

International Custody

New Jersey Custody Lawyers Handling Sophisticated International and Interstate Cases

Custody disputes are complicated matters that become even more convoluted when international or interstate issues are involved. A successful outcome in these types of cases requires a team of seasoned attorneys with sophisticated legal knowledge and skills. The family lawyers at Einhorn Barbarito are well equipped to handle these extraordinarily challenging cases. For over fifty years, our family law department has represented individuals and families in custody cases, including ones that involve interstate and international issues. Our family law attorneys have vast knowledge of the laws and procedures governing custody disputes, and many of the lawyers within our practice group have litigated seminal custody cases.

Overview of International Custody and Interstate Custody Disputes

Custody disputes involving citizens of different states within the United States and citizens of the United States and other countries have become increasingly common. These cases can include legal issues governed by state law, federal law, international law and the laws of individual nations. Many family law practitioners do not have the additional skills, and experience necessary to address issues raised when one or both litigants reside in or are natives of a foreign country and there are international custody issues associated with minor children. The attorneys at Einhorn Barbarito have a solid understanding of these matters and work with clients to identify and pursue the appropriate legal remedies.

International Child Custody Remedies

Interstate custody issues arise under any of a number of circumstances including but not limited to those when a custody order was entered in one state, and the child is removed without permission, consent or authority of the court to another state.

International custody issues arise when:

- a child has been removed or retained “wrongfully”;
- the removal or retention was in breach of the custody rights of a person who had such rights under the laws of a state or country in which the child was previously a resident, immediately before the wrongful removal or retention; and
- the person with such custody rights was exercising his/her rights or would have been exercising his/her rights if not for the wrongful removal or retention.

In these types of custody cases there are several remedies available to the parent seeking the return of the child including but not limited to:

- **The Hague Convention.** The Hague Convention is an international treaty that provides a judicial mechanism for parents whose children have been wrongfully removed and/or retained in another country, returned to the United States. There are more than 80 contracting states and countries, including the United States, who are signatories to this treaty.
- **The Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA).** The UCCJEA is a New Jersey statute which provides for the enforcement of The Hague Convention. This statute also prioritizes jurisdictional bases and clearly defines the procedure utilized in the enforcement of interstate custody and visitation orders, along with jurisdictional reach requirements. Examples of the jurisdiction enforcement provisions of the UCCJEA include but are not limited to the following:
 - Providing priority to the home state in initial custody proceeding;
 - Requiring an expedited hearing to address the physical production of the child;
 - Authorizing courts to exercise emergency jurisdiction if abuse is alleged;
 - Permitting public officials and/or law enforcement to assist in the enforcement of custody orders;
 - Preserving exclusive continuing jurisdiction in the state that issued the decree/visitation order; and
 - Providing rules to address inconvenient forums

A parent who claims that a child has been wrongfully removed and/or retained in a foreign country that is a party to The Hague Convention, may apply to the “Central Authority” of the state/country where

the child habitually resided prior to the wrongful removal/retention. In those cases where the Central Authority of the signatory state to which the child was removed and/or retained determines that such action was wrongful, that Central Authority will order the immediate return of the child, unless it is established that the person caring for the child:

- was not exercising his/her custody rights at the time of the wrongful removal or retention;
- consented or acquiesced to the removal/retention of the child; or
- there is a grave risk that a return of the child would expose him/her to physical/psychological harm or result in the child being placed in an otherwise intolerable/unsafe situation.

In cases where an abducted child is removed and/or retained in a country that is not a signatory to The Hague Convention, the legal remedies will vary based on the jurisdictions involved. There are myriad agreements between states and countries which may provide for recourse, so it is critical to work with a New Jersey custody dispute lawyer who is experienced in navigating these sophisticated procedures.

Interstate Child Custody Remedies

Interstate custody issues can arise under any number of circumstances including but not limited to those when a custody order exists in one state and the child is removed from that state without permission, consent or authority of the court, to another state. In such cases, the legal remedies available under the UCCJEA will often be effective and expeditious. The UCCJEA is law in every state within the U.S. Although some variations exist in each state's statutory language, the core principles and provisions remain constant.

The UCCJEA vests "exclusive [and] continuing jurisdiction" for child custody litigation in the courts of the child's "home state," which is defined as the state where the child has lived with a parent for six consecutive months prior to the commencement of the proceeding. If the child has not lived in any state for at least six months, then a court in a state that has (1) "significant connections" with the child and at least one parent and (2) "substantial evidence concerning the child's care, protection, training, and personal relationships" may assume child-custody jurisdiction. If more than one state has "significant connections" and "substantial evidence...", the courts of those states are required to communicate with each other and determine which has the most significant connections to the child.

A court which has entered a child custody order under the auspices of the UCCJEA has exclusive, continuing jurisdiction until either:

- that court determines that neither the child, the child's parents, nor any person acting as a parent has a significant connection with the state that entered the original order and that substantial evidence is no longer available in the state concerning the child's care, protection, training, and personal relationships, or
- that court or a court of another state determines that the child, the child's parents, and any person acting as a parent do not reside in the state that initially made the child custody order.

Discuss Your Situation with an Experienced Interstate/International Custody Lawyer

Interstate and international child custody disputes are almost always complex and contentious. These cases require the skills and resources of a New Jersey law firm capable of handling complicated child custody matters. The attorneys at Einhorn Barbarito have substantial experience representing clients in international and interstate custody cases. If you have international or interstate custody-related questions or are in need of legal representation, we encourage you to [contact](#) our New Jersey custody lawyers at [973-627-7300](tel:973-627-7300).