

International Abductions of Children

In the Context of Family Violence

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Presenter:

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We acknowledge that the land from which we are presenting this webinar is the traditional territory of the Mississaugas of Scugog First Nation.

Luke's Place

- Durham Region: services for women who have left abuse & are engaged with family law
- Provincial & national level: research, resources, training & systemic advocacy

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Disclaimer

This webinar is not to be interpreted
as legal advice.

Only a lawyer can provide legal advice.

We recognize

- Men can be victims
- Abuse happens in same-sex relationships
- Trans or non-binary folks may face abuse in relationships

Abuse rooted in misogyny & traditional male power

Women are subjected to most serious forms of coercive controlling & physical violence

We use gendered nouns & pronouns when talking about violence within families

International abduction of children

Steps to prevent abduction

Preparing children for the possibility

When children are removed from Canada

International abduction

- Removal of child from their habitual residence to another country
- Not legally authorized/permitted
- Whether or not there is a custody order

Habitual residence

- Jurisdiction where child lived (city or province)
- Determining where this is can be complex

Custody

- Parent with whom child primarily resides & who has principal decision-making responsibility

Access

- Parent with legal authority to spend time with child

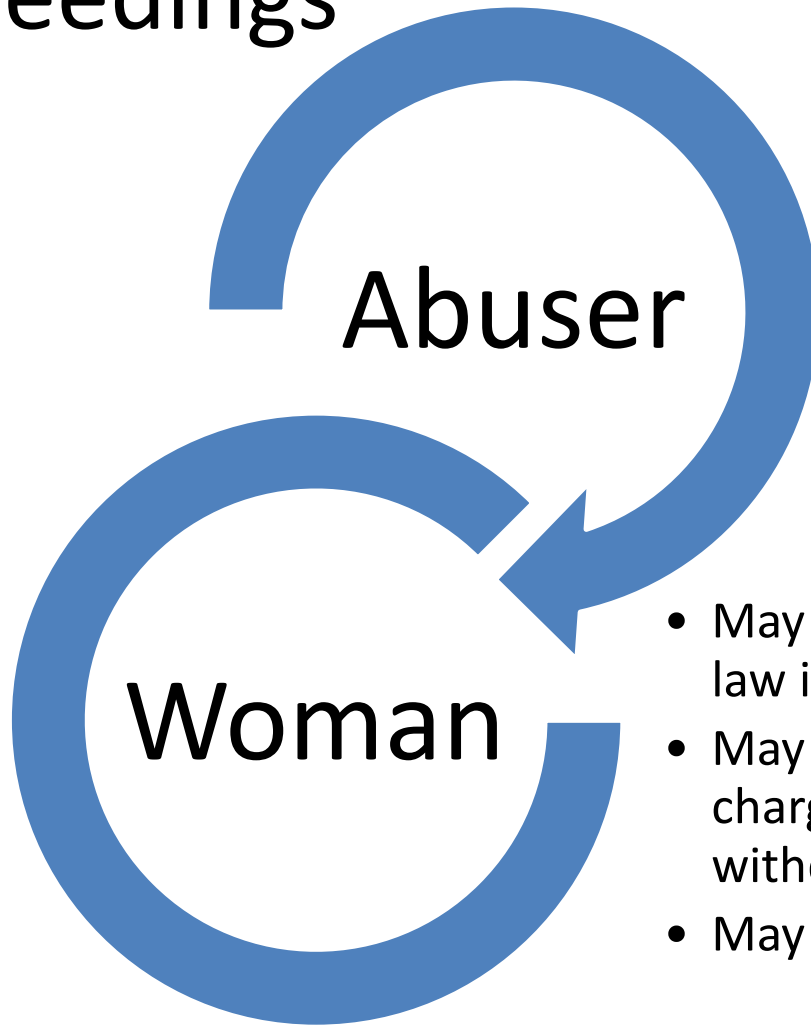
Rights of custody

- Rights a parent may have to custody of a child
- A formal custody or parenting order is not required

