

THE COMMONWEALTH OF THE BAHAMAS

International Instrument	Signature	Ratification, Acceptance (A), Approval (AA), Accession (a), Succession (d)	Entry Into Force
UN Convention on the Rights of the Child	30 Oct 1990	20 Feb 1991 ¹	
UN Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography		28 Sep 2015 a	
Protocol to Prevent, Suppress and Punish Trafficking in Persons	9 Apr 2001	26 Sep 2008 ²	
UN Optional Protocol on the Involvement of Children in Armed Conflict		28 Sep 2015 a ³	
UN Convention for the Protection of All Persons from Enforced Disappearance			
Hague Convention on International Child Abduction		1 Oct 1993 a (non-member) ⁴	1 Jan 1994

In the Bahamas, there are six laws that refer directly or indirectly to missing children:

1. Maintenance of Emigrants' Children Act of 1923;
2. Penal Code of 1927 (2010 version);
3. International Child Abduction Act of 1993;
4. Child Protection Act of 2007 (1/2010);
5. Trafficking in Persons (Prevention and Suppression) Act of 2008; and
6. Child Protection (Amendment) Act of 2013.

General Child Protection

The Department of Social Services, and in particular the Children and Family Services Division, is the Bahamian agency that is responsible for handling issues of child protection and ensuring that children have a safe environment in which to grow and develop,⁵ as stated in Article 30 of the Child Protection

¹ See Convention on the Rights of the Child, U.N. Treaty Collection Status Chart, at https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg_no=IV-11&chapter=4&lang=en#EndDec (on file with the International Centre for Missing & Exploited Children).

² See Convention Against Transitional Organized Crime, U.N. Treaty Collection Status Chart, at https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=XVIII-12&chapter=18&lang=en#EndDec (on file with the International Centre for Missing & Exploited Children).

³ See Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, U.N. Treaty Collection Status Chart, at <http://indicators.ohchr.org/> (on file with the International Centre for Missing & Exploited Children).

⁴ See 1980 Convention on the Civil Aspects of International Child Abduction, U.N. Treaty Collection Status Chart, at <https://www.hcch.net/en/instruments/conventions/status-table/?cid=24> (on file with the International Centre for Missing & Exploited Children).

⁵ *Overview of the Regulation of Family and Minors in the Bahamas*, at http://www.oas.org/dil/Overview_of_the_regulation_of_family_and_minors_in_the_Bahamas.pdf (last visited Jan. 18, 2018) (on file with the International Centre for Missing & Exploited Children).

Act.⁶ According to the Department of International Law of the Organization of American States (OAS), the Bahamas has several child protection laws in place, including: the Constitution (1973), the Status of Children Act (1969), the Inheritance Act (2002), the Adoption of Children Act, the Child Protection Act (2007, 2013), the Domestic Violence (Protection Orders) Act, and the International Child Abduction Act of 1993.⁷ The Bahamas also has the Trafficking in Persons (Prevention and Suppression) Act of 2008 to protect minors against child trafficking.⁸

General Missing Child Issues

The Bahamas does not have national legislation defining the term “missing child.” However, in 2013, the Bahamian Parliament amended the Child Protection Act of 2007 by introducing a new article for the establishment of guidelines for the Mandatory Action Rescuing Children Operation (MARCO), a missing children alert.⁹ The Child Protection (MARCO ALERT) Regulations were passed in 2016.¹⁰

Definition of “Missing Child”

While there is no definition specific to “missing child,” the Royal Bahamas Police Force defines “missing persons” as any person, whether an adult or a child, reported missing to police whose whereabouts are unknown and where there are fears for the safety or concerns for the welfare of that person.¹¹

The Child Protection Act and the Trafficking in Persons (Prevention and Suppression) Act define a “child” as a person below the age of 18.¹²

Abandonment

Article 62 (1) of the Child Protection Act protects children from abandonment, assault, ill-treatment, and neglect.¹³ Any person 18 years or older who has custody of a child and is guilty of such offenses against a child is liable up to a maximum fine of five thousand dollars, imprisonment for two years, or both.¹⁴ In addition, upon conviction before the Supreme Court, the guilty party also is liable for a maximum fine of 10 thousand dollars, imprisonment for five years, or both.¹⁵ Moreover, Article 82 of the Act also recognizes additional circumstances such as if: a child is in mortal danger, ill-treated or neglected; they are found deserted or destitute by their parent or guardian; they are found sleeping at night in the open air; or they are found wandering without any settled place of abode.¹⁶

⁶ Child Protection Act, Statute Law of the Bahamas, at <http://badaj.org/2015/wp-content/uploads/2014/07/Child%20protection%20Bahamas.pdf> (last visited Jan. 18, 2018) (on file with the International Centre for Missing & Exploited Children).

