

## AIRPORT WATCH LIST ORDER KIT

An Airport watch list order is a court order telling the Australian Federal Police (AFP) to put a child's name on the Airport Watch List. The Watch List is in place at all international airports and seaports. If a parent tries to take the child out of Australia, then Customs will tell the AFP and the child will not be able to travel until the court order is lifted.

Parents can apply for an airport watch list order if there is a **real and immediate** risk of the child being taken from Australia without the consent of both parents.

## PURPOSE OF THIS KIT

To provide information for parents without a lawyer to prepare and file an application to the Federal Circuit and Family Court for an airport watch list order.

**This kit is a general guide to preparing your application. It is not legal advice. You should talk to a lawyer about your specific situation.**

Important: If you decide to go to court and are unsuccessful, the court may order you to pay the other party's legal costs. As such, it is important that you get legal advice before continuing with this matter.

## CONTENTS OF KIT

This kit explains the process of applying for an airport watch list order. It has links to court documents. It also has examples to help fill in the paperwork. This kit has:

1. COURT FORM – [Initiating application](#)
2. COURT FORM – [Notice of Child abuse, family violence or risk](#)
3. COURT FORM – [blank Affidavit](#)
4. COURT FORM – [Genuine Steps Certificate](#)
5. COURT FORM – [Parenting Questionnaire](#)
6. COURT FORM – [Service kit](#)
7. COURT BROCHURE - [Marriage, Families & Separation](#)
8. COURT BROCHURE – [Preparing an Affidavit](#)
9. COURT FACT SHEET – [Children and international travel after family separation](#)
10. Orders to seek in your initiating application – *see attached*
11. Example affidavit – *see attached*
12. List of people who can witness your affidavit – *see attached*
13. [AFP Family Law Watchlist Request Form](#)

Court forms and brochures can be downloaded from the Federal Circuit and Family Court website at: [www.fcc.gov.au](http://www.fcc.gov.au)

## SUMMARY OF NECESSARY STEPS

To apply for an airport watch list order you need to:

1. Fill in court documents.
2. File documents at Court.
3. Serve the other parent.
4. Fill in proof of service documents.
5. Attend the hearing.
6. Serve court order on the AFP.

### STEP 1: FILL IN COURT DOCUMENTS

#### The Initiating Application

The *Initiating application form* tells the court what orders you want. See the example wording you can use included with this kit and complete the missing details required. Complete the other pages of the form. Make sure all the details are accurate and you understand what orders you are asking for.

You must sign the *Initiating application form* on the last page in the declaration of truth.

#### The Notice of Child abuse, family violence or risk

The *Notice of Child abuse, family violence or risk* tells the court any concerns about abuse or family violence you may have for the child. You must complete this form even if you have no concerns about the child.

You must sign the *Notice of Child abuse, family violence or risk* on the last page.

#### The Affidavit

An affidavit is a written statement setting out the facts of a case in your own words. The purpose of this document is to tell the court your evidence in support of the orders you want. Your affidavit must not be longer than 10 pages. Your affidavit must include the reasons why you believe the child is at risk of being taken out of Australia. If there are any urgent matters to be addressed ie if you believe the child is about to be taken out of the country very soon, you should address the urgency in detail.

Use the suggested paragraphs in the example affidavit as a guide to write your affidavit. Read the brochure *Preparing an Affidavit*.

An affidavit must contain facts and observations only. It should not contain belief or opinion. You cannot put in anything that is not true. Swearing an affidavit that contains false statements is a serious offence called perjury. It carries a maximum penalty of 15 years imprisonment.

You must sign the affidavit in front of an authorised witness. Refer to the list of authorised witnesses included with this kit.

#### The Parenting Questionnaire

Complete this questionnaire by following the instructions on the form.

#### The Genuine Steps Certificate

Complete this certificate by following the instructions on the form. If your matter is urgent, pay attention to question four in Part B on the form. Address the reasons for urgency in your affidavit.

## STEP 2: FILE DOCUMENTS AT COURT

Once you have filled in and signed the *Initiating Application, Notice of Child abuse, family violence or risk, Affidavit, Parenting Questionnaire* and the *Genuine Steps Certificate*, then you file these documents in the Federal Circuit and Family Court. You have two options to file your documents.

The court prefers you file online via the Commonwealth Courts Portal at: [www.comcourts.gov.au](http://www.comcourts.gov.au). This is the safer option during COVID. You will need to first register in order to access the portal. Follow the instructions on the website to open an account. Use the chat function for any assistance with this task.

Alternatively, you make two photocopies of each document and take the originals and all copies to personally file at the court registry. If you live in or are close to the Melbourne Metropolitan Area, the Federal Circuit and Family Court registries are located at 305 William Street in Melbourne and at 53-55 Robinson Street in Dandenong. Check first that the court registries are not closed due to COVID lockdowns.

There is a fee for filing your paperwork. Ask court staff how much it costs or check the [court website](#). If you have certain government concession cards you may not have to pay the filing fees. Download the [Application for exemption of filing fees \(general\)](#) form to see if you are eligible.

If you do not have one of those concession cards you may not have to pay on financial hardship grounds. Download the [Application for exemption of filing fees \(financial hardship\)](#) form to check if you are eligible.