Actual exercise of custodial rights

- In order to do so parent must have some involvement with the child

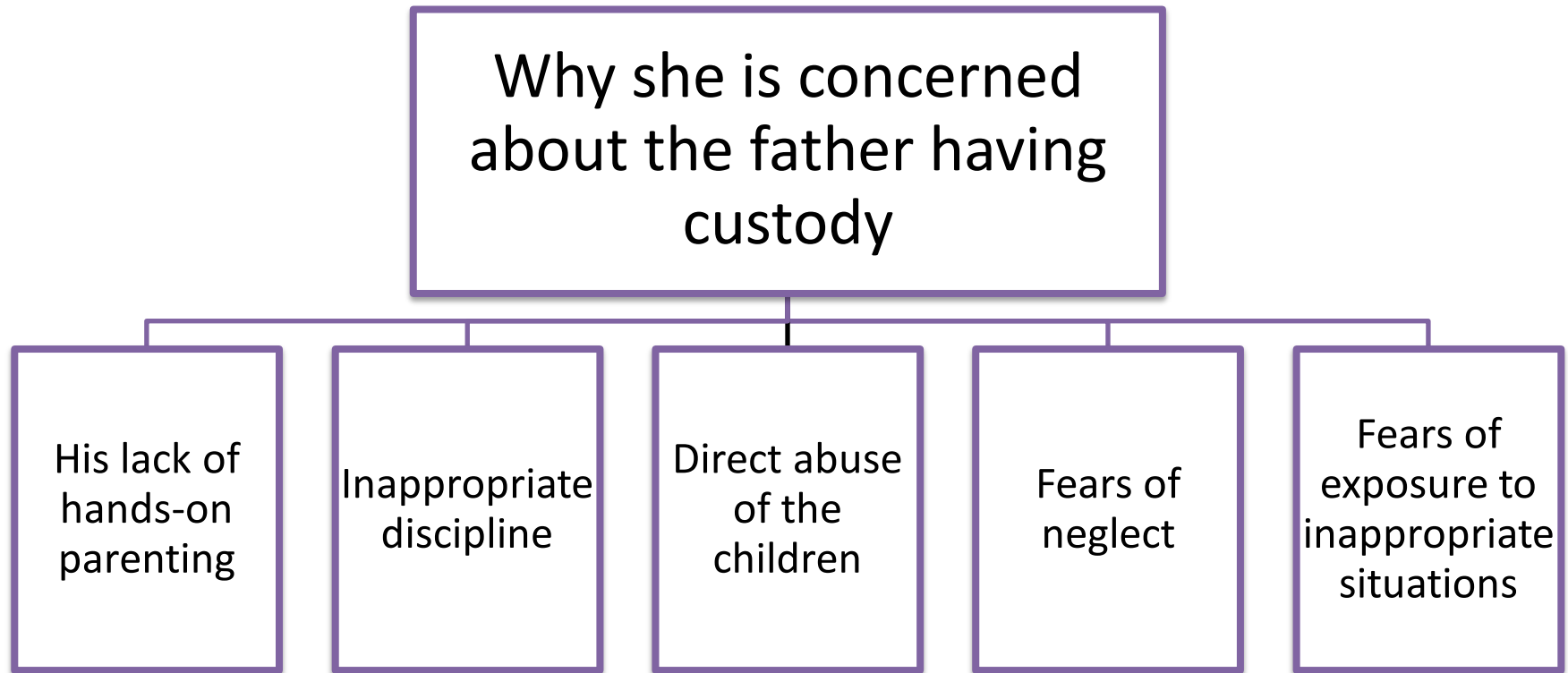
Abusive use of custody & access proceedings



- May have no history of primary parenting
- May act not in child's best interest
- Fights for custody to gain advantage

- May concede on other family law issues (e.g. financial)
- May seek to have criminal charges against him withdrawn
- May return to relationship

Protecting the children: often a motivating factor for leaving abuse



International abduction warning signs

Abuser has some of the following...

