

FEDERAL LAWS

The Parental Kidnapping Prevention Act of 1980

- Requires states to enforce and not modify custody determinations made by other states.
- Allows access to the Federal Parent Locator Service (FPLS) to obtain address information on abductor parents and abducted children.
- Directs the US Dept. of Justice to apply the fugitive felon act to interstate parental kidnapping cases when a state felony warrant has been issued and authorizes the issuance of a Federal Unlawful flight to Avoid Prosecution (UFAP) Warrant.

National Child Search Assistance Act (NCSAA, 42 U.S.C. §§ 5779 and 5780 of 1990)

- No federal, state, or local law-enforcement agency will establish or observe a waiting period before accepting a missing-child case
- All agencies will enter, without delay, reports of missing children younger than 18 years of age into the NCIC Missing Person File
- Agencies will update identifying information about each case in NCIC within 60 days
- Each case will receive proper investigative action
- Investigators will maintain a close liaison with NCMEC about appropriate cases

The International Parental Kidnapping Crime Act (IPKCA, 18 U.S.C. § 1204) took effect in December 1993.

- Criminal offense to remove a child from the United States or retain a child (who has been in the United States) outside of the United States with intent to obstruct the unlawful exercise of parental rights.

The Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003, otherwise known as the PROTECT Act, (Pub. L. No. 108-21)

- Gives law-enforcement authorities valuable tools to deter, detect, investigate, prosecute, and punish crimes committed against children; strengthens laws against child pornography; and addresses deficiencies in federal sentencing policies and practices. Provisions specifically relating to missing or abducted children include an increase in the base-offense level for kidnapping; a mandatory 20-year sentence for an offender whose kidnapping victim is a nonfamily-member minor; attempt liability for international family kidnapping;
- Suzanne's Law, which requires each federal, state, and local law-enforcement agency to enter information about missing children younger than the age of 21 into the FBI's NCIC database;
- America's Missing: Broadcast Emergency Response (AMBER) Alert provisions calling for the national coordination of state and local AMBER Alert programs, and the development of guidelines for the issuance and dissemination of AMBER Alerts
- Code Adam program requiring designated authorities for public buildings to establish procedures for locating a child who is missing in the building.

Adam Walsh Child Protection Act of 2006 - missing child reporting requirements

- No law enforcement agency within the State establishes or maintains any policy that requires the removal of a missing person entry from its State law enforcement system or the National Crime Information Center computer database based solely on the age of the person;
- Mandatory entry of missing-child reports into NCIC within two hours of receipt

Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183)

- Reporting children missing from care to local LEA and NCMEC

Uniform Child Custody Jurisdiction and Enforcement Act Article 5a of the NYS Domestic Relations Law.

- Courts taking temporary emergency jurisdiction and contains provisions on the enforcement of custody orders.
- Mechanism to obtain and enforce orders of custody and visitation across state lines

Interstate Compact for Juveniles

- Assists with the safe return of juveniles who have run away from home and in doing so have left their state of residence.

STATE LAWS

§ 837-e. Statewide Central Register for Missing Children

- The term missing child shall mean any person under the age of eighteen years, or any youth, under the age of twenty-one years, that the office of children and family services or a local department of social services has responsibility for placement, care, or supervision, or who is the subject child of a child protective investigation, or is receiving preventive services or services under section 477 of the Social Security Act, or has run away from foster care, where such office or department has reasonable cause to believe that such youth is, or is at risk of being, a sex trafficking victim, who is missing from his or her normal and ordinary place of residence and whose whereabouts cannot be determined by a person responsible for the child's care and any child known to have been taken, enticed or concealed from the custody of his or her lawful guardian by a person who has no legal right to do so.
- Statewide central register (DCJS)
- Flagging birth and school records
- Confidentiality of the data contained in the register

§ 837-f. Missing and Exploited Children Clearinghouse

- Outlines all requirements of the Clearinghouse

§ 837-f1. Missing Vulnerable Adults Clearinghouse.

- Vulnerable adult shall mean an individual eighteen years of age or older who has a cognitive impairment, mental disability, or brain disorder and whose disappearance has been determined by law enforcement to pose a credible threat of harm to such missing individual.
- Outlines all requirements of the Clearinghouse

837-f-2. Missing adults

- In the event that a police agency receives a report that an adult person is missing from his or her normal and ordinary place of residence and whose whereabouts cannot be determined by an individual whose relationship with such adult person would place such individual in a position to have knowledge of his or her whereabouts, and that such missing adult person has a proven disability, or may be in physical danger, or is missing after a catastrophe, or may have disappeared involuntarily, or is missing under circumstances where there is a reasonable concern for his or her safety; and such missing adult person does not qualify as either a missing child pursuant to section eight hundred thirty-seven-e of this article or a vulnerable adult pursuant to section eight hundred thirty-seven-f-1 of this article, the police agency shall collect information necessary to file an electronic report regarding the missing adult person with the national crime information center register and submit such electronic report to the national crime information center register

