

## Significant Measures Enacted to Assist Children At-Risk

| Year      | Event  |
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| 1932      | Passage of the Federal Kidnapping Act  |
| 1961      | Adoption of the Fugitive Felon Act subsequently amended in 1970 to implement the Unlawful Flight to Avoid Service of Process   |
| 1968-1983 | Adoption of the Uniform Child Custody Jurisdiction Act by all states within the United States of America   |
| 1974      | Passage of the Juvenile Justice and Delinquency Prevention Act<br>Passage of the Runaway and Homeless Youth Act  |
| 1975      | Institution of the NCIC Missing Person File by the Federal Bureau of Investigation (FBI)   |
| 1980      | Passage of the Parental Kidnapping Prevention Act  |
| 1982      | Passage of the Missing Children Act  |
| 1983      | Institution of the NCIC Unidentified Person File by the FBI  |
| 1984      | Establishment of the National Center for Missing & Exploited Children®<br>Passage of the Missing Children's Assistance Act   |
| 1988      | United States became a signatory to the Hague Convention on the Civil Aspects of International Child Abduction<br>Passage of the International Child Abduction Remedies Act<br>Amendment of Subchapter III of the Juvenile Justice and Delinquency Prevention Act to Create the Transitional Living Program for Homeless Youth |
| 1990      | Passage of the National Child Search Assistance Act  |
| 1993      | Enactment of the International Parental Kidnapping Crime Act   |
| 1994      | Passage of the Violent Crime Control and Law Enforcement Act including the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act and Child Safety Act  |
| 1997      | Adoption of the Uniform Child Custody Jurisdiction and Enforcement Act   |
| 2000      | Passage of the Child Abuse Prevention and Enforcement Act known as Jennifer's Law  |
| 2003      | Enactment of the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003  |
| 2006      | Passage of the Adam Walsh Child Protection and Safety Act of 2006  |

**Figure 1**

The taking and holding of an individual, especially a child, for ransom or other illegal purpose, has always been viewed by society as a most serious crime deserving the harshest penalty. From the beginning state criminal laws have included statutes prohibiting kidnapping and nonfamily abduction. The national government, in reaction to the country's outrage over the infamous Lindbergh infant kidnapping in 1932, enacted the Federal Kidnapping Act (FKA, 18 U.S.C. § 1201 *et seq.*) authorizing U.S. Department of Justice intervention when interstate travel is suspected in kidnapping cases. Law-enforcement officers, as noted earlier, explicitly understood their role in such crimes as one of immediate response and aggressive investigation. The laws were clear and so was society's mandate to law enforcement to recover the victim and apprehend the criminal.

Less clear, however, was what society expected from law-enforcement officers when working with the runaway child or incidents of family abduction. Because children who voluntarily left home were classified as **status offenders** and not criminals, law-enforcement officers were aware they had only limited authority in such cases. In most cases the recovered child was either taken to a law-enforcement facility to await a parent/guardian's<sup>6</sup> arrival or, if more appropriate, directly to the child's home.

Before the mid-1970s officers had an additional option when working with a habitual runaway or voluntarily missing child who appeared to be an immediate danger to him- or herself or others. That option was referred to as **secure detention**. When confronted with a habitual runaway, for example, an officer had the option of placing the child in a secure facility where he or she would be held until court was in session. Usually the selected facility was a secure children's shelter housing only those individuals designated by the state as juveniles. In communities without access to a shelter, however, a child might be placed in the jurisdiction's regular adult lock-up or jail, thus creating a controversy resulting in broad government action in 1974 as noted below.