⁷ Overview of the Regulation of Family and Minors in the Bahamas, *supra* note 5.

⁸ Trafficking in Persons (Prevention and Suppression) Act of 2008, at http://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/2007/2007-0027/TraffickinginPersonsPreventionandSuppressionAct_1.pdf (last visited Jan. 18, 2018) (on file with the International Centre for Missing & Exploited Children).

⁹ Child Protection (Amendment) Bill, 2013, *A Bill for an Act to Amend the Child Protection Act*, Enacted by the Parliament of the Bahamas, at <https://www.bahamas.gov.bs/wps/wcm/connect/f6525f6e-b027-42d6-8bfc-c07718c1471b/childprotectionamdmtdmt.pdf?MOD=AJPERES> (last visited Jan. 18, 2018) (on file with the International Centre for Missing & Exploited Children).

¹⁰ *Regulations introduced for Marco Alert*, BAHAMAS LOCAL, Feb. 3, 2016, at https://www.bahamaslocal.com/newsitem/144843/Regulations_introduced_for_Marco_alert.html (last visited Feb. 8, 2018).

¹¹ Royal Bahamas Police Force, *Missing Persons (Frequently Asked Questions)*, at http://www.royalbahamaspolice.org/missing_persons/missing_f.a.q.php (last visited Jan. 18, 2018) (on file with the International Centre for Missing & Exploited Children).

¹² Child Protection Act, *supra* note 6; Trafficking in Persons (Prevention and Suppression) Act of 2008, *supra* note 8.

¹³ Child Protection Act, *supra* note 6, at Article 62(1).

¹⁴ *Id.* at Article 62.

¹⁵ *Id.*

¹⁶ *Id.* at Article 82.

The Maintenance of Emigrants' Children Act of 1923 further penalizes the act of abandoning a child by leaving the country without making adequate provisions for taking care of the child.¹⁷ In such a case, the magistrate may prevent the parent from leaving the country. However, if a parent disobeys the order, they may be liable for a fine of up to 75 dollars or imprisonment for six months.¹⁸

Kidnapping and Abduction

The Sexual Offences Act of 2010 and the Penal Code of 1927 contain provisions pertaining to abduction and kidnapping of minors. Articles 5, 7, 22, and 23 of the Sexual Offences Act provide a definition of abduction and outline the penalties for abducting unmarried persons under the age of 16, and unmarried persons between the ages of 16 and 18.¹⁹ Those convicted of abducting unmarried persons (under the age of 16, and between 16 and 18) may be punished by imprisonment for two years.²⁰

The Penal Code further addresses the issues of kidnapping of persons of any age and child-stealing. Under Articles 282 and 286, those found guilty of kidnapping a person are liable for up to 10 years of imprisonment.²¹ Similarly, the penalty for child stealing (stealing any person under the age of 14 years) is also ten years of imprisonment based on Articles 283 and 287.²²

Parental Abduction

The Bahamas ratified (as a non-member) the 1980 Hague Convention on the Civil Aspects of International Child Abduction and passed the International Child Abduction Act of 1993 (Chapter 137) to comply with the Convention.²³ The Act permits the Supreme Court to enact all provisions under the Convention. In the 2015 annual report on International Parental Child Abduction, the U.S. Department of State's Office of Children's Issues, which serves as the U.S. Central Authority under the Convention, highlights delays in judicial proceedings as a reason for the Bahamian judicial authority's lack of compliance with the provisions of the Convention.²⁴ The 2014 annual report also makes note that Bahamian courts often treat Convention cases as custody cases²⁵ (instead of cases regarding proper jurisdiction).

A child or minor must be accompanied by their parents or documented guardian when applying for a passport. When only using the father's legal documents for the child's application, the father must be present at the application interview.²⁶

¹⁷ Maintenance of Emigrants' Children of 1923, Article 3, at <http://www.cavehill.uwi.edu/LAWLIBRARY/getattachment/d3bb8acb-b7a3-41d8-ab09-fc82283a9fcd/MAINTENANCE-OF-EMIGRANTS-CHILDREN-ACT.aspx> (last visited Jan. 18, 2018) (on file with the International Centre for Missing & Exploited Children).

