



Overseas Travel and Passports for Children

By Alicia Lucas, Lawyer

Now that the international borders have re-opened, our Family Law team anticipates there will be an influx of questions surrounding international travel with children, and how to obtain passports for children.

Overseas Travel

If a Parenting Order has been made about a child, or if there are proceedings before a Court regarding the care of a child, it is a criminal offence to travel overseas with that child unless:

- each party to the parenting Order (or proceedings) has provided “authenticated written consent” to the travel; or
- a Court has made an Order that permits the travel.

If authenticated written consent is provided, and a parent retains the child overseas for longer than what was agreed, this can also be a criminal offence.

The penalty for each of these offences is imprisonment for three (3) years.

What is “Authenticated Written Consent”?

Authenticated Written Consent requires:

- the consent to be recorded in writing;
- the person providing consent to have signed the document; and
- the signature of the person providing consent being witnessed by a qualified person (i.e. Justice of the Peace, Commissioner of Declarations or Solicitor).

Going on an Overseas Holiday

If you are planning an overseas holiday with your child (or children) and you do not have a Court Order which permits the travel you should write to the other parent as soon as possible setting out:

- where you are proposing to travel with the children;
- when you are proposing to travel with the children (including the proposed dates you would leave and return);
- confirming that if you were permitted to travel you would provide a full itinerary to the other parent including copies of return tickets evidencing the travel; a phone number at which the child/ren can be contacted during the travel; and an address at which the children will be primarily based during the travel; and
- asking whether they agree to the proposed travel.

It is of crucial importance that the other parent agrees to the travel occurring (as detailed above).

If the other parties agree to the overseas travel you will then need to arrange for the authenticated written consent for travel, obtain a passport for the child/children and/or make an Application for Consent Orders seeking the Court make Orders to facilitate the overseas travel and/or issue of a passport.

How do I obtain a passport for my child?

Generally, if you wish to obtain a passport for a child you will need the written consent of all parents (or persons with parental responsibility for the child) and an application for an Australian passport can then be lodged at an authorised Australia Post Office, or any Australian Passport Office.

If you cannot obtain written consent from all parties with parental responsibility for the child, you may be able to make a written request to the Approved Senior Officer of the Department of Foreign Affairs and Trade to issue a passport due to 'special circumstances'.

What if the other parties will not agree?

If you have tried to reach agreement with the other parent (or other parties with parental responsibility for the child) and have been unsuccessful, this does not mean you will never be able to travel overseas with your child/children.

The Federal Circuit and Family Court of Australia can make an Order to facilitate the issue of a passport to a child, as well as an Order to facilitate international travel with a child. If you find yourself in this circumstance, you should obtain legal advice as to your prospects of success in making such an application, and the evidence you will need to gather to support such an application.

Can I stop my child travelling overseas?

For more information on this topic read our article titled: "Airport Watch Lists".

Need assistance?

Please contact our office and speak with one of our Family Law team if you need more information about international travel and your children.

This article is for the purposes of summarizing general information only and is not considered legal advice and should not be relied upon as a substitute for professional advice.

Honest Different Clever

Level 2, Building C | 6 Innovation Parkway | Birtinya | QLD | 4575
PO Box 1515 | Buddina QLD 4575

P (07) 5390 1400 | E info@gplaw.com.au

gplaw.com.au

Individual Liability Limited by a scheme approved under Professional Standards Legislation.
GPLN Pty Ltd ABN 64 646 546 125