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Societal expectations of law enforcement in cases of family abduction were even less clear than those expressed regarding runaways. For years individual states struggled to devise a strategy for addressing custody disputes both locally and from other jurisdictions and states. The need for such a strategy became more apparent in the 1960s as divorce rates increased and cross-country travel became easier. If unhappy with the home state's decision in a custody dispute, the noncustodial family member frequently abducted his or her child(ren) and settled in a state where custody would be granted without serious consideration of a previous determination. This process was known as **forum or "judge" shopping**. The parent/guardian often found the new state would not recognize the original decree, leaving the alternatives of losing the child or "snatching" the child back in order to return to the home state. Between 1968 and 1983, faced with rapid increases in these situations, every state adopted the **Uniform Child Custody Jurisdiction Act (UCCJA, 9(1A) U.L.A. 271)**. Despite its limitations, as discussed on page 9 in regard to the Uniform Child Custody Jurisdiction and Enforcement Act, this was a model code attempting to establish which state has jurisdiction to make, modify, or enforce a custody determination.

In 1974 people in the United States and their lawmakers made tentative steps toward addressing the issues of child welfare and protection within the juvenile-justice system. Those steps had a major impact on the handling of missing-children cases by providing more tools for intervention.

While many law-enforcement officers considered the limited use of secure detention as the only option available in selected status-offender cases, such as

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<sup>6</sup> Unless otherwise noted this guide uses the term parent/guardian to refer to the child's biological parent, the person(s) with legal custody or guardianship of the child, or those persons acting in such a capacity on behalf of the child during a crisis whether a family member, friend, or governmental agency.

controlling the habitual runaway, increasing numbers of social-service professionals and children's rights proponents argued such detention was inappropriate, and indeed harmful, for children who had committed no crime. During the early 1970s these proponents testified at U.S. Congressional hearings about incidents in which recovered runaways and other status offenders were detained in regular lock-ups and, in some cases, in proximity to adult violators.

In response to these hearings, and in reaction to other issues related to child protection, in 1974 the U.S. Congress passed the **Juvenile Justice and Delinquency Prevention Act** (JJDP, 42 U.S.C. § 5601 *et seq.*). To encourage jurisdictions to prevent status offenders from being placed in any type of secure detention, the newly created Office of Juvenile Justice and Delinquency Prevention (OJJDP), within the U.S. Department of Justice, was authorized to distribute grants and provide support to those states developing alternate procedural methods. Subchapter III of the JJDP, referred to as the **Runaway and Homeless Youth Act** (RHYA) of 1974, also became part of the JJDP, 42 U.S.C. § 5701 *et seq.* This Act provided for nonsecure facilities where youngsters in need received safe shelter, counseling, and education until an effective family reunion could be accomplished. The RHYA and its provisions, such as the **National Runaway Switchboard** (NRS), remain in effect today and are administered through the U.S. Department of Health and Human Services. The NRS, at **1-800-RUNAWAY** or **www.1800RUNAWAY.org**, assists runaway and homeless children in communicating with their families and service providers by funding temporary shelters for these children, providing crisis intervention counseling to at-risk children and their families, and providing message delivery services between at-risk children and their families.

It quickly became clear communication among law-enforcement agencies concerning notification and information about missing children was in need of improvement. Recognizing that need, in 1975 the **National Crime Information Center** (NCIC), an automated, information-sharing system maintained by the FBI, instituted the **Missing Person File**. With the introduction of this file, officers anywhere in the nation could verify the report of a missing child who had been entered into the system and access case information within minutes of its entry by the reporting or "originating" law-enforcement agency.

As more states adopted the UCCJA, many followed its recommendation about the need for specific criminal sanctions to make its provisions effective. In drafting statutes to provide for these sanctions, some states made the crime of family abduction a misdemeanor while others made it a felony. The remaining states created degrees of crime in which the basic abduction was considered a misdemeanor while certain aggravating factors, such as danger to the child or leaving the state, moved the offense into the felony range.

As individual states enacted criminal, family-abduction statutes, groups representing law-enforcement officers; prosecutors; nonprofit, missing-children organizations; and families emphasized the need for direction from the federal government in the investigation and adjudication of these cases. In response the U.S. Congress enacted the **Parental Kidnapping Prevention Act** (PKPA, 28 U.S.C. § 1738A) in 1980.

