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Can I Take My Child on an Overseas Holiday After Separation?

Are you planning an overseas holiday with your children and wondering about the legalities involved? Whether it's a family adventure or a visit to relatives abroad, understanding your obligations under Australian law is crucial for navigating this issue when co-parenting after separation.

The expert team at Griffith Parry Lawyers are here to help you navigate the steps you need to take when travelling overseas with your child.



Communication and Consent

You should initiate an open and honest conversation with the other parent about your travel plans. Provide them with comprehensive details of your trip, including:

- Destination
- Travel dates
- Proposed itinerary, including accommodation contact information
- Flight numbers and details

It is crucial to request the other parent's consent in writing, clearly outlining their agreement to the trip. Read more about written consent - [Overseas Travel And Passports For Children](#)



What if I don't have a Parenting Order?

If there are passports for the children and provided the other parent has not placed the children on the Family Law Watch List you can, in a practical sense, leave the country with the children and it is not a criminal offence to do so. Read more - [Airport Watch List](#)

However, Australia has agreements with other countries to prevent people removing children from the country where they usually live. If you take them overseas without the other parent's consent, you could be ordered to return them under one of these agreements.



Have a Parenting Order in Place? The Legal Implications

Having a Parenting Order or ongoing Court proceedings related to parenting arrangements changes the legal landscape significantly. In this case, it becomes a criminal offense to remove your children from Australia without either a Family Law Court Order or written, authenticated consent from everyone covered by the Parenting Order. Violating this law can lead to imprisonment for up to three years. We would advise you to seek legal advice to ensure that any written agreements meet legal requirements.



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Uncooperative Other Parent: Seeking Court Permission

If the other parent does not agree to your overseas travel plans, you can apply to the Court for permission. The Court will consider various factors, including the best interests of the children. Factors such as the risk of the children not returning to Australia will be assessed.

The Court may impose conditions, such as requiring you to provide a security deposit, to ensure the children's safe return.



Passport Applications

If your children do not have passports and the other parent refuses to sign the application, you have legal recourse. You can apply to the Court for the issuance of passports without the other parent's consent. This legal step can help resolve passport-related disputes and ensure your travel plans proceed as intended.



Other considerations

If you are travelling overseas with your child, who doesn't share your surname, consider taking certified copies of their birth certificate naming you as a parent, and a Medicare card listing your children.

If you have a Family Court Parenting Order in place which allows international travel, consider taking a copy of your Family Law Order certified by a JP or solicitor or Notary.

Summary

In conclusion, co-parenting post your separation and relationship breakdown can be difficult. The issue of international travel is just one aspect of your children's lives which you still need to navigate. When planning an international trip with your children, legal requirements must be met to avoid complications and potential legal consequences. Open communication, obtaining consent, and seeking legal advice when necessary are key steps to ensure your overseas adventure is both memorable and legally sound.

Always prioritise the best interests and safety of your children when making travel plans. Safe travels!

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