¹⁸ *Id.*

¹⁹ Sexual Offences Act of 2010, Statute Law of the Bahamas, at http://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/1991/1991-0009/SexualOffencesAct_1.pdf (last visited Jan. 18, 2018) (on file with the International Centre for Missing & Exploited Children).

²⁰ *Id.*

²¹ Penal Code, Statute Law of the Bahamas, Articles 282 and 286, at http://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/1873/1873-0015/PenalCode_1.pdf (last visited Jan. 18, 2018) (on file with the International Centre for Missing & Exploited Children).

²² *Id.*

²³ International Child Abduction Act, Chapter 137, at https://www.oas.org/dii/International_Child_Abduction_Act_Bahamas.pdf (last visited Jan. 18, 2018) (on file with the International Centre for Missing & Exploited Children).

²⁴ U.S. Department of State Bureau of Consular Affairs, *International Parental Child Abduction*, 2015, at <https://travel.state.gov/content/dam/childabduction/complianceReports/2015%20-%20Report%20on%20Actions.pdf> (last visited Jan. 18, 2018) (on file with the International Centre for Missing & Exploited Children).

²⁵ U.S. Department of State Bureau of Consular Affairs, *International Parental Child Abduction, Report on Compliance with the Hague Convention on the Civil Aspects of International Child Abduction*, 2014, at <https://travel.state.gov/content/dam/childabduction/complianceReports/2014.pdf> (last visited Jan. 18, 2018) (on file with the International Centre for Missing & Exploited Children).

²⁶ Bahamas Ministry of Finance, *Applying for a Passport*, at https://www.bahamas.gov.bs/wps/wcm/connect/mof_content/internet/all+services/p/applying+for+a+passport+%28first+time+or+renewal%29 (last visited Feb. 16, 2018).

Reporting Mechanism

Currently, the Bahamas does not have a public reporting mechanism to facilitate the reporting of a missing child. However, missing persons can be reported to the Royal Bahamas Police Force by calling 919 – the general emergency number – or by visiting a police station.²⁷

Crime Stoppers Bahamas allows individuals to anonymously report a crime or other incidents, including missing persons. The Bahamas Crisis Centre also has a 24-hour hotline number (1-242-328-0922) to report cases of domestic violence and sexual abuse.²⁸

Investigation of Missing Child Cases

In the Bahamas, individuals do not have to wait for 24 hours in order to report a person missing. The Royal Bahamas Police Force encourages people to report a missing person immediately.²⁹ However, no set protocol exists that outlines the investigation procedures for retrieving missing children. The government amended the Child Protection Act of 2007 to include Articles 148A and 148B in the Child Protection (Amendment) Act of 2013.³⁰ The Amendment Act introduces the MARCO ALERT and allocates responsibility to the Commissioner of Police and Minister of National Security for broadcasting, collaborating, and coordinating efforts to recover missing children deemed to be at critical risk of harm or death. Article 148B mandates that those guilty of committing an offense, or falsely reporting cases of missing children are liable to be fined up to a maximum of 2,000 dollars, imprisonment of six months, or both.³¹

National Database

The Ministry of Social Services and Community Development was mandated by the Child Protection Act of 2007 to establish a Children’s Registry. When functional the registry will be responsible for “receiving, recording, and referring reports of child abuse to the Child Protection Unit of the Department of Social Services and to the Police.”³² It is unclear if this database registers cases of missing children.

Case Management System

There is currently no case management system in place dedicated to missing children. However, the Royal Bahamas Police Force website displays information (photo and description) of submitted cases of missing persons; however, the database does not appear to be updated frequently.³³

Alert Mechanism

The Bahamas does not currently have a mechanism in place to notify the public about missing children cases; however, the Royal Bahamas Police Force is responsible for notifying the public about missing persons generally.³⁴ Additionally, online websites (such as thebahamasweekly.com) are used to disseminate missing children cases that are reported to the police.³⁵

²⁷ Royal Bahamas Police Force, *supra* note 11.

²⁸ Crime Stoppers Bahamas, at <http://www.crimestoppersbahamas.com/> (last visited Jan. 25, 2018).

²⁹ Royal Bahamas Police Force, *supra* note 11.

³⁰ Child Protection (Amendment) Bill, Articles 148A and 148B, *supra* note 9.

³¹ *Id.*

³² Matt Maura, Press Release: Children’s Registry Expected to Play Key Role in Reducing Abuse, THE GOVERNMENT OF THE BAHAMAS, at http://www.bahamas.gov.bs/wps/wcm/connect/mof_content/internet/all+news+press+release/childrens+registry+expected+to+play+key+role+in+reducing+abuse (last visited Feb. 14, 2018) (on file with the International Centre for Missing & Exploited Children).