Financial means

Mobile work

Citizenship in
another country

Family or other
connections
outside Canada

Threats to harm
child or himself

Lack of ties to
Canada

Left job, closed
bank accounts, put
property up for
sale

Planned out-of-
country vacation
with children

Prevention strategies

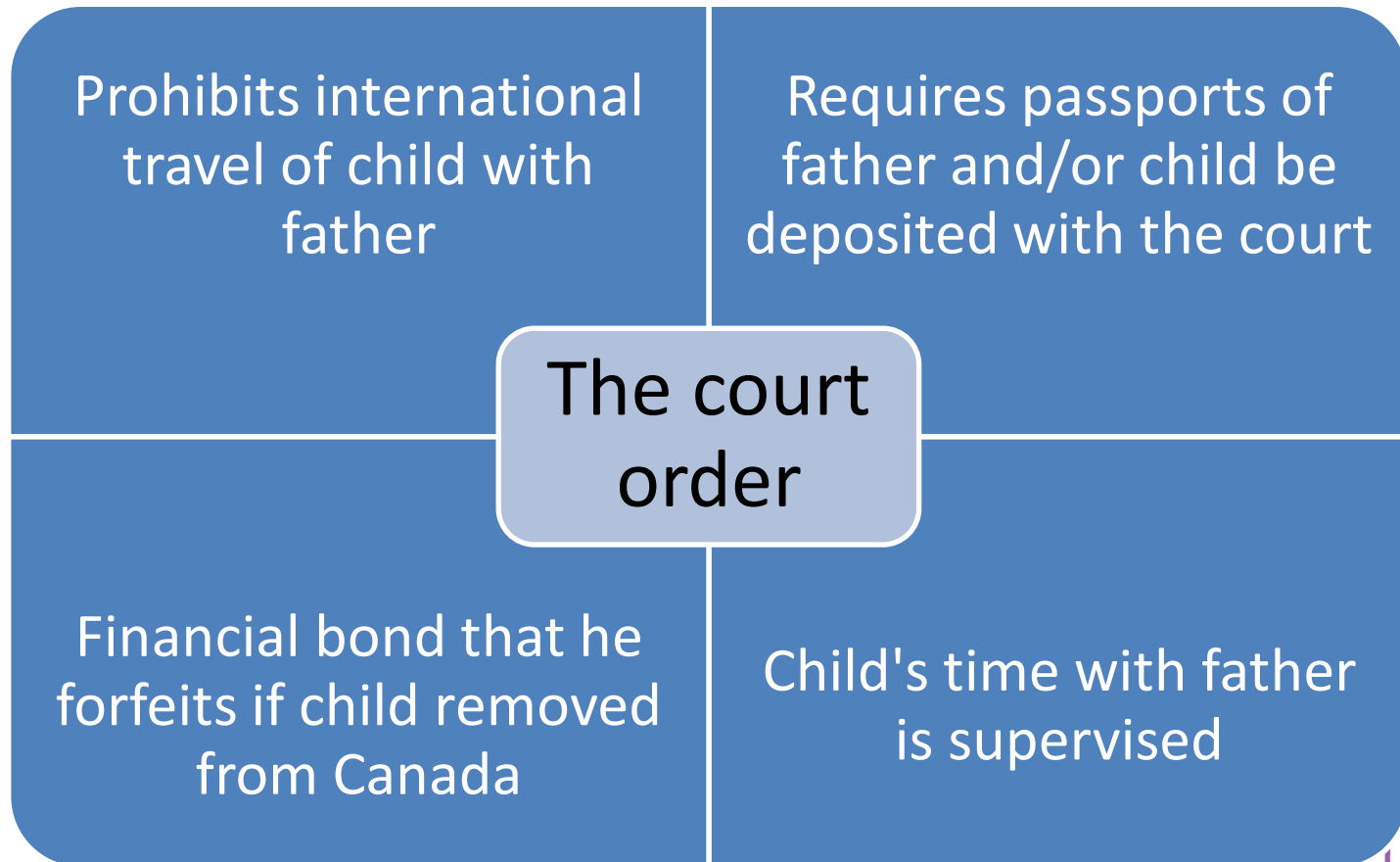
Provide evidence in custody & access case

example

“My husband’s family still lives in XX where they own considerable property. He continues to have business dealings there as well as bank accounts. The children are dual citizens of Canada and XX and have passports for both countries, which my husband has.

