



FAMILY LAW COURTS

Relocation and travel

Moving away

Moving with the children to another town, state or country is known as relocation. If moving is going to limit the time the children live with or spend with a parent or another significant person in their lives, a court may not give permission.

What if you need to move?

If your children primarily live with you and you need to relocate, you should first try to talk to the other party. You may be able to reach agreement that the children have longer periods of time in school holidays with their other parent and/or longer visits during the year. Your former partner may be able to move to where you are hoping to relocate.

If you reach agreement with the other party, it is best to enter into a written parenting plan (between parents only) or apply for consent orders before you move.

If you move without a court order or without the consent of the other party, a court may require you to return until it has considered the case. If there is a court order in place, you will be breaking the order and the other parent can apply to enforce the current order.

Note: A parenting plan is a written agreement that sets out parenting arrangements for children. Because it is worked out and agreed jointly, you and your former partner do not need to go to court. Unless a court orders otherwise, you and your former partner can agree to change a parenting order by entering into a parenting plan. A parenting plan is not a legally enforceable agreement. It is different from a parenting order, which is made by a court. You should obtain legal advice about the effect of a parenting plan in these circumstances.

A consent order is a written agreement that is approved by a court. A consent order can cover parenting arrangements for children (parenting orders) as well as financial arrangements* such as property and spousal maintenance (*for married couples who are separated or divorced). Consent orders have the same legal force as if they had been made by a judicial officer after a court hearing.

What if you can't agree about relocation?

If you cannot agree, you can apply to a court for a relocation order to allow you to move. The Court may not grant permission. As with all matters about the care and welfare of children, the Court must consider the best interests of the child.

What if the other party wants to take the children to another place?

If the other party wants to take the children away and you do not agree, you can apply for an order to stop the relocation of the children.

How do you apply for an order to relocate or to prevent relocation?

You can apply to a court for such orders. View the information in this section titled 'If you can't agree'.

Can children travel overseas?

Every time a parent wishes to take the children overseas for a holiday or permanently, the permission of the other parent must be obtained. Before an Australian passport can be issued for a child, the law requires the written consent of each person who has parental responsibility for a child. This is usually the child's parents but may include grandparents or other relatives.

If you are planning a holiday, you should advise the other parent (and any other person with parental responsibility) of your intention as soon as possible. You should include full details of where you will go, confirm a full itinerary will be provided and include contact numbers for hotels or relatives.

If written consent is provided by all parties with parental responsibility, applications can be lodged at an authorised Australia Post office or any Australian Passport Office.

If written consent is not provided by all parties with parental responsibility, you can make a written request to the Approved Senior Officer of the Department of Foreign Affairs and Trade to consider issuing the passport due to 'special circumstances'. For more information about requests to consider 'special circumstances' contact the Australian Passport Information Service on 13 12 32 or go to www.passports.gov.au

If your request to consider 'special circumstances' is not successful, you can apply to the Court for an order permitting a child to travel internationally. In considering such applications, the Court will only permit a child to travel internationally if it determines it is in the best interests of the child.

How can I prevent a child from leaving Australia?

If you are concerned that a child may leave Australia without your permission, you should seek legal advice as soon as possible.

You can apply to the Court for an order that:

- prevents a passport being issued for a child
- requires a person to deliver a child's or accompanying adult's passport to the Court, or
- prevents a child from leaving Australia.

(a) Preventing a child's passport being issued

If you want to prevent an Australian passport being issued for a child, you can:

- lodge a Child Alert Request at any Australian Passport Office, or
- apply to the Court for a child alert order.

A Child Alert Request warns the Department of Foreign Affairs and Trade that a person may apply for an Australian passport for a child without proper and legal consent. If a child alert is in force and an application for an Australian passport is received for a child, you will be notified by the Department of Foreign Affairs and Trade.

A child alert request made at an Australian Passport Office is valid for 12 months. A court ordered child alert stays in force until a child turns 18, or as directed by the Court.

Note: A child alert does not stop a child departing Australia on a valid Australian or foreign passport, and does not cover passports issued by other countries. If you think a passport may be issued for a child in another country, contact the embassy of that country.

For more information about child alerts, contact the Australian Passport Information Service on 13 12 32 or go to www.passports.gov.au.

(b) Delivery of a passport to the Court

If there is a possibility or threat that a child may be removed from Australia on a current passport, you can apply to the Court for orders. The Court may order the delivery of a child's or accompanying adult's passport to the Court. If ordered, the person in possession of the child's passport must deliver it to the Court. The Court will keep it for the specific amount of time detailed in the court order or until further order of the Court.

(c) Preventing a child from leaving Australia

If there is a possibility or threat that a child may be removed from Australia, the Court can make orders which:

- restrain the removal of the child from Australia
- request that the Australian Federal Police (AFP) place the child's name on the Airport Watch List, and
- request that the AFP assist in the implementation of the order/s.

The AFP will need a copy of the court order before placing a child's name on the list. The child's name will stay on the Airport Watch List until further order of the Court.

Note: If you consent to a child travelling out of Australia in the future or wish to take a child out of Australia yourself, you must apply to the Court (before you travel) to have the child's name removed from the Airport Watch List. If you fail to do so, a child may be prevented from leaving irrespective of who they are travelling with. The AFP cannot remove the child's name from the list without an order of the Court.

The AFP has offices in each capital city and some regional locations. Go to www.afp.gov.au or look in the White Pages for contact details.

What if the Court is not open when I need to make an urgent application?

The Court has an out-of-hours service for **emergencies**: that is, there is a risk that a child may be taken out of the country before the next working day. Call the courts on 1300 352 000 out of business hours and you will be referred to this emergency number.