

**An Act**

To amend title XVIII of the Social Security Act to provide for medicare coverage of Pneumococcal vaccine and its administration.

Dec. 28, 1980  
[H.R. 8406]

SEC. 2. The amendments made by this Act shall take effect on, and apply to services furnished on or after, July 1, 1981.  
94 STAT. 3567

Effective date.  
42 USC 13951  
note.

**SHORT TITLE**

SEC. 6. Sections 6 to 10 of this Act may be cited as the “Parental Kidnapping Prevention Act of 1980”.  
94 STAT. 3568

**FINDINGS AND PURPOSES**

42 USC 1305  
note.

SEC. 7. (a) The Congress finds that —

(1) there is a large and growing number of cases annually involving disputes between persons claiming rights of custody and visitation of children under the laws and in the courts, of different States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

(2) the laws and practices by which the courts of those jurisdictions determine their jurisdiction to decide such disputes, and the effect to be given the decisions of such disputes by the courts of other jurisdictions are often inconsistent and conflicting;

3) those characteristics of the law and practice in such cases, along with the Un3its imposed by a Federal system on the authority of each such jurisdiction to conduct investigations and take other actions outside its own boundaries, contribute to a tendency of parties involved in such disputes to frequently resort to the seizure, restraint, concealment, and interstate transportation of children, the disregard of court orders, excessive relitigation of cases, obtaining of conflicting orders by the courts of various jurisdictions, and interstate travel and communication that is so expensive and time consuming as to disrupt their occupations and commercial activities; and

(4) among the results of those conditions and activities are the failure of the courts of jurisdictions to give full faith and credit to the judicial proceedings of the other jurisdictions, the deprivation of rights of liberty and property without due process of law, burdens on commerce among such jurisdictions and with foreign nations, and harm to the welfare of children and their parents and other custodians.

(b) For those reasons it is necessary to establish a national system for locating parents and children who travel from one such jurisdiction to another and are concealed in connection with such disputes, and to establish national standards under which the courts of such jurisdictions will determine their jurisdiction to decide such disputes and the effect to be given by each jurisdiction to such decisions by the courts of other such jurisdictions. National system of locating parents, establishment.

(c) The general purposes of sections 6 to 10 of this Act are to

(1) promote cooperation between State courts to the end that a determination of custody and visitation is rendered in the State which can best decide the case in the interest of the child;

(2) promote and expand the exchange of information and other forms of mutual assistance between States which are concerned with the same child;

(3) facilitate the enforcement of custody and visitation decrees of sister States;

(4) discourage continuing interstate controversies over child custody in the interest of greater stability of home environment and of secure family relationships for the child;

(5) avoid jurisdictional competition and conflict between State courts in matters of child custody and visitation which have in the past resulted in the shifting of children from State to State with harmful effects on their well-being; and

(6) deter interstate abductions and other unilateral removals of children undertaken to obtain custody and visitation awards.

### **FULL FAITH AND CREDIT GIVEN TO CHILD CUSTODY DETERMINATIONS**

SEC. 8. (a) Chapter II 5 of title 28, United States Code, is amended by adding immediately after section 1738 the following new section:

28 USC 1731 et seq.

#### **“\_1738A. Full faith and credit given to child custody determinations**

28 USC 1738A.

“(a) The appropriate authorities of every State shall enforce according to its terms, and shall not except as provided in subsection (f) of this section, any child custody determination made consistently with the provisions of this section by a court of another State.

“(b) As used in this section, the term—

Definitions.

“(1) ‘child’ means a person under the age of eighteen;

“(2) ‘contestant’ means a person, including a parent, who claims a right of custody or visitation of a child;

“(3) ‘custody determination’ means a judgment, decree, or other order of a court providing for the custody or visitation of a child, and includes permanent award temporary orders and initial orders and modifications;

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“(4) ‘home State’ means the State in which, immediately preceding the time involved the child lived with his parents, a parent, or a person acting as parent, for at least six consecutive months and in the case of a child less than six months old, the State in which the child lived from birth with any of such persons. Periods of temporary absence of any of such persons are counted as part of the six-month or other period;

