; child.
- 2 (2) The customary address and current physical location of the ~~child~~; child.
- 3 (3) The identity, customary address, and current physical location of the
- 4 ~~respondent~~; respondent.
- 5 (4) A statement of whether a prior action to prevent abduction or domestic
- 6 violence has been filed by a party or other individual or entity having custody
- 7 of the ~~child~~; child and the date, location, and disposition of the ~~action~~; action.
- 8 (5) A statement of whether a party to the proceeding has been arrested for a crime
- 9 related to domestic violence, stalking, or child abuse or ~~neglect~~; neglect and
- 10 the date, location, and disposition of the ~~case~~; and case.
- 11 (6) Any other information required to be submitted to the court for a child-custody
- 12 determination under ~~[insert citation to Section 209 of the Uniform Child~~
- 13 ~~Custody Jurisdiction and Enforcement Act or applicable law of this state]~~.
- 14 G.S. 50-13.1(a1), if applicable, and G.S. 50A-209.

15

16 *[Staff Note: The Administrative Office of the Courts commented that the Commission could*

17 *consider listing or referencing G.S. 50-13.1(a1), which was added by S.L. 2007-462. G.S. 50-*

18 *13.1 provides:*

19 **§ 50-13.1. Action or proceeding for custody of minor child.**

20 (a) Any parent, relative, or other person, agency, organization or institution claiming the

21 right to custody of a minor child may institute an action or proceeding for the custody of such

22 child, as hereinafter provided. Any person whose actions resulted in a conviction under

23 G.S. 14-27.21, G.S. 14-27.22, G.S. 14-27.23, or G.S. 14-27.24 and the conception of the minor

24 child may not claim the right to custody of that minor child. Unless a contrary intent is clear, the

25 word "custody" shall be deemed to include custody or visitation or both.

26 (a1) Notwithstanding any other provision of law, any person instituting an action or

27 proceeding for custody *ex parte* who has been convicted of a sexually violent offense as defined

28 in G.S. 14-208.6(5) shall disclose the conviction in the pleadings.

29 (b) Whenever it appears to the court, from the pleadings or otherwise, that an action

30 involves a contested issue as to the custody or visitation of a minor child, the matter, where there

31 is a program established pursuant to G.S. 7A-494, shall be set for mediation of the unresolved

32 issues as to custody and visitation before or concurrent with the setting of the matter for hearing

33 unless the court waives mediation pursuant to subsection (c). Issues that arise in motions for

34 modifications as well as in other pleadings shall be set for mediation unless the court waives

35 mediation pursuant to subsection (c) of this section. Custody or visitation issues that arise in

36 motions for contempt or motions to show cause may be set for mediation. Alimony, child support,

1 *and other economic issues may not be referred for mediation pursuant to this section. The*
2 *purposes of mediation under this section include the pursuit of the following goals:*

3 (1) *To reduce any acrimony that exists between the parties to a dispute involving*
4 *custody or visitation of a minor child;*

5 (2) *The development of custody and visitation agreements that are in the child's*
6 *best interest;*

7 (3) *To provide the parties with informed choices and, where possible, to give the*
8 *parties the responsibility for making decisions about child custody and*
9 *visitation;*

10 (4) *To provide a structured, confidential, nonadversarial setting that will*
11 *facilitate the cooperative resolution of custody and visitation disputes and*
12 *minimize the stress and anxiety to which the parties, and especially the child,*
13 *are subjected; and*

14 (5) *To reduce the relitigation of custody and visitation disputes.*

15 (c) *For good cause, on the motion of either party or on the court's own motion, the court*
16 *may waive the setting under Article 39A of Chapter 7A of the General Statutes of a contested*
17 *custody or visitation matter for mediation. Good cause may include, but is not limited to, the*
18 *following: a showing of undue hardship to a party; an agreement between the parties for*
19 *voluntary mediation, subject to court approval; allegations of abuse or neglect of the minor*
20 *child; allegations of alcoholism, drug abuse, or domestic violence between the parents in*
21 *common; or allegations of severe psychological, psychiatric, or emotional problems. A showing*
22 *by either party that the party resides more than fifty miles from the court may be considered good*
23 *cause.*

24 (d) *Either party may move to have the mediation proceedings dismissed and the action*
25 *heard in court due to the mediator's bias, undue familiarity with a party, or other prejudicial*
26 *ground.*