While we were together, he often told me that if I left him, he would take the children and move back to his home country. When I left him once before, my 12-year-old told me she saw plane tickets to XX on his desk and she said she heard him talking to a real estate agent about selling his house. I was so afraid he might take the kids that I decided to stay with him.”

Evidence supports her claim for primary care



Certified copies of the order

Carry one with her at all times

Keep one in a secure location where she is living

Give one to anyone spending time with children (school, daycare, grandparents, etc.)

Prepare information about children & former partner

Full names, nicknames

Dates, places of birth

Passport, social insurance, health card numbers

List of all physical characteristics

Medical information

Recent photo

Additional information about former partner

Names, addresses, contact information for family/friends in & outside Canada

Date of marriage/common-law relationship/divorce

All court orders

Keep information in
secure location that can
be accessed quickly

Review file yearly to
update

For more detailed information, visit “Checklists”
on federal government website on International
Child Abduction

[https://travel.gc.ca/travelling/publications/
international-child-abductions#checklists](https://travel.gc.ca/travelling/publications/international-child-abductions#checklists)

Preparing the children

Safety planning

Overheard conversations
between their father &
friends/family in another
country

Travel documents

What children should
watch for

Their father talking about
leaving his job

Their father's house going up
for sale

Other strategies

Cell phone so they can contact her in an emergency

Code word for when the abuser can hear them

What they can do at the airport or border

- Find a way to discuss these things so child isn't always fearful when with father
- Remember: child may tell father some of this

After an Abduction

Move quickly

Contact police where child is habitually resident



Take documentation to police



Tell police

Where they may be going

How they are travelling

Border crossing



Ask police to enter information into both Canadian (CPIC) & US (NCIC) computer systems

Let others know about the abduction

Family

Friends

Child's
school/daycare

Child may have shared
concerns/information with them

If they have Canadian passports,
call Passport Canada

Passport Canada: 1-800-567-6868

Notify Canada's Consular Services

Within Canada: 1-800-387-3124

Outside Canada: 1-613-996-8885

(collect calls where available)

- Operates 24 hours/day, 7 days/week
- Case Management Officer will be assigned
- Can work with other government depts., e.g. Canada Border Services Agency

Speak to a lawyer
as soon as possible

Authorities can still assist,
even if there is no custody/parenting order

The Hague Convention

What the Hague Convention is

Also known as
*Convention on
the Civil Aspects
of International
Child Abduction*

International treaty

- Assists in returning children who have been wrongly removed from their habitual residence

Canada is one of 84 countries that signed

- Only applies to those countries
- Current list:
www.hcch.net/en/states/hcch-members

If the country is not part of the Hague convention

- Mother will have to rely on the family laws & processes of the country where child is

There is no Hague Convention between Canadian provinces/territories

- Mother will have to use federal & provincial family laws

Hague
Convention
does not make
determinations
about

- Child's best interest
- Appropriate parenting arrangements

However, when child is returned, be sure to
include the abduction as evidence
in the family law case

For the Convention to apply

Both jurisdictions must have signed on

Child must be 16 years old or younger

Child must be habitually resident in the jurisdiction from which they were taken

Left-behind parent must have rights of custody that they were exercising when the child was taken / not returned

Exceptions

If the parent consented to or acquiesced to the removal or retention of the child

If there is a grave risk that returning the child would expose them to harm / place them in intolerable situation

If parent agreed

May not be able to
have child returned

Parent removing child
must prove other
parent consented

Balance of
probabilities

If the child will be at risk of harm

Might include exposure to family violence

Would need evidence of long-term, escalating abuse & child's exposure

Legal representation a must

- Challenging cases
- Very specific rules

Application

- Brought in country where child now is
- Must be started within one year of wrongful removal

Decisions are made based on written evidence

If
application
successful

May be
difficult to
get it
enforced

Summary

- International abduction: removal of child from their habitual residence to another country
 - Warning signs
- Steps to prevent abduction
 - Provide evidence in custody & access case; keep copies of order; prepare information about child & former partner
- Safety plan with child for the possibility
- When child is removed
 - Alert authorities: police, Passport Canada, Consular Services, lawyer
 - Hague Convention if applicable

Thank you!

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