

# WHAT IS THE FAMILY LAW WATCHLIST?

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Separation can be a difficult time and reaching an agreement can often be complicated, especially when it involves children. A common situation where disputes arise is where one parent wishes to take a child overseas for a holiday. The parent's communicated intention to go on an overseas holiday may be genuine, however in other situations the parent may have a hidden agenda to not return the child and continue residing overseas.

For the other parent, this can be a stressful prospect, but if there is a risk that a child is going to be taken overseas against the parent's permission, then there is something that can be done to prevent the child from leaving the country. So what can the anxious parent do?

The parent can arrange to have the child's name recorded on the Family Law Watchlist.

## What is it?

The Family Law Watchlist is a system whereby a child whose parents are involved in Family Law proceedings cannot be removed from Australia without the consent of the court. The child's name will be registered on the Family Law Watchlist with the **Australian Federal Police** at all international departure points. If the departing parent attempts to take the child out of the country, the child will be stopped at the airport and not allowed to leave.

## How can I prevent my child from travelling?

If a parent is concerned that a child may be taken out of the country by the other parent without their consent, it is possible for the concerned parent to apply to the court to make an order.

Once a court application has been filed, the Federal Police can list a child's name on the Family Law Watchlist.

When the court considers an application to stop a child leaving the country, there will be many factors to take into account, e.g. is the country a Hague Convention country, what period of time is the travelling parent intending to go for and what is their reason for going? Depending on these circumstances, the court can oppose the travel or, allow it but impose conditions, the court may order the other parent to provide a bond (a sum of money) before being allowed to travel overseas with the child. The bond would be returned to the parent once the child arrives back to Australia. The court may also order that the child's passports be held by the court.

However, the court may order that it is not in the child's best interests to travel overseas and that there is a real risk that the child may not be returned. In this situation, the court can order an injunction preventing the child from travelling, resulting in the Australian Federal Police placing the name of the child permanently on the Family Law Watchlist.

If the child does not have a passport, a parent can also prevent the Department of Foreign Affairs and Trade from issuing an Australian Passport. During this time, if both parents reach an agreement that a passport should be issued, a

written request needs to be provided by each parent, as well as an application for a passport filed by both parents.

**What if the situation is urgent?**

Where there is a risk a child may be taken out of the country without one of the parents' consent and immediate action needs to be taken, it is possible to make an ex parte court application (i.e. an application filed with the court but not served on the other parent). It is also possible to try and serve the application seeking such an order, on the Australian Federal Police. In the event that an application needs to be made urgently and it cannot wait until the next working day, the court has an emergency number that can be contacted.

It is important that if any parent suspects or is aware that the other parent wishes to take a child overseas and has concerns about this, Specialist Family Law advice should be sought regarding the parent's particular situation.