27 (e) *Mediation proceeding shall be held in private and shall be confidential. Except as*
28 *provided in this Article, all verbal or written communications from either or both parties to the*
29 *mediator or between the parties in the presence of the mediator made in a proceeding pursuant*
30 *to this section are absolutely privileged and inadmissible in court. The mediator may assess the*
31 *needs and interests of the child, and may interview the child or others who are not parties to the*
32 *proceedings when he or she thinks appropriate.*

33 (f) *Neither the mediator nor any party or other person involved in mediation sessions*
34 *under this section shall be competent to testify to communications made during or in furtherance*
35 *of such mediation sessions; provided, there is no privilege as to communications made in*
36 *furtherance of a crime or fraud. Nothing in this subsection shall be construed as permitting an*
37 *individual to obtain immunity from prosecution for criminal conduct or as excusing an individual*
38 *from the reporting requirements of Article 3 of Chapter 7B of the General Statutes or*
39 *G.S. 108A-102.*

40 (g) *Any agreement reached by the parties as a result of the mediation shall be reduced to*
41 *writing, signed by each party, and submitted to the court as soon as practicable. Unless the court*
42 *finds good reason not to, it shall incorporate the agreement in a court order and it shall become*
43 *enforceable as a court order. If some or all of the issues as to custody or visitation are not*
44 *resolved by mediation, the mediator shall report that fact to the court.*

45 (h) *If an agreement that results from mediation and is incorporated into a court order is*
46 *referred to as a "parenting agreement" or called by some similar name, it shall nevertheless be*
47 *deemed to be a custody order or child custody determination for purposes of Chapter 50A of the*
48 *General Statutes, G.S. 14-320.1, G.S. 110-139.1, or other places where those terms appear.*

49 (i) *If the child whose custody is the subject of an action under this Chapter also is the*
50 *subject of a juvenile abuse, neglect, or dependency proceeding pursuant to Subchapter 1 of*

1 Chapter 7B of the General Statutes, then the custody action under this Chapter is stayed as
2 provided in G.S. 7B-200.]

3
4 [Staff Note: G.S. 50A-209 provides:

5
6 **§ 50A-209. Information to be submitted to court.**

7 (a) In a child-custody proceeding, each party, in its first pleading or in an attached
8 affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present
9 address or whereabouts, the places where the child has lived during the last five years, and the
10 names and present addresses of the persons with whom the child has lived during that period.
11 The pleading or affidavit must state whether the party:

12 (1) Has participated, as a party or witness or in any other capacity, in any other
13 proceeding concerning the custody of or visitation with the child and, if so,
14 the pleading or affidavit shall identify the court, the case number, and the date
15 of the child-custody determination, if any;

16 (2) Knows of any proceeding that could affect the current proceeding, including
17 proceedings for enforcement and proceedings relating to domestic violence,
18 protective orders, termination of parental rights, and adoptions and, if so, the
19 pleading or affidavit shall identify the court, the case number, and the nature
20 of the proceeding; and

21 (3) Knows the names and addresses of any person not a party to the proceeding
22 who has physical custody of the child or claims rights of legal custody or
23 physical custody of, or visitation with, the child and, if so, the names and
24 addresses of those persons.

25 (b) If the information required by subdivisions (a) is not furnished, the court, upon motion
26 of a party or its own motion, may stay the proceeding until the information is furnished.

27 (c) If the declaration as to any of the items described in subdivisions (a)(1) through (3)
28 is in the affirmative, the declarant shall give additional information under oath as required by
29 the court. The court may examine the parties under oath as to details of the information furnished
30 and other matters pertinent to the court's jurisdiction and the disposition of the case.

31 (d) Each party has a continuing duty to inform the court of any proceeding in this or any
32 other state that could affect the current proceeding.

33 (e) If a party alleges in an affidavit or a pleading under oath that the health, safety, or
34 liberty of a party or child would be jeopardized by disclosure of identifying information, the
35 information must be sealed and may not be disclosed to the other party or the public unless the
36 court orders the disclosure to be made after a hearing in which the court takes into consideration
37 the health, safety, or liberty of the party or child and determines that the disclosure is in the
38 interest of justice.]

39
40 **"§ 50A-417. Factors to determine risk of abduction.**

41 (a) In determining whether there is a credible risk of abduction of a child, the court shall
42 must consider any evidence that the petitioner or ~~respondent~~; respondent has done or is doing
43 any of the following:

44 (1) Has previously abducted or attempted to abduct the ~~child~~; child.

