

Section 5. ⁽³²⁰⁾ Proceedings concerning the taking away of a person subject to parental authority or care

Art. 598¹. § 1. In proceedings concerning the taking away of a person subject to parental authority or care, the prosecutor shall be served with a copy of the request and notified of the dates of the court hearing.

§ 2. In proceedings referred to in § 1, Article 472 shall be applied accordingly.

§ 3. In proceedings referred to in § 1, Article 570 shall not be applied.

Art. 598². § 1. During the proceedings concerning the taking away of a person subject to parental authority or care, conducted under the Convention on the Civil Aspects of International Child Abduction (Journal of Laws of 1995, No 108, item 528 and of 1999, No 93, item 1085), the issue of parental authority or care of that person may not be examined. The court shall ex officio suspend the proceeding concerning that issue at the moment the proceeding concerning the taking away of a person subject to parental authority or care is instituted.

§ 2. After the proceeding concerning the taking away of a person subject to parental authority or care has been concluded, the court shall resume the suspended proceeding.

§ 3. In the case other than that described in § 1, if for the purpose of taking the decision on the request for taking away a person subject to parental authority or care, it is necessary to examine the request and the case concerning the parental authority jointly, the proceeding shall be conducted with regard to Article 579.

Art. 598³. In the event that the whereabouts of the person subject to parental authority or care is not known, the court shall conduct a relevant proceeding to establish it. The court may in particular request the Police to establish the whereabouts of that person.

Art. 598⁴. The judgement concerning the essence of the matter may be only issued after the hearing has been conducted.

Art. 598⁵. In the proceeding concerning the taking away of a person subject to parental authority or care, the court shall determine the date for the person obliged to give back the person subject to parental authority or care to the eligible person.

Art. 598⁶. If the person obliged to give back the person subject to parental authority or care fails to comply with the decision referred to in Article 598⁵, the court, upon the motion from the eligible person, shall order the court probation and supervision officer to take that person away under compulsion.

Art. 598⁷. The court, if needed, shall request the person subject to parental authority or care to be taken away under compulsion by the probation and supervision officer acting in the court, in the area of which that person actually resides.

Art. 598⁸. The court probation and supervision officer has a power to take away a person subject to parental authority or care from anybody with whom that person is staying.

Art. 598⁹. Compulsory taking away of a person subject to parental authority or care and giving him/her back to the eligible person may only be effected in the presence of the eligible person or a representative of the institution authorised by him/her. If none of these

persons appears on the date determined by the court probation and supervision officer, the action shall not be effected.

Art. 598¹⁰. Upon the request from the court probation and supervision officer, the police are obliged to provide him with the assistance in performing actions concerning taking away under compulsion a person subject to parental authority or care.

Art. 598¹¹. § 1. Should compulsory taking away of a person subject to parental authority or care meet obstacles consisting in the concealment of that person or in another act undertaken for the purpose of frustrating the enforcement of the judgement, the court probation and supervision officer shall notify that fact to the prosecutor.

§ 2. If the person obliged does not reveal the whereabouts of the person subject to parental authority or care that is to be taken away, the court, upon the motion from the court probation and supervision officer, shall order bringing him/her under compulsion with a view to make a statement regarding that person's whereabouts. As for the criminal effects, that statement is equivalent to the sworn testimony, of which the person making a statement should be warned by the judge.

§ 3. If the person obliged or other persons obstruct the enforcement of the judgement in the place where the person subject to parental authority or care is staying, the police, on the demand of the court probation and supervision officer, shall remove these persons from the place of enforcement of the judgement.

Art. 598¹². § 1. While taking away a person subject to parental authority or care, the court probation and supervision officer should act with extreme caution and do his/her best not to infringe the good of that person, in particular not to cause a bodily or psychological harm to him/her. If needed, the court probation and supervision officer may request the assistance from the social care agency or other institution serving that purpose.

§ 2. If, in consequence of the enforcement of the judgement, the good of the person subject to parental authority or care would be seriously infringed, the court probation and supervision officer shall refrain from the enforcement of the judgement until the threat ceases to exist, unless the non-enforcement of the judgement would create even more serious a threat to that person.

Art. 598¹³. The provisions of Articles 598⁶ – 598¹² shall accordingly apply to the enforcement of judgements issued pursuant to Article 569 § 2, concerning the taking away of a person subject to parental authority or care, as well as to judgements concerning the placement of a minor in the children's care institution or with the foster family.