

Children and international travel after family separation

This fact sheet provides information for people who want to:

- apply for an Australian passport for a child, but one of the signatories can not or will not sign the application form
- prevent a child they have parental responsibility for from leaving Australia.

If a child you have parental responsibility for has left Australia without your permission, you should contact the Commonwealth Attorney-General's Department on **1800 100 480** or go to www.ag.gov.au for more information.

Applying to the Court

An application to permit a child to travel internationally or to prevent a child from leaving Australia should be filed in the Federal Circuit Court. If you have a current parenting case in the Family Court, the application should be filed in that court.

On the application form, you must say what orders you are asking the Court to make.

You must also file an affidavit in support of your application. An affidavit is a statement of facts and you should include all the points that are relevant in your case; for example:

- the details and purpose of the proposed travel, including a copy of the itinerary (if you have one)
- what links the people travelling have to Australia
- whether the country being visited is a member of the Hague Convention or if any travel warnings have been issued
- the immigration status of the people travelling
- whether you are willing to provide an undertaking to the Court to pay any damages which the Court may decide another party has suffered as a result of the order requested
- any other factors relevant to the case.

If you are seeking an order for a child to travel

internationally, you should also state whether you are willing and able to provide a monetary sum as security.

If you are seeking an order to prevent a child leaving Australia, you should outline your reasons for this in the affidavit.

Note – This is not a complete list and may vary depending on the type of application and the circumstances of each case. It is essential that all relevant facts are disclosed.

For more information about what you need to file with the Court, see the fact sheet 'Applying to the Court for orders'.

Applying for a child's passport

Before an Australian passport can be issued, the law requires the written consent of each person who has parental responsibility for a child. This is usually the child's parents but may include grandparents or other relatives.

If written consent is provided by all parties with parental responsibility, applications can be lodged at an authorised Australia Post office or any Australian Passport Office.

If written consent is not provided by all parties with parental responsibility, you can make a written request to the Approved Senior Officer of the Department of Foreign Affairs and Trade to consider issuing the passport due to 'special circumstances'. For more information about requests to consider 'special circumstances' contact the Australian Passport Information Service on **13 12 32** or go to www.passports.gov.au.

If your request to consider 'special circumstances' is not successful, you can apply to the Court for an order permitting a child to travel internationally. In considering such applications, the Court will only permit a child to travel internationally if it determines it is in the best interests of the child.

Preventing a child from leaving Australia

If you are concerned that a child may leave Australia without your permission, you should seek legal advice as soon as possible.

You can apply to the Court for an order that:

- (a) prevents a passport being issued for a child
- (b) requires a person to deliver a child's or accompanying adult's passport to the Court, or
- (c) prevents a child from leaving Australia.

(a) Preventing a child's passport being issued

If you want to prevent an Australian passport being issued for a child, you can:

- lodge a Child Alert Request at any Australian Passport Office, or
- apply to the Court for a child alert order.

A Child Alert Request warns the Department of Foreign Affairs and Trade that a person may apply for an Australian passport for a child without proper and legal consent. If a child alert is in force and an application for an Australian passport is received for a child, you will be notified by the Department of Foreign Affairs and Trade.

A child alert request made at an Australian Passport Office is valid for 12 months. A court ordered child alert stays in force until a child turns 18, or as directed by the Court.

Note - A child alert does not stop a child departing Australia on a valid Australian or foreign passport, and does not cover passports issued by other countries. If you think a passport may be issued for a child in another country, contact the embassy of that country.

For more information about child alerts, contact the Australian Passport Information Service on 13 12 32 or go to www.passports.gov.au.

(b) Delivery of a passport to the Court

If there is a possibility or threat that a child may be removed from Australia on a current passport, you can apply to the Court for orders. The Court may order the delivery of a child's or accompanying adult's passport to the Court. If ordered, the person in possession of the child's passport must deliver it to the Court. The Court will keep it for the specific amount

of time detailed in the court order or until further order of the Court.

(c) Preventing a child from leaving Australia

If there is a possibility or threat that a child may be removed from Australia, the Court can make orders which:

- restrain the removal of the child from Australia
- request that the Australian Federal Police (AFP) place the child's name on the Airport Watch List, and
- request that the AFP assist in the implementation of the order/s.

The AFP will need a copy of the court order before placing a child's name on the list. The child's name will stay on the Airport Watch List until further order of the Court.

Note - If you consent to a child travelling out of Australia in the future or wish to take a child out of Australia yourself, you must apply to the Court (before you travel) to have the child's name removed from the Airport Watch List. If you fail to do so, a child may be prevented from leaving irrespective of who they are travelling with. The AFP cannot remove the child's name from the list without an order of the Court.

The AFP has offices in each capital city and some regional locations. Go to www.afp.gov.au or look in the White Pages for contact details.

Legal advice

You should seek legal advice before deciding what to do. You can seek legal advice from a legal aid office, community legal centre or private law firm. Court staff can help you with questions about court forms and the court process, but cannot give you legal advice.

More information

For more information about anything referred to in this fact sheet, including legislation, forms or publications:

- go to www.familylawcourts.gov.au
- call 1300 352 000, or
- visit a family law registry near you.