45 (2) Has threatened to abduct the ~~child~~; child.

- 1 (3) Has recently engaged in activities that may indicate a planned abduction,
2 ~~including;~~ including any of the following:
- 3 a. Abandoning ~~employment;~~ employment.
- 4 b. Selling a primary ~~residence;~~ residence.
- 5 c. Terminating a ~~lease;~~ lease.
- 6 d. Closing bank or other financial management accounts, liquidating
7 assets, hiding or destroying financial documents, or conducting any
8 unusual financial ~~activities;~~ activities.
- 9 e. Applying for a passport or visa or obtaining travel documents for the
10 respondent, a family member, or the ~~child;~~ or child.
- 11 f. Seeking to obtain the child's birth certificate or school or medical
12 ~~records;~~ records.
- 13 (4) Has engaged in domestic violence, stalking, or child abuse or ~~neglect;~~ neglect.
- 14 (5) Has refused to follow a child-custody ~~determination;~~ determination.
- 15 (6) Lacks strong familial, financial, emotional, or cultural ties to the ~~state~~ State or
16 the United ~~States;~~ States.
- 17 (7) Has strong familial, financial, emotional, or cultural ties to another state or
18 ~~country;~~ country.
- 19 (8) Is likely to take the child to a country ~~that;~~ that meets any of the following
20 descriptions:
- 21 a. ~~Is~~ The country is not a party to the Hague Convention on the Civil
22 Aspects of International Child Abduction and does not provide for the
23 extradition of an abducting parent or for the return of an abducted
24 ~~child;~~ child.

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[Staff Note: In subdivision (a)(9), staff replaced "respondent's" with "person's" to conform to the language introducing the list.]

"§ 50A-418. Provisions and measures to prevent abduction.

(a) If a petition is filed under this ~~act~~, Article, the court may enter an order that must ~~include;~~ include all of the following:

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

(b) If, at a hearing on a petition under this ~~act~~, Article or on the court's own motion, the court after reviewing the evidence finds a credible risk of abduction of the child, the court ~~shall~~ must enter an abduction prevention order. The order must include the provisions required by subsection (a) of this section and measures and conditions, including those in subsections (c), (d), and ~~(e);~~ (e) of this section, that are reasonably calculated to prevent abduction of the child, giving due consideration to the custody and visitation rights of the parties. The court ~~shall~~ must consider the age of the child, the potential harm to the child from an abduction, the legal and practical difficulties of returning the child to the jurisdiction if abducted, and the reasons for the potential abduction, including evidence of domestic violence, stalking, or child abuse or neglect.

(c) An abduction prevention order may include one or more of the following:

- 1 (1) An imposition of travel restrictions that require that a party traveling with the
2 child outside a designated geographical area provide the other party with all
3 of the following:
- 4 a. The travel itinerary of the ~~child;~~ child.
- 5 b. A list of physical addresses and telephone numbers at which the child
6 can be reached at specified ~~times; and~~ times.
- 7 c. Copies of all travel ~~documents;~~ documents.
- 8 (2) A prohibition of the respondent directly or ~~indirectly;~~ indirectly doing any of
9 the following:
- 10 a. Removing the child from this ~~state;~~ State, the United States, or another
11 geographic area without permission of the court or the petitioner's
12 written ~~consent;~~ consent.
- 13 b. Removing or retaining the child in violation of a child-custody
14 ~~determination;~~ determination.
- 15 c. Removing the child from school or a child-care or similar ~~facility; or~~
16 facility.
- 17 d. Approaching the child at any location other than a site designated for
18 supervised ~~visitation;~~ visitation.
- 19 (3) A requirement that a party register the order in another state as a prerequisite
20 to allowing the child to travel to that ~~state;~~ state.
- 21 (4) With regard to the child's ~~passport;~~ passport, one or more of the following:
- 22 a. A direction that the petitioner place the child's name in the United
23 States Department of State's Child Passport Issuance Alert ~~Program;~~
24 Program.

