

***The 1980 Hague Convention on the Civil Aspects of International Child Abduction
(The Hague Convention)***

USER'S GUIDE

In cases of high conflict separation, a situation may arise where one parent effectively abducts the child from the other parent and then leaves the country with the child. The Hague Convention was designed to alleviate the problems encountered by parents who have been left behind in attempting to retrieve their children from the abducting parent in a foreign country.

The Hague Convention became law in Alberta on February 1, 1987, pursuant to the *International Child Abduction Act*, RSA 2000, c. I-4.

It is important to note that the objective of the Hague Convention is to secure the prompt return of children wrongfully removed to or retained in a contracting foreign state. The Hague Convention is not concerned with the merits of competing custody claims, as such claims should take place in the country in which the child was habitually resident before the wrongful removal or retention.

Usually, the first step in requesting the return of a child is for the left-behind parent to contact the Central Authority in his or her home jurisdiction, which will in turn contact the Central Authority in the country in which the child is currently located. In Alberta, the Family Law Branch of Alberta Justice fulfills the responsibilities of the Central Authority, including: locating the child, communicating with parents and other Central Authorities, and referring the parties to experienced legal counsel.

Return applications are usually brought before the Court of Queen's Bench of Alberta, which has developed the following documents to assist parties in preparing a return application (N.B. these documents are intended to be used by lawyers and should not, in any way, be construed as offering legal advice):

1. Alberta Procedural Protocol

The purpose of the Protocol is to deal with incoming applications, i.e. for the return of a child who has been wrongfully removed to or retained in Alberta. The Protocol ensures that return applications are dealt with using the most expeditious procedures available to the Court.

2. Return Application Flowchart

This Flowchart sets out in sequential order the determinations that a Court will need to make in considering whether to order the return of the child. Its purpose is to assist the parties in forming their legal arguments and gathering the necessary evidence.

3. Preparing Return Applications - Checklist and Questions to Consider

The Checklist is a procedural tool to assist legal counsel in reviewing an incoming case and navigating the return application process in an expedient manner. The Questions raised may not be applicable in every abduction case, but are included to ensure that high-risk cases are identified early in the process and appropriate measures are taken pending the determination of the return application.

4. Additional Resources

The list of Additional Resources includes materials available online and in the Alberta Law Society Libraries.

These documents are available on the Court of Queen's Bench website under "[Family Justice Services](#)."

The following legislation may also be relevant in child abduction cases:

- ▶ *International Child Abduction Act*, RSA 2000, c. I-4 (the Hague Convention is appended as Schedule to this Act).
- ▶ *Extra-Provincial Enforcement of Custody Orders Act*, RSA 2000, c. E-14.
- ▶ Sections 281-283 of the *Criminal Code*.

A free, searchable database of international judgments made under the Hague Convention can be found at www.incadat.com.

For more information on the Hague Convention, please contact the Alberta Central Authority:

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