

How does the Family Law Watchlist work?

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If you are concerned that your child may be taken overseas without your consent, and there are parenting orders or a court application on foot, your child can be placed on a list known as the Family Law Watchlist (formerly called the Airport Watchlist). The Australian Federal Police ("AFP") are responsible for monitoring Australian borders. If a child is on the Family Law Watchlist, the AFP will normally stop your child from leaving the country if the departure would breach a court order.

How to place your child on the Family Law Watchlist

To place your child on the Family Law Watchlist, the following three steps need to be taken:

1. Court orders or evidence of a court application regarding child relocation outside Australia

You must be able to demonstrate that the court has decided, or will decide, what conditions should apply to a child's ability to travel overseas.

Documentation that the AFP will accept includes:

- a finalised court order or parenting order that states there are limits on the child's ability to travel outside Australia;
- an application that has been filed with the Court for a court order or parenting order; and/or
- an appeal that has been filed with the court against a child-related order.

It is important to know that these orders and applications must specifically state that a child's ability to travel overseas is prevented or limited. The court documents must also request that a

child is placed on the Family Law Watchlist.

We recommend contacting a lawyer to ensure you have the necessary documentation.

Call us for a free initial consult: 03 8625 8957

1. A Family Law Watchlist request form needs to be completed

A Family Law Watchlist request form can be found on the Australian Federal Police website. You must include a contact number that can be reached twenty-four hours a day and an email address. You also need to include a copy of the court orders or application.

1. Lodge the application with the Australian Federal Police

It is important to know that even if a court orders that a child cannot travel overseas and should be placed on the Family Law Watchlist, this does not happen automatically. You need to lodge the Family Law Watchlist Request form.

You can check that you have successfully placed your child on the Family Law Watchlist by submitting a further form with the AFP, "Family Law Watchlist Enquiry Form".

Once you've lodged your application and your child has been placed on the Family Law Watchlist, it's important that you notify the AFP of any changes to your personal details and circumstances at any time.

You must also provide the AFP with any new orders that may affect your child's status on the Family Law Watchlist. Please ensure that any contact number you provide to the AFP is one that you can be reached on 24 hours a day. If you believe your child may be taken overseas under another name, please also provide this information to the AFP.

What if you have placed your child on the Family Law Watchlist but want to go overseas

If you have placed your child on the Family Law Watchlist but would like to travel overseas with your child, you will need to ensure you notify the AFP of your intention to travel. You must also provide evidence that your travel will not breach a court order.

You will need to notify the AFP at least 10 days before the date of departure to ensure you will not be delayed at border security when trying to depart the country.

If a child is on the Family Law Watchlist and is taken overseas in breach of court orders, the person responsible may be held to be criminally responsible, with the offence being punishable by up to three years imprisonment.

If your child has been placed on the Child Watch List, but you hold immediate fears for your safety and are seeking to leave the country to escape family violence, we recommend contacting the Australian Government Family Violence Hotline and seeking legal advice immediately.

What if my child is at risk of being taken overseas without my consent?

Even if your child is not on the Family Law Watch List, but you believe your child is at risk of being taken overseas before the next working day, we recommend seeking urgent assistance and contacting the after-hours services:

- Call 1300 352 000 (Federal Circuit and Family Court of Australia, except Western Australia)
- Call 1800 199 008 (Family Court of Western Australia).

It is important to remember that a child does not always need their legal guardian to travel. If the adult travelling with your child has the child's passport, an airline will not always make enquiries about the relationship between the child and who they are flying with.

What if the other parent applies for a passport for my child without my consent?

For children to travel outside of Australia, both parents need to complete and sign an application for a passport to be issued in the child's name.

You can learn more about this in our earlier blog, "Children's passports in family law matters".

If your child does not have a passport but you are worried that your child's other parent will try and obtain a passport without your consent, you can complete a **Child Passport Alert Request** through the passport office or by calling 131 232.

By lodging a Child Passport Alert Request, if someone attempts to obtain a passport for your child without your consent, the passport office will give special scrutiny to the application.

What if my child is eligible for a passport from another country?

If your child's other parent is a citizen of another country, we recommend seeking assistance from that country's embassy. If your child is an Australian citizen, you should also seek legal advice from an Australian family lawyer.

What can I do if my child is already overseas?

In circumstances where your child is already overseas and:

- there are no court orders in place; or
- you have not given your consent for the child to travel; or
- your child is now staying overseas beyond the length of overseas travel you agreed to,

you should contact the police or border authorities of that country, and notify the Australian Department of Foreign Affairs.

Get help from a family lawyer

We recommend obtaining advice from an Australian family lawyer if you have concerns about your child travelling overseas without your consent. Several countries have an agreement with Australia to assist in returning children who have been unlawfully detained or taken overseas against the wishes of both parents.

We also recommend speaking to an experienced family lawyer or contacting the Attorney-General's department if your child has been detained overseas.

Contacting Smith Family Law

03 8625 8957

info@smithfamilylaw.com.au

This blog is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.