- 1 b. A requirement that the respondent surrender to the court or the
2 petitioner's attorney any United States or foreign passport issued in the
3 child's name, including a passport issued in the name of both the parent
4 and the ~~child; and~~ child.
- 5 c. A prohibition upon the respondent from applying on behalf of the child
6 for a new or replacement passport or ~~visa; visa~~.
- 7 (5) As a prerequisite to exercising custody or visitation, a requirement that the
8 respondent ~~provide; provide~~ provide all of the following:
- 9 a. To the United States Department of State Office of Children's Issues
10 and the relevant foreign consulate or embassy, an authenticated copy
11 of the order detailing passport and travel restrictions for the ~~child;~~
12 child.
- 13 b. To the ~~court; court~~, both of the following:
- 14 1. Proof that the respondent has provided the information in
15 ~~subparagraph (A); and~~ sub-subdivision a. of this subdivision.
- 16 2. An acknowledgment in a record from the relevant foreign
17 consulate or embassy that no passport application has been
18 made, or passport issued, on behalf of the ~~child; child~~.
- 19 c. To the petitioner, proof of registration of the order with the United
20 States Embassy or other United States diplomatic presence in the
21 destination country and with the Central Authority for the Hague
22 Convention on the Civil Aspects of International Child Abduction, if
23 that Convention is in effect between the United States and the
24 destination country, unless one of the parties ~~objects; and~~ objects.

- 1 d. A written waiver under the Privacy Act, ~~5 U.S.C. Section 552a~~ [as
2 ~~amended~~, 5 U.S.C. § 552a, with respect to any document, application,
3 or other information pertaining to the child authorizing its disclosure
4 to the court and the ~~petitioner~~; and petitioner.
- 5 (6) Upon the petitioner's request, a requirement that the respondent obtain an
6 order from the relevant foreign country containing terms identical to the
7 child-custody determination issued in the United States.
- 8 (d) In an abduction prevention order, the court may impose conditions on the exercise of
9 custody or visitation ~~that~~; that do one or more of the following:
- 10 (1) Limit visitation or require that visitation with the child by the respondent be
11 supervised until the court finds that supervision is no longer necessary and
12 order the respondent to pay the costs of ~~supervision~~; supervision.
- 13 (2) Require the respondent to post a bond or provide other security in an amount
14 sufficient to serve as a financial deterrent to abduction, the proceeds of which
15 may be used to pay for the reasonable expenses of recovery of the child,
16 including reasonable ~~attorneys~~ attorneys' fees and costs if there is an
17 ~~abduction~~; and abduction.
- 18 (3) Require the respondent to obtain education on the potentially harmful effects
19 to the child from abduction.
- 20 (e) To prevent imminent abduction of a child, a court ~~may~~; may do any of the following:
- 21 (1) Issue a warrant to take physical custody of the child under ~~Section 9~~
22 G.S. 50A-419 or ~~the law of this state other than this [act]~~; other State law.
- 23 (2) Direct the use of law enforcement to take any action reasonably necessary to
24 locate the child, obtain return of the child, or enforce a custody determination

1 under this ~~{act}~~ Article or the law of this state other than this ~~{act}~~; or other
2 State law.

3 (3) Grant any other relief allowed under ~~the law of this state other than this {act}~~.
4 other State law.

5 (f) The remedies provided in this ~~{act}~~ Article are cumulative and do not affect the
6 availability of other remedies to prevent abduction.

7 **"§ 50A-419. Warrant to take physical custody of child.**

8 (a) If a petition under this ~~{act}~~ Article contains allegations, and the court finds that there
9 is a credible risk that the child is imminently likely to be wrongfully removed, the court may
10 issue an ex parte warrant to take physical custody of the child.

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

15 (c) An ex parte warrant under subsection (a) of this section to take physical custody of a
16 child ~~must~~; must do all of the following:

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

19 (2) Direct law enforcement officers to take physical custody of the child
20 ~~immediately~~; immediately.

21 (3) State the date and time for the hearing on the ~~petition~~; and petition.

22 (4) Provide for the safe interim placement of the child pending further order of
23 the court.

24 (d) If feasible, before issuing a warrant and before determining the placement of the child
25 after the warrant is executed, the court may order a search of the relevant databases of the

1 National Crime Information Center system and similar ~~state~~ databases of this State or another
2 state to determine if either the petitioner or respondent has a history of domestic violence,
3 stalking, or child abuse or neglect.

4 (e) The petition and warrant must be served on the respondent when or immediately after
5 the child is taken into physical custody.

6 (f) A warrant to take physical custody of a child, issued by this ~~state~~ State or another
7 state, is enforceable throughout this ~~state~~ State. If the court finds that a less intrusive remedy will
8 not be effective, it may authorize law enforcement officers to enter private property to take
9 physical custody of the child. If required by exigent circumstances, the court may authorize law
10 enforcement officers to make a forcible entry at any hour.