If you file your documents in person, then the Court will keep the originals. The court will give you back two stamped copies of your paperwork and tell you your hearing date. That is the date you come back to court and the judge decides whether to make the orders. Keep one copy of the documents. The remaining copy must be given to the other party (see Step 3).

The Court will assess the urgency of your application and either list it for hearing on the same day (if considered sufficiently urgent), or on another date.

If your application is not listed for hearing the same day it is filed, then send a copy of your application to the AFP. The AFP will place your child on the airport watch list pending the making of an order. To contact the AFP see information below under *Serve court order on the AFP*.

## STEP 3: SERVE THE OTHER PARENT

You must notify the other parent that:

- You have made an application to the court
- When the hearing is to be held

This is called 'service' or 'being served'. Somebody must hand deliver (called 'personal service') to the other parent:

- The *initiating application, notice of child abuse, family violence or risk, affidavit, parenting questionnaire* and *genuine steps certificate*.
- *Copy of the Marriage, Families and Separation brochure*.

You **must not** serve the other parent yourself. Organise for another person aged 18 years or older to do it on your behalf. For a fee, you can get a process server to serve the documents on your behalf. Process servers are listed in the Yellow Pages. See the Service kit for more information.

If you have problems serving the other parent, contact the VLA Legal Help advice line on 1300 792 387 for further advice.

If your application is listed for hearing the same day it is filed, then service will happen after the court hearing and not before.

#### **STEP 4: FILL IN PROOF OF SERVICE DOCUMENTS**

When they are served, the other parent may sign an [Acknowledgment of service](#) form. This confirms that they have been served. The other parent may not agree to this.

The person who hand delivers the documents for you must also complete an [Affidavit of service](#) form. In this they swear that they served or attempted to serve the other parent. This form must also be sworn or affirmed like your affidavit.

These documents are proof of service documents. They prove to the court that you have served the other parent as required by the court rules. If you get a process server to do this, they should prepare these documents as part of their fee.

You will need to take two copies and the original of the *Acknowledgement of service form* if you have one, and the *Affidavit of Service form* to the court for filing prior to the hearing.

#### **STEP 5: ATTEND THE HEARING**

Whether your application is listed for hearing the same day you file or on a later day, make sure you go to the correct court room at least 30 minutes before the scheduled hearing time and advise the clerk that you are appearing without a lawyer.

The Judge/Magistrate will call your matter. This is when you go into the courtroom. The Judge/Magistrate will read your documents and may ask you further questions about your application. If the Judge/Magistrate makes the order you have asked for, the court will order an adjournment (put off) of your case for further hearing.

The court will prepare the airport watch list order the same day. Wait at court until the order is ready for collection.

#### **STEP 6: SERVE COURT ORDER ON THE AFP**

Once you have the airport watch list order from the court then it is your responsibility to notify the AFP of the order.

As soon as practicable send by fax or email an original sealed copy to the AFP along with certified copy of your ID (usually your passport or driver's licence).

The AFP Family Law Watch List contact details are:

Phone: (02) 6126 7999

Fax: (02) 6126 7914

Email: [A OCC-PACE@afp.gov.au](mailto:A OCC-PACE@afp.gov.au)

Include a cover letter explaining what the matter is about.

Once you have sent the airport watch list order to the AFP, do not assume that it has been actioned. Check the airport watch list is in place by telephoning the AFP.

If you applied in the Federal Circuit Court at Melbourne, then the court may assist by sending the court order to the AFP on your behalf.

If the airport watch list order is ex-parte (ie made in the absence of the other party), then serve the court order on the other parent (see the information above under *Serve the other parent* on how to serve).

## CONTACTS FOR FURTHER ASSISTANCE

See the Family Law Kit on the AFP website for more information on how to get an airport watch list order: [www.afp.gov.au/policing/family-law/family-law-kit.aspx](http://www.afp.gov.au/policing/family-law/family-law-kit.aspx)

### Victoria Legal Aid

For free information about the law and how we can help you, call Legal Help on 1300 792 387 Monday to Friday, 8 am to 6 pm, excluding public holidays.

### Djirra

Culturally safe legal advice and representation on family law matters for Aboriginal people.

Tel: 1800 105 303

[djirra.org.au](http://djirra.org.au)

### Federation of Community Legal Centres

Call to find out your nearest community legal centre.

Tel: (03) 9652 1500

[www.fclc.org.au](http://www.fclc.org.au)

### Law Institute of Victoria

Referral to a private lawyer.

Tel: (03) 9607 9550

### Victorian Aboriginal Legal Service

Culturally safe family law assistance for Aboriginal and Torres Strait Islander peoples in Victoria.

Tel: 1800 064 865

[vals.org.au](http://vals.org.au)

**2021 Victoria Legal Aid.** Reproduction without express written permission is prohibited. Written requests should be directed to Victoria Legal Aid, Research and Communications, 570 Bourke Street, Melbourne Vic 3000.

**Disclaimer.** The material in this publication is intended as a general guide only. The information should not be relied upon as legal advice, and should be checked carefully before being relied upon in any context. Victoria Legal aid expressly disclaims any liability howsoever caused to any person in respect of any legal advice given or any action taken in reliance on the contents of this publication.