The PKPA had a significant impact on law enforcement since, for the first time, it extended certain federal investigative resources to local authorities. Specifically the PKPA expanded use of the federal Fugitive Felon Act (18 U.S.C. § 1073 (1961)) to include abductors who had been charged with a felony and were

known to have fled the state. With the aid of the regional U.S. Attorney, an **Unlawful Flight to Avoid Prosecution charge** (UFAP as enacted in the Unlawful Flight to Avoid Service of Process section of 18 U.S.C. § 1073 (1970) of the Fugitive Felon Act) could be placed against the abductor thereby enlisting the investigative resources of the FBI and U.S. Department of Justice. Another investigative method authorized by the PKPA involved extending the resources of the **Federal Parent Locator Service** (FPLS, 42 U.S.C. § 663 (1988)) in the search for abducting family members in the same manner it attempts to trace child-support delinquents.

In the late 1970s and early 1980s, three incidents occurred shocking the country and creating a nationwide focus on the subject of missing and exploited children. Those events were the murders of 29 boys and young men in Atlanta from 1979 to 1981; the abduction of 7-year-old Etan Patz from a New York City neighborhood in May of 1979; and the July 1981 abduction and murder of 6-year-old Adam Walsh in Hollywood, Florida.

Voicing the nation's concern, families of missing children testified before U.S. Congressional committees about the tragedy of such incidents and need for additional resources to help in the investigation of each case. In response the U.S. Congress passed the **Missing Children Act** (MCA, 28 U.S.C. § 534(a)) in 1982. Specifically the MCA called on law enforcement to strenuously investigate **every** missing-child case and enter all pertinent information about the incident into the NCIC Missing Person File. It also required the FBI to provide assistance in appropriate cases and confirm NCIC entries for the child's parents/guardians. The MCA served to announce the federal government viewed the protection of missing children as a priority issue.

Missing-person investigators acquired a significant resource when NCIC inaugurated the **Unidentified Person File** in June 1983. The records maintained in this file allowed law-enforcement officers to compare information from their missing-children cases against descriptions of unidentified bodies from jurisdictions across the country. A significant enhancement in that resource was obtained in 2000 with the passage of the **Child Abuse Prevention and Enforcement Act** (CAPEA, Pub. L. No. 106-177), also known as "Jennifer's Law." Jennifer's Law is intended as a mechanism to be used to compile all descriptive information about deceased, unidentified persons throughout the United States whose cases are entered into NCIC.

The U.S. Congress displayed its continuing commitment to the issue of missing and exploited children by enacting the **Missing Children's Assistance Act** (MCAA, 42 U.S.C. § 5771 *et seq.*) in 1984. Recognizing "federal assistance is urgently needed to coordinate and assist in the national problem of missing and abducted children," the U.S. Congress directed OJJDP to establish a private organization to operate a national clearinghouse of information about missing and exploited children; maintain a toll-free, 24-hour, national telephone Hotline to take information about missing and exploited children; provide technical assistance to law enforcement, nonprofit/missing-children organizations, and families to help locate missing children; develop training programs to aid law

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enforcement in the investigation of missing- and exploited-child cases; and heighten the public's awareness concerning the issues of missing and exploited children. Many of the individuals and groups whose efforts led to the creation of this clearinghouse were present in April 1984 when the **National Center for Missing & Exploited Children** (NCMEC) opened.

Occasionally investigations of family-abduction cases are further complicated when the child is removed from the United States. Investigators and searching families found assistance in these situations in 1988 when the United States became a signatory to the **Hague Convention on the Civil Aspects of International Child Abduction**, a treaty governing the return of internationally abducted children, and the accompanying **International Child Abduction Remedies Act** (ICARA, 42 U.S.C. §§ 11601-11610 of 1988) was passed. This Act established procedures for bringing court actions in the United States for the return of abducted children pursuant to this Hague Convention. This Hague Convention has contributed to the successful return of many children when the other nation is also a signatory of the treaty. Through June 2006 this Hague Convention was in force between the United States and 55 other countries.