11 (g) If the court finds, after a hearing, that a petitioner sought an ex parte warrant under
12 subsection (a) of this section for the purpose of harassment or in bad faith, the court may award
13 the respondent reasonable ~~attorney's~~ attorneys' fees, costs, and expenses.

14 (h) This ~~[act]~~ Article does not affect the availability of relief allowed under ~~the law of~~
15 ~~this state other than this [act]~~ other State law.

16
17 *[Staff Note: The Administrative Office of the Courts ("AOC") commented that it will likely need*
18 *to create a form warrant for the proposed G.S. 50A-419. AOC further pointed out that the section*
19 *does not include a criminal penalty for the misuse of the procedure to harass another. AOC has*
20 *no position on the issue.*

21
22 *The Family Law Section of the NC Bar Association commented that this section is a bit more*
23 *detailed but not inconsistent with G.S. 50A-311, the comparable section in the UCCJEA. The*
24 *Official Comments provide that this section "mirrors Section 311 of the Uniform Child Custody*
25 *Jurisdiction and Enforcement Act on warrants to pick up a child which are available when there*
26 *is an existing child-custody determination." Staff is not concerned about duplicative language*
27 *since these sections address two different situations. G.S. 50A-311 provides:*

28 **§ 50A-311. Warrant to take physical custody of child.**

29 (a) Upon the filing of a petition seeking enforcement of a child-custody determination,
30 the petitioner may file a verified application for the issuance of a warrant to take physical custody
31 of the child if the child is immediately likely to suffer serious physical harm or be removed from
32 this State.

33 (b) If the court, upon the testimony of the petitioner or other witness, finds that the child
34 is imminently likely to suffer serious physical harm or be removed from this State, it may issue a
35 warrant to take physical custody of the child. The petition must be heard on the next judicial day

1 *after the warrant is executed unless that date is impossible. In that event, the court shall hold the*
2 *hearing on the first judicial day possible. The application for the warrant must include the*
3 *statements required by G.S. 50A-308(b).*

4 (c) *A warrant to take physical custody of a child must:*

5 (1) *Recite the facts upon which a conclusion of imminent serious physical harm*
6 *or removal from the jurisdiction is based;*

7 (2) *Direct law enforcement officers to take physical custody of the child*
8 *immediately; and*

9 (3) *Provide for the placement of the child pending final relief.*

10 (d) *The respondent must be served with the petition, warrant, and order immediately after*
11 *the child is taken into physical custody.*

12 (e) *A warrant to take physical custody of a child is enforceable throughout this State. If*
13 *the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive*
14 *remedy is not available, it may authorize law enforcement officers to enter private property to*
15 *take physical custody of the child. If required by exigent circumstances of the case, the court may*
16 *authorize law enforcement officers to make a forcible entry at any hour. An officer executing a*
17 *warrant to take physical custody of the child, that is complete and regular on its face, is not*
18 *required to inquire into the regularity and continued validity of the order. An officer executing a*
19 *warrant pursuant to this section shall not incur criminal or civil liability for its due service.*

20 (f) *The court may impose conditions upon placement of a child to ensure the appearance*
21 *of the child and the child's custodian.]*

22
23 **"§ 50A-420. Duration of abduction prevention order.**

24 An abduction prevention order remains in effect until the earliest ~~of:~~ of the following:

25 (1) The time stated in the ~~order;~~ order.

26 (2) The emancipation of the ~~child;~~ child.

27 (3) The child's attaining 18 years of ~~age;~~ or age.

28 (4) The time the order is modified, revoked, vacated, or superseded by a court

29 with jurisdiction under ~~[insert citation to Sections 201 through 203 of the~~

30 ~~Uniform Child Custody Jurisdiction and Enforcement Act or Section 3 of the~~

31 ~~Uniform Child Custody Jurisdiction Act and applicable law of this state].~~

32 G.S. 50A-201 through G.S. 50A-203.

33
34 *[Staff Note: G.S. 50A-201 through G.S. 50A-203 provides:*

35
36 **§ 50A-201. Initial child-custody jurisdiction.**

37 (a) *Except as otherwise provided in G.S. 50A-204, a court of this State has jurisdiction*
38 *to make an initial child-custody determination only if:*

39 (1) *This State is the home state of the child on the date of the commencement of*
40 *the proceeding, or was the home state of the child within six months before*

