

UCCJEA SECTION 315: ROLE OF PROSECUTOR OR OTHER PUBLIC OFFICIAL*

JURISDICTION	UCCJEA	PUBLIC ENFORCEMENT SECTIONS
Alabama	Code 1975, §§ 30-3B-101 to 30-3B-405	No
Alaska	AS 25.30.300 to 25.30.910	No
Arizona	ARIZ. REV. STAT. ANN. §§ 25-1001 to 25-1067	Attorney General (§ 25-1065)
Arkansas	ARK. CODE ANN. §§ 9-19-101 to 9-19-401	Prosecutor or public official (§ 9-19-315)
California	CAL. FAM. CODE §§ 3400 to 3465 (West 2006)	District attorney (§ 3455)
Colorado	West's C.R.S.A. §§ 14-13-101 to 14-13-403	No
Connecticut	C.G.S.A. §§ 46b-115 to 46b-115jj	No
Delaware	13 Del. C. §§ 1901 to 1943	No
District of Columbia	D.C. CODE §§ 16-4601.1 to 16-4604.2 (2001)	Attorney General (§ 16-4603.15)
Florida	FLA. STAT. § § 61.501 to 61.542	State attorney (§ 61.538)
Georgia	GEORGIA CODE ANN §§ 19-9-40 to 19-9-104	District attorney (§ 19-9-95)
Hawaii	HAW. REV. STAT §§ 583A-101 to 583A-317	Attorney General and prosecuting attorneys (§ 583A-315)
Idaho	IDAHO CODE ANN. §§ 32-11-101 to 32-11-405	County prosecuting attorney (§ 32-11-315)
Illinois	ILL. COMP. STAT. 750 ILCS 36/101 to 36/403	State's Attorney or other appropriate public official (§ 36/315)
Indiana	IND. CODE § 31-21 (Note: Act is titled UCCJA)	Prosecuting attorney or other appropriate public official (§ 18(a))
Iowa	I.C.A. §§ 598B.101 to 598B.402	Prosecutor (§ 598B.315)
Kansas	KAN. STAT. ANN. §§ 38-1336 to 38-1377	Prosecutor (§ 38-1372)
Kentucky	KY. REV. STAT §§ 403.800 to 403.880	County Attorney or other appropriate public official (§ 403.870); peace officer (§ 403.872)
Louisiana	LA. REV. STAT. ANN. §§ 13:1801 to 13:1842 (2007)	Prosecutor or other appropriate public official (§ 13: 1837)
Maine	ME. REV. STAT. ANN. tit. 19, §§ 1731 to 1783	Prosecutor (§ 1775)
Maryland	MD. CODE ANN., FAM. LAW §§ 9.5-101 to 318	Attorney General (§ 9.5-315)

Michigan	MICH. COMP. LAWS. §§ 722.1101 to 722.1406	Prosecutor or attorney general (§ 722.1314)
Minnesota	MINN. STAT. §§ 518D.101 to 518D.317	Prosecutor or other appropriate public official (§ 518D.315)
Mississippi	MISS. CODE ANN. 1972, §§ 93-27-101 to 93-27-402	Prosecutor or other appropriate public official (§ 93-27-315)
Missouri	V.A.M.S. §§ 452.700 to 452.930	Prosecutor or public official (§ 452.905)
Montana	MONT. CODE ANN. §§ 40-7- 101 to 40-7-317	Prosecutor (§40-7-315)
Nebraska	NEB. REV. STAT. § 43-1262 (1943) §§ 43-1226 to 43-1266	County attorney or the Attorney General (§43-1262)
Nevada	NEV. REV. STAT. §§ 125A.005 to 125A.605	District attorney or the Attorney General (§125A.565)
New Hampshire	N.H. REV. STAT. §§ 458-A:1 to 458-A:40	Prosecutor or public official (§ 458A:36)
New Jersey	N.J. STAT. ANN. §§ 2A:34-53 to 2A:34-95	Prosecutor or other appropriate official (§ 2A:34-89)
New Mexico	N.M. STAT. §§ 40-10A-101 to 40-10A-403 (1978)	Prosecutor or other appropriate public official (§40-10A-315)
New York	N.Y. DOM. REL. LAW §§ 75 to 78a (McKinney 1978)	Prosecutor or other appropriate public official (§77-n)
North Carolina	N.C. GEN. STAT. §§ 50A-101 to 50A-317	Prosecutor or other appropriate public official (§50A-315)
North Dakota	N.D. CENT. CODE §14-14.1-01 to 14-14.1-37	State's attorney (§14-14.1-35)
Ohio	OHIO REV. CODE ANN. §§ 3127.01 to 3127.53	Prosecutors (§ 3127.45)
Oklahoma	OKLA.STAT. tit. 43, §§ 551-101 to 551-402	District attorney (§43-551-315)
Oregon	OR. REV. STAT. §§ 109.701 to 109.834	District attorney (§109.821)
Pennsylvania	PA. CONS. STAT. ANN. §§ 5401 to 5482	Prosecutor or other appropriate public official (§5455)
Rhode Island	R.I. GEN. LAWS §§ 15 - 14.1- 1 to 15-14.1-42 (1956)	Prosecutor or other public official (§15-14.1-37)
South Carolina	S.C. CODE ANN. §§ 20-7-6000 to 20-7-6092	Prosecutor (§ 20-7-6078)
South Dakota	S.D. Codified Laws §§ 26-5B- 101 to 26-5B-405	Prosecutor or other appropriate public official (§ 26-5B-315)
Tennessee	TENN. CODE ANN. §§ 36-6- 201 to 36-6-243	Prosecutor or other appropriate public official (§36-6-239)
Texas	TEX. FAM. CODE ANN. §§ 152.001 to 152.317	Prosecutor or other appropriate public official (§152.315)
U.S. Virgin Islands	V.I. CODE ANN. tit. 16, §§ 115 - 140	Prosecutor (§140k)
Utah	UTAH CODE ANN. §§ 78-45c-	Prosecutor or Attorney General

