

# How do I put my child on the Family Law Watchlist?



## What is the Family Law Watchlist?

The Family Law Watchlist is designed to prevent children from being unlawfully removed from Australia. The Watchlist operates at all international seaports and airports within the Commonwealth of Australia and is maintained by the Australian Federal Police.

## How do I place my child's name on the Watchlist?

You will need to apply to the court for an order asking that your child's name be placed on the Watchlist. Applications are usually eFiled in the Federal Circuit and Family Court of Australia at [www.comcourts.gov.au](http://www.comcourts.gov.au). For more information and helpful guides to assist you with this process, see:

- **How do I register for the Commonwealth Courts Portal?** [www.fcfcoa.gov.au/hdi/register-CCP](http://www.fcfcoa.gov.au/hdi/register-CCP)
- **Preparing documents for eFiling** [www.fcfcoa.gov.au/pubs/preparing-docs-efiling](http://www.fcfcoa.gov.au/pubs/preparing-docs-efiling)
- **How do I eFile?** [www.fcfcoa.gov.au/hdi/efile](http://www.fcfcoa.gov.au/hdi/efile)

### If you have a current family law case, you will need to:

1. Make a reasonable and genuine attempt to settle the issue first unless an exception applies. (See Rule 4.03 of the *Federal Circuit and Family Court of Australia (Family Law) Rules 2021*.) Exceptions only occur in limited circumstances (including urgency) and you should seek legal advice first.
2. Prepare and file an **Application in a Proceeding** and an **Affidavit**.  
The Affidavit should either outline:
  - the reasonable and genuine attempts you have made to settle the issue; or
  - the exception that applies and the factual basis for the exception.

If you are seeking your application be dealt with urgently, you will also need to file a **Cover Letter** addressing the nature of the application and why you want it dealt with urgently. This **Cover Letter** should reference paragraphs of your **Affidavit** that explain your situation more fully.

In some circumstances it may also be appropriate to file an updated **Notice of Child Abuse, Family Violence or Risk** and any allegations made in this Notice should be outlined in your **Affidavit**.

**If you do not have a current family law case, you will need to:**

1. Make a genuine attempt to resolve your dispute by following the pre-action procedures required before starting a case. These include attempting mediation (Family Dispute Resolution), obtaining a section 60I certificate and giving notice to the other party of your intention to commence court proceedings.

OR

Apply for an exemption from this requirement. You will need to explain in your **Affidavit** and the **Genuine Steps Certificate** why you cannot comply with the pre-action procedure requirements. Exemptions will only be granted in limited circumstances and you should get legal advice first.

For more information about pre-action procedure requirements, see: [www.fcfcga.gov.au/fl/pubs/pre-action-parenting](http://www.fcfcga.gov.au/fl/pubs/pre-action-parenting)

1. Prepare and eFile:
  - **Initiating Application (Family Law)** – Attach to this application your section 60I certificate, parenting plan or parenting orders;
  - **Notice of Child Abuse, Family Violence or Risk;**
  - **Genuine Steps Certificate;**
  - **Parenting Questionnaire;** and
  - **Undertaking as to Disclosure.**

You will also need to file an **Affidavit** if:

- you are asking for your application to be dealt with urgently;
- your **Notice of Child Abuse, Family Violence or Risk** contains allegations of child abuse, family violence or a risk of harm to the child/ren;
- you are seeking interlocutory (interim or procedural) orders; or  
you are seeking ex parte orders (made without the other party being present).

Urgent matters also require a **Cover Letter** addressing the nature of the application and why an urgent listing is required.

## Filing Fees

There is a filing fee for both an **Initiating Application (Family Law)** and an **Application in a Proceeding**.

See: [www.fcfcoa.gov.au/fl/fees/fl-fees](http://www.fcfcoa.gov.au/fl/fees/fl-fees)

You will need to pay the relevant filing fee before the court will accept your application. You may apply for a fee exemption by completing the **Application for Exemption of Fees – General Form** or **Application for Exemption of Fees – Financial Hardship Form**.