Also in 1988 Subchapter III of the Juvenile Justice and Delinquency Prevention Act was amended to create the **Transitional Living Program for Homeless Youth** (TLP) in response to the growing concern for those who need long-term, supportive-assistance, emergency-shelter programs were not designed to provide. The TLP was designed to assist homeless children, ages 16 through 21, make a successful transition to self-sufficient living and avoid long-term dependency on social-service programs.

While most of the nation's law-enforcement agencies came to realize all missing children, including those who left home voluntarily, were at-risk of victimization and exploitation, some agencies remained reluctant to take a report of certain missing children, most often runaways. In response the U.S. Congress passed the **National Child Search Assistance Act** (NCSAA, 42 U.S.C. §§ 5779 and 5780 of 1990), which mandated certain actions including

- 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,<sup>7</sup> 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. This Act makes it a 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 **Violent Crime Control and Law Enforcement Act** (VCCLEA, Pub. L. No. 103-322) was enacted in September 1994. The Act contains several provisions addressing the issue of missing and exploited children including the

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<sup>7</sup> The Adam Walsh Child Protection and Safety Act of 2006 (Adam Walsh Act, Pub. L. No. 109-248) mandates entry must now be made by law enforcement within two hours of receipt of a report of a missing or abducted child.

- **Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act**, which requires any person convicted of a criminal offense committed against a minor or who is convicted of a sexually violent felony to register a current address with a designated law-enforcement agency for 10 years after release from prison, placement on parole, supervised release, or probation. The Act also permits law enforcement to disclose registration information to the community in the interest of public safety. **Note:** The Adam Walsh Act, enacted on July 27, 2006, places more comprehensive registration requirements on sex offenders and state registration programs. States must implement these new requirements within three years from the date of enactment. Guidelines on state implementation of the Adam Walsh Act will be published by the U.S. Department of Justice.
- **Child Safety Act**, which provides for the establishment of supervised visitation centers to permit children at-risk of harm from their families to visit them in a safer environment.

In 1997 the **Uniform Child Custody Jurisdiction and Enforcement Act** (UCCJEA, 9(1A) U.L.A. 657) was enacted and has now been adopted by most states. The UCCJEA is intended as an improvement over its predecessor, the UCCJA. It clarifies UCCJA provisions that have received conflicting interpretations in courts across the country, codifies practices that have effectively reduced interstate conflict, conforms jurisdictional standards to those of the federal Parental Kidnapping Prevention Act to help ensure interstate enforceability of orders, and adds protections for victims of domestic violence who move out of state for safe haven. **Note:** Additional information about the UCCJA, UCCJEA, PKPA, Hague Convention on the Civil Aspects of International Child Abduction, and International Child Abduction Remedies Act may be found in the NCMEC publication titled *Family Abduction: Prevention and Response*. The English- and Spanish-language versions of this book may be viewed, downloaded, and ordered online from the “More Publications” section of NCMEC’s web site at [www.missingkids.com](http://www.missingkids.com).

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; and a **Code Adam** program requiring designated authorities for public buildings to establish procedures for locating a child who is missing in the building.

And, most recently, the Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. No. 109-248), provides consistency among state sex-offender registration and community-notification laws, amends the requirements for entering

information about missing children in NCIC, increases penalties for certain federal offenses involving children and gives law-enforcement authorities more resources to investigate and prosecute crimes committed against children on the Internet. Provisions include registration of sex offenders before release from prison, in-person periodic verification of registry information, a federal and state felony penalty for failure to comply with registration duties, tracking of fugitive sex offenders by the U.S. Marshals Service, more comprehensive state sex-offender web sites, mandatory entry of missing-child reports into NCIC within two hours of receipt, removal of a statute of limitations for federal felony child sexual offenses, mandatory minimum sentences for federal crimes committed against children, the creation of additional Internet Crimes Against Children (ICAC) Task Forces, and additional Computer Forensic Analysts dedicated to child sexual exploitation cases.

Law-enforcement officers may take pride in knowing over the years their profession has been instrumental in the creation of significant child-protection measures — measures used across the nation today to more safely recover missing children and protect others from harm. Along with legislators, the courts, and other child-protection advocates, law enforcement will continue to play a key role in addressing future challenges.