**H. HAGUE CONVENTION**

Hague Convention Protocol

PROCEDURAL PROTOCOL FOR THE HANDLING OF RETURN APPLICATIONS UNDER THE 1980 HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

Supreme Court of Prince Edward Island

1. Preamble
   1. The *1980 Hague Convention on the Civil Aspects of International Child Abduction (“the 1980 Hague Convention”*) has the force of law in Prince Edward Island pursuant to s-s. 70(2), Part 7 of the *Children’s Law Act*, RSPEI, c. C-6-1.
   2. Article 1 of the *1980 Hague Convention* provides the following objectives:
      1. to secure the prompt return of children wrongfully removed to or retained in any contracting state; and

* + 1. to ensure that rights of custody and of access under the law of one contracting state are effectively respected in the other contracting states.
  1. Article 11 of the *1980 Hague Convention* provides in part as follows:

*The judicial or administrative authorities of contracting states shall act expeditiously in proceedings for the return of children.*

* 1. The Minister of Justice and Public Safety and Attorney General fulfills the responsibilities of Central Authority of Prince Edward Island (“the Central Authority”) pursuant to the *1980 Hague Convention* for Prince Edward Island.
  2. To ensure that an application for return pursuant to the *1980 Hague Convention* (“Return Application”) is dealt with expeditiously, a procedural protocol, below, has been developed by the Supreme Court of Prince Edward Island (“the Court”).

1. Procedural Protocol
   1. The Chief Justice of the Court shall appoint a Contact Judge for any proceedings which take place pursuant to the *1980 Hague Convention*.
   2. The Central Authority shall advise the Contact Judge when it becomes aware of an intent to initiate proceedings in Prince Edward Island for the return of a child.
   3. Article 29 of the *1980 Hague Convention* allows persons to bring Return Applications directly rather than through the Central Authority; however the Central Authority is to be notified of all applications.
   4. Article 16 of the *1980 Hague Convention* provides that where a court has notice of the alleged wrongful removal or retention of a child, the court shall not deal with the merits of rights of custody until a Return Application has been determined.
   5. Alternatively, notice as contemplated under Article 16 of the *1980 Hague Convention* may also be provided by the Central Authority by filing a Requisition notifying the court of the case. The filing of a Requisition giving notice under Article 16 shall be sufficient to open a court file when no file exists.
   6. The Return Application will be commenced in the court as a Notice of Application (Form 14E) and the existing *Rules of Civil Procedure* with respect to notice, service and procedure will apply.
      1. When the Return Application is filed, the court, the Contact Judge or a designate, as the case may be, will undertake the following:
         1. establish appropriate timelines for the filing and service of further materials; and
         2. set the Application down for a hearing.
      2. Any party, including a left-behind parent, may appear by way of telephone conference or video conference including Zoom, Microsoft Teams, Skype, or a similar platform, where appropriate and where facilities are available.
   7. An Article 16 Notice filed by the Central Authority or a Notice of Application filed by a left-behind parent shall act as a stay of any proceedings regarding the child in the Supreme Court of Prince Edward Island (Family Section).
   8. At such time as an Article 16 Notice or a Notice of Application is filed, the Registrar shall:
      1. Perform a search for any existing custody, access/contact, or other file involving the child named;
      2. If a file referred to in paragraph 13a. exists, assign the same file number to the Article 16 Notice or Notice of Application and notify the Central Authority of the existing file;
      3. If a file referred to in paragraph 13a. does not exist, assign a file number to the Article 16 Notice or Originating Application;
      4. Provide a copy of the Article 16 Notice or Originating Application to the Contact Judge;
      5. In the case of a Notice of Application, provide a filed copy to the Central Authority.

No case management will be required for a Return Application pursuant to the *1980 Hague Convention*.