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WHEN THERE IS A RISK OF CHILDREN BEING TAKEN OUT OF AUSTRALIA

The following information may be useful to you if:

- Your children are with somebody else and you suspect that person may take them overseas.
- Your children are in your care but you are afraid of them being taken from your care and then taken overseas.
- You are concerned that the other parent may apply for a passport for your children without your permission.

It does not cover information about children who may be removed to another state or other location within Western Australia.

Stopping a passport from being issued

Anyone attempting to take a child out of Australia needs a passport for that child. Unless otherwise ordered by the Family Court, the signatures of both parents are normally needed to get a passport for a child.

It is possible, however, for a passport to be issued to a child where full consent has not been obtained. The Passports Office must be satisfied that the child's physical and mental health would be damaged if a passport were not issued, or that a family crisis urgently requires that the child's passport be issued and the other parent has not been able to be contacted to consent to the passport application.

In such cases, the passport application must state why consent has not and cannot be obtained and explain the special circumstances of the application. The application will be considered by a Senior Officer of the Passports Office. If the Passports Office still considers that special

circumstances have not been satisfied, it may be necessary for the parent applying for the passport to go to the Family Court.

Despite the conditions that must be satisfied in order to obtain a passport for a child, this may not entirely remove the risk of a person obtaining a passport for the child, or of the child being taken overseas. A person may attempt to get a passport by, for example, fraudulently telling the Department of Foreign Affairs that they have lost the passport and lodging a fresh application, or by forging your name.

If the other parent does NOT have a passport for your child but there is a risk of the child being taken overseas, you should take the following steps:

Step 1: Child stop alert

To prevent a person from fraudulently obtaining a passport for your child, you may lodge a “Child Alert Request” with the Passport Office.

To do this you need to complete a Form PC9 “Travel Document Inquiry.” This form can be obtained from Passport Office or by calling the Australian Passport Information Service on 13 12 32. Lodge the form either at the Passport Office or by mailing it to the Canberra address on the form. It cannot be obtained from or lodged at a Post Office. There is no fee for lodging it.

Once this form is completed and lodged, it becomes a “child stop alert” and you will be notified if any attempt is made to apply for a passport for your child. This in turn alerts you to a possible attempt to have the child removed from the country. You must make sure that your contact details with the Department are kept up to date while the Alert is in place.

A “Child Stop Alert” only lasts for 12 months. During this time the child cannot obtain an Australian passport, unless the parent who lodged the “Child Stop Alert” consents or a court order is made for a passport to be issued. However, “Child Stop Alerts” can be renewed every 12 months until the child reaches 18. A “Stop Alert” that has been Court ordered automatically lasts until the child in question turns 18.

Step 2: Legal advice

If you are alerted by the Department of Foreign Affairs (Passports Office) that someone has lodged an application for a passport for your child, immediately seek legal advice about whether or not you should seek an injunction against that person through the Family Court.

Where a passport has already been issued

If the other person DOES have a passport for your child (or could obtain one) and there is a risk of the child being taken overseas, you should take the following steps:

Step 1: Urgent legal advice

Contact Dean R Love & Associates immediately on (08) 9218 9993 or email us at enquiries@drlllegal.com.au. We will assess if we are able to help you to get the necessary court order if you don't already have one. We can also give you advice on other steps you may need to take.

Step 2: Airport watch list

The Australian Federal Police (AFP) has an Airport Watch List system designed to prevent a person from taking a child out of Australia. You can contact the AFP on (08) 9320 3444 or their emergency number 0409 760 146.

A child can be added to the list only if there are orders or proceedings before the Family Court. The AFP will not taken action where there are no Family Court orders or proceedings in place. If you believe there is a risk of your child being removed from the country and there are no Family Court orders or proceedings in place, you should contact the Family Court immediately. They have an emergency, after hours number - (08) 9224 8225. Once the Police have added the relevant details to the list, the "alert" is active nationally at all land and seaports. It should be in place approximately 15 minutes after the Federal Police receive all the relevant details.

Details required by the Police

For the Federal Police to place your child's details on the warning system, they will need the following information:

- **Personal details** for each person involved: full name, any previous names or alias used (including name before marriage), date of birth, nationality, residential address and passport number.
- **A detailed description of the child** together with a recent photo if possible: the child's full name, any other names used, date of birth, sex, height, build, visible marks, race, complexion, color of eyes and hair, address, identity documents (e.g. passports with number), nationality, and country of birth.

- **A detailed description of the person or persons who may have the child** together with a recent photo if possible: physical description, full name, name before marriage, occupation, names of any other children, nationalities, and identity documents (if known).
- Your **Family Court file number** and the names of any solicitors who may be involved.
- Family Court orders; either recovery, residence or specific issues orders.
- 24 Hour contact telephone numbers: all of your work, mobile and home numbers. It is vital that the Federal Police can contact you at all times.

The information must be delivered to the Federal Police together with a copy of the relevant court order or application; and a covering letter asking them to include the child on their watch list.

They will have to see an original copy of any of any court documents (that is, one with the red Family Court stamp on it). If you want to keep your originals, you should take a copy as well.

The Australian Federal Police will confirm when the child is placed on the Watch List. Details of the child will be maintained on the Watch List for 6 months.

You must contact the Federal Police again if you wish to retain the child on the Watch List. The child will be automatically deleted from the list after 8 months although you can write to the police **before** the time expires and ask for the child to be kept on the list.

You should contact the Federal Police if:

- Your circumstances change (for example, if you and your partner reconcile, or your contact telephone number or address change) or you wish to remove the child from the list. However, if the Federal Police have been directed by the Court Order to place the child on the warning list, the child can only be removed from the list by another Court Order.
- You intend to travel with the child, or you have been given permission for the other person to do so (consent have to be in a particular format, and you should get advice about this).
- The Family Court makes any relevant orders.

Even if you are the person who has placed the child on the list, it is an offence to try to remove the child from Australia without the written consent of the other party.

If your child has already been taken overseas, and you want to have them returned to Australia, you should get legal advice as soon as possible. It may be possible to have them returned under the international treaty dealing with international child abduction.

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