

How is the Airport Watchlist used in parenting matters?

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When parents separate, disputes about a child's living arrangements and international travel can quickly become emotionally charged. In some cases, one parent may fear that the other parent could take the child overseas without consent. To prevent this, Australian family law provides mechanisms to restrict a child's international travel.

One of the key tools used by the Federal Circuit and Family Court of Australia **(the Court)** is the Family Law Watchlist, often referred to as the Airport Watchlist. This article explains what the Airport Watchlist is, how it is used in parenting matters, and what parents can do if they are concerned about their child being taken overseas without their consent.

You can read more about international travel with children in our earlier article, "Overseas travel with children after a family law separation".

What is the Family Law Watchlist?

The Family Law Watchlist is a system managed by the Australian Federal Police **(AFP)** under the *Family Law Act 1975* (Cth). It is designed to prevent a child from leaving Australia when there is a Court order or proceeding in place relating to parenting or the child's welfare.

When a child's name is placed on the watchlist, the AFP alerts airport authorities to stop that child from departing Australia. The system applies to all international departure points, including airports and seaports.

Why the watchlist is used in parenting disputes

The Airport Watchlist is commonly used in parenting matters when there is a genuine concern that a child may be removed from Australia without the consent of the other parent or without an order of the Court.

The Court may make an order to place a child on the watchlist if:

- there is an ongoing parenting dispute about where the child will live;
- one parent has threatened or attempted to take the child overseas without consent;
- there is a risk of child abduction or non-return from overseas travel; or
- the child's welfare may be compromised by international travel.

The purpose is not to punish either parent, but to protect the child and preserve the Court's ability to make parenting orders.

How a child is placed on the Airport Watchlist

In order to place a child on the Family Law Watchlist, you will need to make an application seeking the appropriate order in the Federal Circuit and Family Court of Australia. Once the application has been made, it can be served on the AFP for the child to be placed on the watchlist immediately and prior to the First Return Hearing.

Evidence needed for a Watchlist Order

In order to satisfy the Court that a child should remain on the Airport Watchlist, the applicant must demonstrate that there is a real risk that the child may be taken overseas without consent or that their welfare would be at risk if they left Australia.

For example, the court may consider:

- previous threats or attempts to remove the child from Australia;
- the other parent's citizenship or ties to another country;
- the absence of strong connections to Australia (such as no permanent housing or work);
- whether the child has passports or pending passport applications; and
- the impact on the child's relationship with both parents, were the child to be removed from Australia.

The court assesses each individual case on its own facts and considers the best interests of the child as the paramount consideration.

What happens when a child is on the watchlist?

Once a child is on the watchlist, the AFP will prevent the child from boarding any international flight or vessel leaving Australia.

It is important to understand:

- The watchlist only stops international departures, not domestic travel;
- The listing remains in place until the Court order is revoked or varied; and
- A parent may not be notified if the other parent attempts to leave Australia with the child, but the AFP will prevent the departure.

If you have concerns about imminent removal, the Court can also order the surrender of the child's passport or prevent the issue of a new one by the Department of Foreign Affairs and Trade **(DFAT)**. You can also place an alert with DFAT if your child does not already have a passport, which warns DFAT to give special scrutiny to any passport application for your child. This doesn't guarantee that a passport won't be issued, but it does provide an added safeguard.

Removing a child from the Airport Watchlist

A child will stay on the Airport Watchlist until one of the following occurs:

- The Court makes a new order removing the child from the watchlist; or
- The Court proceedings are finalised, and there are no ongoing restrictions on international travel.

If a parent believes that the watchlist order is no longer necessary, they can also apply to the Court to have it removed.

Breaching a Watchlist Order

It is a serious offence to attempt to remove a child from Australia in contravention of a Court order. The AFP has the power to detain the child and stop the departure. Depending on the circumstances, the offending parent may also face contempt of Court or criminal charges.

In addition, a parent who breaches a parenting order may face:

- costs consequences;
- make-up time orders for the other parent; or
- changes to existing parenting orders.

International child abduction and the Hague Convention

Australia is a signatory to the Hague Convention on the Civil Aspects of International Child Abduction, an international agreement that helps parents recover children taken overseas without consent.

If a child has already been removed from Australia, the other parent can apply under the Hague Convention for the child's return. However, this process can be complex and costly, which is why early action - such as applying for a Watchlist Order - is often critical.

When to seek legal advice

If you believe your child is at risk of being taken overseas without your consent, it is important to get legal advice immediately. A family lawyer can help you:

- apply for an order to place your child on the Airport Watchlist;
- request the surrender of passports or prevention of new ones being issued;
- prepare evidence showing a real risk of removal; and
- represent you in Court proceedings.

Similarly, if your child has been placed on the watchlist and you believe the order is no longer necessary, legal advice is essential before applying to have the order removed.

FREE ADVICE FROM A FAMILY LAWYER: 03 9006 8907

Key takeaways

The Airport Watchlist is an important tool under Australian family law to protect children in parenting disputes involving potential international travel.

Key points to remember:

- The watchlist is managed by the AFP under the *Family Law Act 1975*;
- It prevents a child from leaving Australia without the consent of the other parent or a court order;
- It is used where there is a risk of child abduction or non-return;
- It remains in place until the court removes or varies the order; and
- Urgent legal advice is essential if you believe your child may be taken overseas.

Get help from a family lawyer

The Family Law Watchlist provides a critical safeguard to prevent unauthorised overseas travel and ensure the Court can determine parenting arrangements in the best interests of the child.

If you are worried about your child being taken out of Australia, or if your child has been placed on the watchlist, it is vital to act promptly and seek expert family law advice.

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.