	101 to 78-45c-318 (1953)	(§78-45c-315)
Vermont	15 V.S.A. §§ 1061 to 1096	Attorney General or a state attorney (§ 1093 (a), (b))
Virginia	Code 1950, §§ 20-146.1 to 20-146.38	No
Washington	WASH REV. CODE §§ 26.27.011 to 26.27.931	Prosecutor or attorney general (§26.27.541)
West Virginia	W. VA. CODE §§ 48-20-101 to 48-20-404	Prosecutor or other appropriate public official (§48-20-315)
Wisconsin	WIS.STAT. §§ 822.01 to 822.47	Prosecutor (§ 822.45)
Wyoming	Wyo. Stat. Ann. §§ 20-5-201 to 20-5-502	Prosecutor or other appropriate public official (§ 20-5-415)

*This chart was originally prepared by Patricia M. Hoff for a paper and presentation entitled, "The New "U": Understanding and Using the UCCJEA in Family Abduction Cases." The author has updated the chart through September 20, 2011. As of that date, 49 States, the District of Columbia, and the Virgin Islands have enacted the UCCJEA, and 44 have included the public officials' provisions, sections 315 – 317, set forth below. UCCJA is still the law in Massachusetts and Puerto Rico. UCCJEA legislation was introduced in 2011 in Massachusetts and Puerto Rico.

A POSSIBLE ROLE FOR DISTRICT ATTORNEYS AND OTHER PUBLIC OFFICIALS IN HAGUE CONVENTION RETURN CASES

In the states listed in the chart, above, pursuant to the noted sections of the state's Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), prosecutors and/or other designated public officials have discretionary authority to bring Hague proceedings for return of a child. The public official acts on behalf of the court, not the applicant. Consequently, applicants seeking return may find it necessary and/or desirable to retain private counsel even when a public official files a Hague petition for return of a child.

A POSSIBLE ROLE FOR DISTRICT ATTORNEYS AND OTHER PUBLIC OFFICIALS IN HAGUE CONVENTION ACCESS CASES

Designated public officials also have discretionary authority under the UCCJEA to seek enforcement of custody/visitation determinations, which may be useful in access cases arising under the Convention when there is a pre-existing order to enforce but no Convention right of return.

UCCJEA

Section 315. Role of [Prosecutor or Public Official.]

(a) In a case arising under this [Act] or involving the Hague Convention on the Civil Aspects of International Child Abduction, the [prosecutor or other appropriate public official] may take any lawful action, including resort to a proceeding under this [article] or any other available civil proceeding, to locate a child, obtain the return of a child, or enforce a child custody determination if there is:

- (1) an existing child custody determination;
- (2) a request to do so from a court in a pending child custody proceeding;
- (3) a reasonable belief that a criminal statute has been violated; or
- (4) a reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

(b) A [prosecutor or appropriate public official] acting under this section acts on behalf of the court and may not represent any party.

UCCJEA Section 316. Role of [Law Enforcement]

At the request of a [prosecutor or other appropriate public official] acting under Section 315, a [law enforcement officer] may take any lawful action reasonably necessary to locate a child or a party and assist [a prosecutor or appropriate public official] with responsibilities under Section 315.

UCCJEA Section 317. Costs and Expenses

If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the [prosecutor or other appropriate public official] and [law enforcement officers] under Section 315 or 316.