§ 838. Identification of unknown dead and missing persons

- County medical examiner and coroner shall promptly furnish the division and NamUs, with copies of fingerprints, personal descriptions and other identifying data, including date and place of death, of all deceased persons whose deaths are in a classification requiring inquiry by the medical examiner or coroner where the deceased is not identified or the medical examiner or coroner is not satisfied with the decedent's identification. The division shall promptly make available personal descriptions and other identifying data, including date and place of death, of such deceased persons to all law enforcement agencies in the state, and upon request, to law enforcement agencies outside of the state.
- No criminal justice agency shall establish or maintain any policy which requires the observance of a waiting period before accepting and investigating a missing child report or missing vulnerable adult report
- Whenever a criminal justice agency determines that a person is a missing vulnerable adult, as defined in section eight hundred thirty-seven-f-one of this article, or that an unidentified living person may be a missing vulnerable adult, such criminal justice agency shall enter the report of such missing vulnerable adult in any database of missing persons maintained by the division and the federal government.

9 NYCRR 6055.3 Entries into the Register

- Information pertaining to a missing child shall be reported to the Register by criminal justice agencies without delay.
- All available identifying information pertaining to any missing child, including but not limited to fingerprints, blood types, dental information and photographs, shall be forwarded to DCJS for inclusion in the Register

9 NYCRR §6055.7 Flagging birth and school records

- If there is an indication that a missing child has been forcibly abducted or is categorized as endangered, DCJS will immediately request flagging of the appropriate records.
- If there is no indication that a missing child has been forcibly abducted or categorized as endangered or if a missing child is categorized as a runaway, within 30 days DCJS will request flagging of the appropriate records.
- Upon learning of the recovery of any missing child whose birth record or school record has been flagged, DCJS shall notify the Commissioner of the New York State Department of Health, or the Commissioner of the New York City Department of Health if the child was born in the City of New York, and the child's last known school district, as appropriate.

Family Court Act 718A (Effective 11-1-01) Runaway Pick Up – PD

- A peace officer, acting pursuant to such peace officer`s special duties, or a police officer may return to a parent or other person legally responsible for such child`s care any child under the age of eighteen who has run away from home without just cause or who, in the reasonable conclusion of the officer, appears to have run away from home without just cause. For purposes of this action, a police officer or peace officer may reasonably conclude that a child has run away from home when the child refuses to give his or her

name or the name and address of a parent or other person legally responsible for such child's care or when the officer has reason to doubt that the name or address given are the actual name and address of the parent or other person legally responsible for the child's care.

EXECUTIVE LAW 532 - a (1) (Runaway Youth Definition)

- Runaway Youth shall mean a person under the age of eighteen years who is absent from his legal residence without consent of his parents, legal guardian or custodian.

New York State Penal Law

PL 135.45 Custodial Interference in the Second Degree (A/Misd)

- A person is guilty of custodial interference in the second degree when:
 1. Being a relative of a child less than sixteen years old, intending to hold such child permanently or for a protracted period, and knowing that he has no legal right to do so, he takes or entices such child from his lawful custodian; or
 2. Knowing that he has no legal right to do so, he takes or entices from lawful custody any incompetent person or other person entrusted by authority of law to the custody of another person or institution.

PL 135.50 Custodial Interference in the First Degree (E/Felony)

- A person is guilty of custodial interference in the first degree when he commits the crime of custodial interference in the second degree:
 1. With intent to permanently remove the victim from this state, he removes such person from the state; or
 2. Under circumstances which expose the victim to a risk that his safety will be endangered or his health materially impaired.
- It shall be an affirmative defense to a prosecution under subdivision one of this section that the victim had been abandoned or that the taking was necessary in an emergency to protect the victim because he has been subjected to or threatened with mistreatment or abuse.

NYS Campus Safety Act - LAWS OF NEW YORK, 1999 CHAPTER 22

- "Missing student" means any student of an institution subject to the provisions of this subdivision, who resides in a facility owned or operated by such institution and who is reported to such institution as missing from his or her residence.
- A plan providing for the investigation of any violent felony offense occurring at or on the grounds of each such institution, and providing for the investigation of a report of any

missing student. Such plans shall provide for the coordination of the investigation of such crimes and reports with local law enforcement agencies. Such plans shall include, but not be limited to, written agreements with appropriate local law enforcement agencies providing for the prompt investigation of such crimes and reports.

New York State Consolidated Laws, Domestic Relations, ARTICLE 5, The Custody and Wages of Children Section 70. Habeas corpus for child detained by parent

- Where a minor child is residing within this state, either parent may apply to the supreme court for a writ of habeas corpus to have such minor child brought before such court; and on the return thereof, the court, on due consideration, may award the natural guardianship, charge and custody of such child to either parent for such time, under such regulations and restrictions, and with such provisions and directions, as the case may require, and may at any time thereafter vacate or modify such order. In all cases there shall be no prima facie right to the custody of the child in either parent, but the court shall determine solely what is for the best interest of the child, and what will best promote its welfare and happiness, and make award accordingly.