³³ Royal Bahamas Police Force, *Missing Persons List*, at http://www.royalbahamaspolice.org/missing_persons/index.php (last visited Feb. 14, 2018).

³⁴ *Id.*

³⁵ *Missing Persons*, THE BAHAMAS WEEKLY, Feb. 7, 2018, at <http://www.thebahamasweekly.com/publish/bahamas-missing-persons/index.shtml> (last visited Feb. 14, 2018).

The MARCO Alert system is named after 11-year-old Marco Archer who was found dead on 28 September 2011.³⁶ The MARCO ALERT is designed to function similarly to the United States' AMBER Alert. Article 148A of the Child Protection (Amendment) Act of 2013 states:

“(1) When – (a) a child is reported missing; and (b) the Commissioner of Police is satisfied that the child is at risk of harm or death, he shall without delay cause mandatory action for rescuing the child to be issued which shall be referred to as a “MARCO ALERT.”³⁷

When a MARCO ALERT is issued, the Police Commissioner is responsible for coordinating with agencies involved in rescuing the child, and for making sure that the alert is broadcasted via commercial radio stations, television broadcasts, teletext communication, electronic network systems (via billboards), or any other suitable forms. The alert system was implemented on 22 July 2016.³⁸

Awareness-Raising Initiatives

The Bahamas does not have awareness initiatives specifically aimed at educating the public on how to respond when a child goes missing. However, the Royal Bahamas Police Force works with local and international partners such as the Bahamas Crisis Centre, International Association of Chiefs of Police (IACP), the Rotary Club of the Bahamas, International Society of Crime Prevention Practitioners (ISCPP), National Organization of Black Law Enforcement Executives (NOBLE), and Crime Stoppers International to develop outreach, awareness, and special initiatives on issues of intimate partner violence, child abuse, incest, rape, sexual harassment, relationship problems, family problems, behavioral problems, human trafficking, and elder abuse.³⁹

The 2015 U.S. State Department's Trafficking in Persons (TIP) Report notes that the Bahamian government has trained more than 300 members of the Royal Bahamas Defense Force, Royal Bahamas Police Force, Department of Immigration, and Department of Public Health on human trafficking.⁴⁰ Moreover, new recruits are required to complete a human trafficking awareness training module.⁴¹

Trafficking

In its 2017 TIP Report, the U.S. State Department categorizes the Bahamas as a Tier 1 country, recognizing that the country's government fully complies with the minimum standards of the Trafficking Victims Protection Act (TVPA).⁴² However, the Bahamas remains a destination, source, and transit country for individuals who are trafficked for sex or labor from countries such as China, Haiti, Jamaica, and the Philippines.⁴³ The Bahamian government passed the Trafficking in Persons (Prevention and Suppression) Act of 2008 to prohibit all forms of human trafficking.⁴⁴ Article 3 of this Act provides penalties for human trafficking and clarifies that a person who recruits, transports,

³⁶ Regulations Introduced for Marco Alert, *supra* note 10.

³⁷ Child Protection (Amendment) Bill, 2013, *supra* note 9.

³⁸ *Marcos Law in Full Effect – Talks in Motion For Sexual Offenders Registry*, THE BAHAMA JOURNAL, at <http://jonesbahamas.com/marcos-law-in-full-effect-talks-in-motion-for-sexual-offenders-registry/> (last visited Jan. 18, 2018) (on file with the International Centre for Missing & Exploited Children).

³⁹ Royal Bahamas Police Force, *Our Crime Partners*, at <http://www.royalbahamaspolice.org/aboutus/partners.php> (last visited Feb. 14, 2018).

⁴⁰ U.S. Department of State, *Trafficking in Persons Report 2015 – The Bahamas*, at <http://www.state.gov/j/tip/rls/tiprpt/countries/2015/243390.htm> (last visited Jan. 18, 2018) (on file with the International Centre for Missing & Exploited Children).

⁴¹ *Id.*

⁴² U.S. Department of State, *Trafficking in Persons Report 2017 – The Bahamas 76*, at <https://www.state.gov/documents/organization/271339.pdf> (last visited Jan. 23, 2018) (on file with the International Centre for Missing & Exploited Children).

⁴³ *Id.* at 78.

⁴⁴ Trafficking in Persons (Prevention and Suppression) Act, *supra* note 8.

transfers, harbors, or receives a child for the purpose of the exploitation of that child has engaged in human trafficking.⁴⁵

⁴⁵ *Id.* at Article 3.