“(5) ‘modification’ and ‘modify’ refer to a custody determination which modifies, replaces, super-

sedes, or otherwise is made subsequent to, a prior custody determination concerning the same child, whether made by the same court or not;

“(6) ‘person acting as a parent’ means a person, other than a parent, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody;

“(7) ‘physical custody’ means actual possession and control of a child; and

“(8) ‘State’ means a State of the United State’s, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

“(c) A child custody determination made by a court of a State is consistent with the provisions of this section only if -

“(1) such court has jurisdiction under the law of such State; and

“(2) one of the following conditions is met:

“(A) such State (i) is the home State of the child on the date of the commencement of the proceeding, or (ii) had been the child’s home State within six months before the date of the commencement of the proceeding and the child is absent from such State because of his removal or retention by a contestant or for other reasons, and a contestant continues to live in such State;

“(B)(i) it appears that no other State would have jurisdiction under subparagraph (A), and (ii) it is in the best interest of the child that a court of such State assume jurisdiction because (1) the child and his parents, or the child and at least one contestant, have a significant connection with such State other than mere physical presence in such State, and (H) there is available in such State substantial evidence concerning the child’s present or future care, protection, and personal relationships;

“(C) the child is physically present in such State and (1) the child has been abandoned, or (ii) it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse-

“(D)(1) it appears that no other State would have jurisdiction under subparagraph (A), (B), (C), or (E), or another State has declined to exercise jurisdiction on the ground that the State whose jurisdiction is in issue is the more appropriate forum to determine the custody of the child, and (ii) it is in the best interest of the child that such court assume jurisdiction; or

“(E) the court has continuing jurisdiction pursuant to subsection (d) of this section.

“(d) The jurisdiction of a court of a State which has made a child custody determination consistently with the provisions of this section continues as long as the requirement of subsection (c)(1) of this section continues to be met and such State remains the residence of the child or of any contestant.

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“(e) Before a child custody determination is made, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated and any person who has physical custody of a child.

“(f) A court of a State may modify a determination of the custody of the same child made by a court of another State, if—

“(1) it has jurisdiction to make such a child custody determination; and

“(2) the court of the other State no longer has jurisdiction to modify such determination.

“(g) A court of a State shall not exercise jurisdiction in any proceeding for a custody determination commenced during the pendency of a proceeding in a court of another State where such court of that other State is exercising jurisdiction consistently with the provisions of this section to make a custody determination.”.

(b) The table of sections at the beginning of chapter II 5 of title 28, United States Code, is amended by inserting after the item relating to section 1738 the following new item:

28 USC 1738A note. Ante, p. 3569.

“1738A. Full faith and credit given to child custody determinations.”

(c) In furtherance of the purposes of section 1738A of title 28, United States Code, as added by subsection (a) of this section, State courts are encouraged to

(1) afford priority to proceedings for custody determinations; and

(2) award to the person entitled to custody or visitation pursuant to a custody determination which is consistent with the provisions of such section 1738A, necessary travel expenses, fees, costs of private investigations, witness fees or expenses, and other expenses incurred in connection with such custody determination in any case in which—  
Ante, p. 3569.

(A) a contestant has, without the consent of the person entitled to custody or visitation pursuant to a custody determination which is consistent with the provisions of such section 1738A, (i) wrongfully removed the child from the physical custody of such person, or (ii) wrongfully retained the child after a visit or other temporary relinquishment of physical custody; or

(B) the court determines it is appropriate.

## **USE OF FEDERAL PARENT LOCATOR SERVICE IN CONNECTION WITH THE ENFORCEMENT OR DETERMINATION OF CHILD CUSTODY AND IN CASES OF PARENTAL KIDNAPING OF A CHILD**

SEC. 9. (a) Section 454 of the Social Security Act is amended—  
42 USC 654.

(1) by striking out “and” at the end of Paragraph (I 5);

(2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof”; and”;  
and

(3) by inserting after paragraph (16) the following new paragraph:

“(17) In the case of a State which has in effect an agreement with the Secretary entered into pursuant to section 463 for the use of the Parent Locator Service established under section 453, to accept and transmit to the Secretary requests for information authorized under the provisions of the agreement to be furnished by such Service to authorize persons, and to impose and collect (in accordance with regulations of the Secretary) a fee sufficient to cover the costs to the State and to the Secretary incurred by reason of such requests, to transmit to the Secretary from time to time (in accordance with such regulations) so much of the fees collected as are attributable to such costs to the Secretary so incurred, and during the period that such agreement is in effect, otherwise to comply with such agreement and regulations of the Secretary with respect thereto.”.

