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Pass the Sean and David Goldman International Child Abduction Prevention and Return Act

*House Committee on Foreign Affairs
Mark-up Session of H.R. 3212
Excerpts of Remarks by Rep. Chris Smith
October 10, 2013*

Good morning. Thank you, Mr. Chairman, Ranking Member Engel, members of the House Foreign Affairs Committee, and a welcome to our guests and members of the Press. A particularly warm welcome to the parents of children who have been abducted who are in the room.

We are here this morning to mark up H.R. 3212, the Sean and David Goldman International Child Abduction Prevention and Return Act of 2013. As our members are aware, this bill enjoys strong bipartisan support—almost every Member of the House of Representatives has constituents affected by the tragedy of international parental child abduction.

Child abduction occurs when one parent takes a child from his or her home in the United States to another country or wrongfully retains a child abroad in violation of the other parent's custody rights—often with the intent of depriving the other parent of access to the child.

The damage to the child and the left-behind parents is incalculable, and too often lifelong. The children are at risk of serious emotional and psychological problems and may experience anxiety, eating problems, nightmares, mood swings, sleep disturbances, aggressive behavior, resentment, guilt, and fearfulness.

Parental child abduction is child abuse. These victims are American citizens who need the help of their government when normal legal processes are unavailable or fail.

It was David Goldman's unrelenting five-year effort to bring his son, Sean, home from Brazil that helped highlight the epidemic of international parental child abduction. David – like, other equally heroic parents – was absolutely tenacious, but suffered setbacks and a numbing pain

along the way. According to the U.S. Department of State, between the years 2008 and 2012, bereaved, left-behind parents like David Goldman reported over 4,800 abduction cases involving more than 7,000 children.

I had the privilege of joining David Goldman in his fight to return Sean and experienced firsthand the maddening obstacles encountered by left-behind parents, even in countries that have signed the Hague Convention on the Civil Aspects of International Child Abduction. Foreign courts, endless appeals to run out the clock, exploitation of the safeguards in the convention, and prejudice against foreigners all block the way to bringing American children home.

Too many families have been waiting too long for the return of their children. I see in the audience today Captain Paul Toland, who has not been able to see his daughter Erika since 2004, despite the fact that he is her only living parent. So many other left behind parents are here today, many of whom, like Captain Toland, long to be reunited with their children.

As a practical matter, it is members of our military serving overseas, who along with their children too often are victimized by international child abduction.

I also see in the audience Mr. Hermer, whose daughter is being held in the United Kingdom, Mr. Braden, Mr. Elias, Mr. Burns, and Mr. Feimster.

Michael Elias is a combat-injured Iraq veteran, testified at one of my four hearings on abductions, saying “As a father who no longer has his children to hold in his arms I cannot deal with the sorrow so I try my best to stay strong and keep fighting for their return. All my hopes and dreams for their future now lie in the hands of others.” He continued, “I am begging our Government to help not only my family, but hundreds of other heartbroken families as well, to demand the return of our American children...”

Today is our chance to help. H.R. 3212 backs with penalties our demands for adherence to international obligations and makes clear to friends and foes alike that our children are our top priority.

As stated in the legislation, it has several purposes. First, we want to protect children whose habitual residence is the U.S. from the harmful effects of abduction and to assist left-behind parents to have access to their abducted children in a safe and predictable manner while an abduction case is pending.

We want to provide left-behind parents, their advocates, and judges the information they need to enhance the resolution of abduction cases through established legal procedures.

An additional purpose of the bill would be to establish measured, effective, and predictable actions to be undertaken by the President on behalf of abducted American children and to promote an international consensus that it is in the interest of children to have any issues related to their care and custody determined in the country of their habitual residence.

And, finally, the bill would encourage the effective implementation of international mechanisms, particularly those established pursuant to the Hague Abduction Convention, to achieve reciprocity in the resolution of abductions and to protect children from the harmful effects of abduction.

The Goldman Act gives the President important tools to motivate other countries to quickly respond to applicants seeking recourse for abducted children – *i.e.*, the child's return. For even one case that has been languishing for over 180 days in a foreign country's judicial system, the President may choose to at least issue a private demarche or take more serious actions commensurate with the gravity of the case.

These actions include:

1. A private demarche.
2. An official public demarche.
3. A public condemnation.
4. A public condemnation within one or more multilateral fora.
5. The delay or cancellation of one or more scientific exchanges.
6. The delay or cancellation of one or more cultural exchanges.
7. The denial of one or more working, official, or state visits.
8. The delay or cancellation of one or more working, official, or state visits.
9. A formal request for extradition of the abducting parent.
10. The withdrawal, limitation or suspension of United States development assistance in accordance with section 116 of the Foreign Assistance Act.
11. The withdrawal, limitation or suspension of United States security assistance in accordance with section 502B of the Foreign Assistance Act.
12. Ordering the heads of the appropriate U.S. agencies not to issue any (or a specified number of) specific licenses, and not to grant any other specific authority (or a specified number of authorities), to export any goods or technology to the government or to the agency or instrumentality of the government determined by the President to be responsible for the unresolved case or pattern of noncooperation, under:
 - a. The Export Administration Act of 1979;
 - b. The Arms Export Control Act;
 - c. The Atomic Energy Act of 1954; or
 - d. Any other statute that requires the prior review and approval of the U.S. Government as a condition for the export or re-export of goods or services.

We also address situations where there is a pattern of flagrant non-cooperation. If a country has 10 or more cases of children abducted from the U.S. and those cases are not being resolved in a timely manner or the entity responsible for working with the United States – the Central Authority, or the judiciary, or law enforcement – is persistently failing to fulfill their obligations, the President can take actions that range from denial of certain assistance to prohibiting the procurement of certain goods or services from the government or the instrumentality response to such a pattern of noncooperation.

The President is also provided with certain waiver authorities that take into account the important national interests of the United States.

My bill would also encourage the Secretary of State to enter into Memoranda of Understanding with non-Hague Convention countries for the quick and orderly return of American children who have been abducted to countries that are not signatories to the Convention, including the children of U.S. servicemen and women who are kidnapped from parents serving overseas.

I would like to point out that we have consulted with the State Department on the version of the bill which you have before you, which is more streamlined than a previously introduced version. We have listened to the concerns expressed by the State Department, considered their comments and in some places accepted suggestions that they have made, while at the same time retaining the proper focus on the resolution of cases for abducted children and left-behind parents.

I also would like to highlight the bipartisan nature of this bill, and acknowledge how Congressman Grayson, who will be offering an amendment, graciously reached out to my staff in a spirit of constructive cooperation.

In sum, at a time of contention and division, the Goldman Act is a shining example of Congress putting aside party differences and working together to do the right thing for our constituents, for members of the Armed Services and for parents across the United States and their abducted children across the globe who seek reunion and healing. I am proud to sponsor this legislation along with so many concerned members from both parties.