



RESOLUTION IN OPPOSITION TO AMENDMENT OF STATE UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT

Adopted by the American Academy of Matrimonial Lawyers
Board of Governors on August 9, 2023.

WHEREAS, the American Academy of Matrimonial Lawyers (AAML), founded in 1962, is a national organization of attorneys specializing in family law practice, the mission of which is “to provide leadership that promotes the highest degree of professionalism and excellence in the practice of family law”;

WHEREAS, the AAML provides leadership and guidance in family law policy matters, assisting states in evaluating, enacting, and enforcing effective laws which protect the self-determination and autonomy of diverse family systems and individuals;

WHEREAS, the federal government enacted the Parental Kidnapping Prevention Act in 1980 to give full faith and credit to child custody determinations and prevent the kidnapping and removal of children from their home state;

WHEREAS, the States (with one exception) originally enacted an interstate compact titled the Uniform Child Custody Jurisdiction Act in 1997, amended and adopted as the Uniform Child Custody Jurisdiction and Enforcement Act (“UCCJEA”), which was adopted to provide uniformity among the states concerning child custody jurisdiction determinations;

WHEREAS, the UCCJEA is a procedural statute intended to prevent competing interstate child custody cases in the family courts between legally recognized parents at considerable expense and risk to families and children;

WHEREAS, the UCCJEA is not intended to address the substantive rights to make parenting decisions or access arrangements (physical and legal custody) but to determine which family state court has “home state” jurisdiction to enter and modify any child custody orders from another state;

WHEREAS, the UCCJEA was amended to prevent the misuse of emergency jurisdiction in a foreign state concerning child custody disputes, or otherwise provide an additional jurisdictional basis that may override a state’s jurisdiction as the home state of the child (See Prefatory Note, Section 5 of UCCJEA);

WHEREAS, legislation has passed or is pending in states with the objective of amending the UCCJEA, as an interstate compact between the states, to provide for an exception to the application of the uniform jurisdictional rules;

WHEREAS, this form of legislation grants a state, otherwise lacking in jurisdiction, an exception based on the substantive laws and policy of that state, a basis to usurp the authority of the state court with jurisdiction to decide child custody;

WHEREAS, if different states adopt different substantive grounds for invoking or altering application of the UCCJEA, the desired national uniformity of application will be lost, creating exactly the inconsistency among state laws, contradictory and conflicting rulings, and encouragement of parental kidnapping that the UCCJEA was designed to prevent; and

WHEREAS, legislation pertaining to medical and mental health care or other enactment of exceptions to application of the UCCJEA's jurisdictional rules may cause the wrongful removal and concealment of children to another state without regard for due process, disrespect for the authority and rights of parents in their home state independent of government interference, disharmony among the states and state family courts, and the violation of other international, state, and federal criminal and civil laws;

NOW, THEREFORE, IT IS RESOLVED that the American Academy of Matrimonial Lawyers opposes legislation creating a jurisdictional exception for medical and mental health care in UCCJEA state statutes because it is in direct conflict with the express purposes of the Act as follows, to: 1) prevent the wrongful removal and restraint of children; 2) create uniformity among the states concerning child custody jurisdiction determinations; 3) create a procedural, not a substantive, mechanism to enforce and modify custody determinations of other states; and, 4) eliminate any best interest considerations when making these jurisdictional determinations.