



Airport Watch List



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"I am concerned the other party will remove the children from the country. What can I do?"

Disputes between separating parties about travelling with children can raise red flags. Sometimes the concern is because the other party is a citizen of another country and there is a fear the child will be removed from Australia or because the party fears the children will be taken to another country either on holiday or perhaps to live without the consent of the other parent.

WHAT TO DO IF NO ORDER IS IN PLACE



If a parent has concerns that their child is in danger of being removed from Australia and there are no current Parenting Orders in place limiting the child's overseas travel, then an application can be made to the Court seeking an Order limiting or preventing the child's overseas travel. A supporting Affidavit setting out the reasons why the child's name is to be put on "The Family Law Watchlist" is also required.

WHAT IF THERE IS AN ORDER IN PLACE



If there are is a current Parenting Order in place, or there are proceedings pending whereby the child is not to be removed from Australia, then the person who takes the child from Australia, is committing an offence.

The Family Law Act provides that should the captain, owner or charterer of a vessel or aircraft that removes a child from Australia, they too also commit an offence, if notice has been given that a relevant Order or pending Application is in place.

Once an Application has been made to the Court, it is the Applicant's responsibility to notify the Australian Federal Police

(AFP). A Family Law Watchlist Request Form is to be completed and sent to the AFP.

It is important to note that the party making the Application is also restrained from removing the child from Australia pending the outcome of the Application.

If an Order has been made by the Court, placing the child on the Watchlist, the Court will send the Order to the AFP to action.

It is the responsibility of the party placing the child on the Watchlist to provide the AFP with:

- the children's passport details, aliases and your 24 hour contact number;
- any change in personal details and circumstances;
- any new Orders which affect the child on the Watchlist; and
- details of any intention to travel (including any travel permitted by a Court Order) not less than 10 days before departure.

REMOVING A CHILD FROM THE WATCHLIST



Removing a child from the Watchlist will depend on how the child was placed on the Watchlist initially. If a child was placed on the Watchlist by way of an Injunction, then a further Order from the Court removing the child may be required.

If the Order placing the child on the Watchlist is time limited, then the child will automatically be removed upon the expiration of the time limit.

Of further comfort to a concerned parent is that a passport for a child will not be issued to a child under the age of 18 unless:

- both parents have consented to and signed the passport application (S11(1)(a) Australian Passports Act 2005)(Cth); or
- An Order of the Court relating to international travel has been made (S11(1)(b) Australian Passports Act 2005)(Cth).

WANT TO KNOW MORE?

Understanding The Family Court Watchlist can be tricky. Therefore if you are concerned about your child travelling overseas after separation, please contact us.



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