

International - Child Abduction and The Hague Convention

Parental child abduction is when one parent or guardian takes their child from their home State (within Australia) or Country (international child abduction) without the permission of the other parent or guardian, or without consent from the Court.

Child Abduction - Within Australia

If a child has been wrongfully removed within Australia it is possible to make an Application to the Family Court for a Recovery Order, which may authorise officers of the Family Court of Australia, officers of the Australian Federal Police, and officers of the Police Force in each State and Territory to stop and/or search vehicles, vessels, aircraft, premises or places in which there is reasonable cause to believe the child may be found; and to take possession of the child and return the child to the party who has made the Application for the Recovery Order.

It may also be possible to obtain a Commonwealth Information Order, directing delegates of particular Commonwealth Departments to provide to the Family Court information relating to the whereabouts of the child.

Removal of a Child from Australia

If there is a concern that there may be a risk of a child being wrongfully removed from Australia and there is an existing Family Court Order in respect of residence and contact of the child, it is possible to have a PACE Alert put in place through the Federal Police.

A PACE Alert enables the Australian Federal Police to prevent the departure of a child from Australia, with the child's details being held on an Airport Watch List at all international departure points within Australia.

If there is no current Family Court Order in relation to the child, it may be necessary to file an Application and thereafter provide the Australian Federal Police with a copy of an Order which authorises a PACE Alert to be placed on the child's name, which can be sought urgently from the Court.

If a child has been wrongfully removed from Australia, the procedure for obtaining the return of the child may depend upon which country the child has been taken to.

Australia is a party to an International Treaty on child abduction, known as the Hague Convention on the Civil Aspects of International Child Abduction. If the child has been taken to a country that is a signatory to the Convention, an Application may be made for the child's return under the terms of the Convention. This usually occurs through the exercise of the power of the State Central Authority, which in Queensland is the Commonwealth Attorney General.

However, if a child has been taken to a country which is not a party to the Hague Convention, it may still be possible to have the child returned to Australia. In most cases, a lawyer in the overseas country will have to be employed, in order to issue legal proceedings in that country for the recovery of the child.

It may be possible to prevent the issue of an Australian Passport for a child. Enquiries should be made to the Department of Foreign Affairs and Trade Australian Passports Office. It may also be possible to prevent the issue of a foreign Passport for a child, by contacting the relevant Embassy in Australia.

If you wish to remove your children interstate or overseas then do not do so without first obtaining legal advice about the ramifications of such intended move. If you are concerned about your children being removed within Australia or overseas by the other parent, then you should contact us urgently.

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