94 STAT. 3572

(b) Part D of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

92 USC 651.

## **“USE OF FEDERAL PARENT LOCATOR SERVICE IN CONNECTION WITH THE ENFORCEMENT OR DETERMINATION OF CHILD CUSTODY AND IN CASES OF PARENTAL KIDNAPING OF A CHILD**

“SEC. 463. (a) The Secretary shall enter into an agreement with any State which is able and willing to do so, under which the services of the Parent Locator Service established under section 453 shall be made available to such State for the purpose of determining the whereabouts of any absent parent or child when such information is to be used to locate such parent or child for the purpose of—

42 USC 663.

“(1) enforcing any State or Federal law with respect to the unlawful taking or restraint of a child; or

“(2) making or enforcing a child custody determination.

“(b) An agreement entered into under this section shall provide that the State agency described in section 454 will, under procedures prescribed by the Secretary in regulations, receive and transmit to the Secretary requests from authorized persons for information as to (or useful in determining) the whereabouts of any absent

parent or child when such information is to be used to locate such parent or child for the purpose of 42 USC 654.

- “(1) enforcing any State or Federal law with respect to the unlawful taking or restraint of a child; or
- “(2) making or enforcing a child custody determination.

“(c) Information authorized to be provided by the Secretary under this section shall be subject to the same conditions with respect to disclosure as information authorized to be provided under section 453, and a request for information by the Secretary under this section shall be considered to be a request for information under section 453 which is authorized to be provided under such section. Only information as to the most recent address and place of employment of any absent parent or child shall be provided under this section.  
42 USC 653.

“(d) For purposes of this section-  
Definitions.

“(1) the term ‘custody determination’ means a judgment, decree, or other order of a court providing for the custody or visitation of a child, and includes permanent and temporary orders, and initial orders and modification;

“(2) the term ‘authorized person’ means

“(A) any agent or attorney of State having an agreement under this section, who has the duty or authority under the law of such State to enforce a child custody determination;

“(B) any court having jurisdiction to make or enforce such a child custody determination, or any agent of such court; and

“(C) any agent or attorney of the United States, or of a State having an agreement under this section, who has the duty or authority to investigate, enforce, or bring a prosecution with respect to the unlawful taking or restraint of a child.”.

94 STAT. 3573

(c) Section 455(a) of such Act is amended by adding after paragraph (3) the following: “except that no amount shall be paid to any State on account of amounts expended to carry out an agreement which it has entered into pursuant to section 463.”.

42 USC 655.

*Ante*, p. 3572.

Effective date.

42 USC 663

*Ante*, p. 3569.

note.

(d) No agreement entered into under section 463 of the Social Security Act shall become effective before the date on which section 1738A of title 28, United States Code (as added by this title) becomes effective.

## **PARENTAL KIDNAPPING**

SEC. 10. (a) In view of the findings of the Congress and the purposes of sections 6 to 10 of this Act set forth in section 302, the Congress hereby expressly declares its intent that section 1073 of title 18, United States Code, apply to cases involving parental kidnapping and interstate or international flight to avoid prosecution under applicable State felony statutes.

(b) The Attorney General of the United States, not later than 120 days after the date of enactment of this section (and once every 6 months during the 3-year period following such 120-day period), shall submit a report to Congress with respect to steps taken to comply with the intent of the Congress set forth in subsection (a). Each such report shall include-

- (1) data relating to the number of applications for complaints under section 1073 of title 18,

United States Code, in cases involving parental kidnapping;

(2) data relating to the number of complaints issued in such cases; and

(3) such other information as may assist in describing the activities of the Department of Justice in conformance with such intent.

Approved December 28, 1980.

**LEGISLATIVE HISTORY:**

**CONGRESSIONAL RECORD**, Vol. 126 (1980):

Dec. 5, considered and passed House.

Dec. 13, considered and passed Senate, amended, House agreed to Senate amendments.