1 *the commencement of the proceeding, and the child is absent from this State*
2 *but a parent or person acting as a parent continues to live in this State;*

3 (2) *A court of another state does not have jurisdiction under subdivision (1), or a*
4 *court of the home state of the child has declined to exercise jurisdiction on the*
5 *ground that this State is the more appropriate forum under G.S. 50A-207 or*
6 *G.S. 50A-208, and:*

7 a. *The child and the child's parents, or the child and at least one parent*
8 *or a person acting as a parent, have a significant connection with this*
9 *State other than mere physical presence; and*

10 b. *Substantial evidence is available in this State concerning the child's*
11 *care, protection, training, and personal relationships;*

12 (3) *All courts having jurisdiction under subdivision (1) or (2) have declined to*
13 *exercise jurisdiction on the ground that a court of this State is the more*
14 *appropriate forum to determine the custody of the child under G.S. 50A-207*
15 *or G.S. 50A-208; or*

16 (4) *No court of any other state would have jurisdiction under the criteria specified*
17 *in subdivision (1), (2), or (3).*

18 (b) *Subsection (a) is the exclusive jurisdictional basis for making a child-custody*
19 *determination by a court of this State.*

20 (c) *Physical presence of, or personal jurisdiction over, a party or a child is not necessary*
21 *or sufficient to make a child-custody determination.*

22 **§ 50A-202. *Exclusive, continuing jurisdiction.***

23 (a) *Except as otherwise provided in G.S. 50A-204, a court of this State which has made*
24 *a child-custody determination consistent with G.S. 50A-201 or G.S. 50A-203 has exclusive,*
25 *continuing jurisdiction over the determination until:*

26 (1) *A court of this State determines that neither the child, the child's parents, and*
27 *any person acting as a parent do not have a significant connection with this*
28 *State and that substantial evidence is no longer available in this State*
29 *concerning the child's care, protection, training, and personal relationships;*
30 *or*

31 (2) *A court of this State or a court of another state determines that the child, the*
32 *child's parents, and any person acting as a parent do not presently reside in*
33 *this State.*

34 (b) *A court of this State which has made a child-custody determination and does not have*
35 *exclusive, continuing jurisdiction under this section may modify that determination only if it has*
36 *jurisdiction to make an initial determination under G.S. 50A-201.*

37 **§ 50A-203. *Jurisdiction to modify determination.***

38 *Except as otherwise provided in G.S. 50A-204, a court of this State may not modify a*
39 *child-custody determination made by a court of another state unless a court of this State has*
40 *jurisdiction to make an initial determination under G.S. 50A-201(a)(1) or G.S. 50A-201(a)(2)*
41 *and:*

42 (1) *The court of the other state determines it no longer has exclusive, continuing*
43 *jurisdiction under G.S. 50A-202 or that a court of this State would be a more*
44 *convenient forum under G.S. 50A-207; or*

45 (2) *A court of this State or a court of the other state determines that the child, the*
46 *child's parents, and any person acting as a parent do not presently reside in*
47 *the other state.]*

48 **"§ 50A-421. *Uniformity of application and construction.***

1 In applying and construing this ~~uniform act, Article,~~ consideration must be given to the need
2 to promote uniformity of the law with respect to its subject matter among states that enact ~~it, the~~
3 Uniform Child Abduction Prevention Act.

4 "**§ 50A-422. Relation to Electronic Signatures in Global and National Commerce Act.**

5 This ~~act~~ Article modifies, limits, and supersedes the federal Electronic Signatures in Global
6 and National Commerce Act, ~~15 U.S.C. Section 7001, et seq., Chapter 96 of Title 15 of the United~~
7 States Code, but does not modify, limit, or supersede Section 101(c) of the act, ~~15 U.S.C. Section~~
8 ~~7001(e), of that act 15 U.S.C. § 7001(c),~~ or authorize electronic delivery of any of the notices
9 described in Section 103(b) of ~~that the~~ act, 15 U.S.C. ~~Section §~~ 7003(b)."

10 **SECTION 3.** The Revisor of Statutes shall cause to be printed, as annotations to the
11 published General Statutes, all relevant portions of the Official Comments to the Uniform Child
12 Abduction Prevention Act and all explanatory comments of the drafters of this act as the Revisor
13 may deem appropriate.

14 **SECTION 4.** This act becomes effective October 1, 2024, and applies to petitions
15 filed or motions made on or after that date.