You can obtain the above forms from [www.fcfcoa.gov.au/fl/forms](http://www.fcfcoa.gov.au/fl/forms), by calling 1300 352 000 or at your nearest Federal Circuit and Family Court of Australia registry.

Your child's name can be placed on the Watchlist **as soon as you have filed** these documents with the court.

It is **your responsibility** to provide the Federal Police with a copy of your application as soon as it is filed for the child's name to be placed on the Watchlist – the court will not do this for you.

### Once you have filed your court documents, you will need to:

1. Complete a **Family Law Watchlist Request Form** available from [www.afp.gov.au/sites/default/files/PDF/FamilyLawWatchlistRequestForm-04092020.pdf](http://www.afp.gov.au/sites/default/files/PDF/FamilyLawWatchlistRequestForm-04092020.pdf)
2. Email or fax a copy of the sealed (stamped) **Initiating Application (Family Law)**, or **Application in a Proceeding**, or any court orders made limiting or preventing your child's overseas travel and the **Family Law Watchlist Request Form** to the Federal Police. You must also provide a 24-hour contact number for yourself and an emergency contact and a return email address.

#### **AFP Contact - Family Law Watchlist**

Fax Number: (02) 6148 9609

Email: [alerts@afp.gov.au](mailto:alerts@afp.gov.au)

3. Contact the AFP by phone on (02) 5127 0004 to make sure that they have received your email or fax.



**Urgent After Hours:** If your child is at immediate risk of being removed from Australia and it is outside of business hours, call the Federal Circuit and Family Court of Australia on 1300 352 000 and ask to speak with a Duty Registrar to place your child's name on the Watchlist.

## How does the court decide?

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An application for your child's name to be placed on the Watchlist is dealt with by the court in the same way as any other parenting application. The court must make a decision based on the best interests of the child. [Section 60CC of the Family Law Act 1975](#) outlines the factors the court considers when deciding what is in the best interests of a child.

## Sample court orders

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Your **Initiating Application (Family Law)** or **Application in a Proceeding** is the document where you list the orders you want the court to make.

These are some of the types of orders you can ask for and some suggested wording. Remember that each case is different and that the type of orders you should ask for will depend on the circumstances of your case.

### Substantive orders

These are examples of orders asking that your child's name be placed on the Watchlist and is the wording preferred by the Federal Police. For more information, see the Federal Police's 'Family Law Kit' [www.afp.gov.au/what-we-do/crime-types/family-law-kit](http://www.afp.gov.au/what-we-do/crime-types/family-law-kit).

If there are no current parenting orders for your child, you will usually also need to apply for parenting orders when you apply for your child's name to be placed on the Watchlist. Parenting orders deal with things such as parental responsibility (responsibility for major long-term decisions about your child), who your child will live with, and what time your child will spend with the parent they are not usually living with. For sample parenting orders, see [www.ag.gov.au/Publications/Pages/Parenting-orders-what-you-need-to-know.aspx](http://www.ag.gov.au/Publications/Pages/Parenting-orders-what-you-need-to-know.aspx).

If your child is at immediate risk of being removed from Australia, you may also need to apply for interlocutory orders (relating to the court process). There is an extra filing fee where you apply for interlocutory orders.

These orders should be included under the heading **Final Orders** and **Interlocutory Orders** (if necessary) in your **Initiating Application (Family Law)**.

- **Placing your child's name on the Family Law Watchlist:** An order placing a child's name on the Watchlist can be **absolute** or **conditional**.
  - An absolute order prevents your child from travelling until a further order is made. If no further order is made, your child's name will be removed from the Watchlist at the end of the period stated in the order or when they turn 18.
  - A conditional order will allow your child to travel overseas if the parents provide 'authenticated consent'. This consent is a signed statutory declaration by both parents which can be provided to the Federal Police and shows the consent of both parents allowing the child leaving Australia for a particular period. See regulation 13 of the [Family Law Regulations 1984](#).

### Sample wording – absolute

That until further order each party, (full name and date of birth of each party) their servants and/or agents be and are hereby restrained by injunction, and irrespective of authenticated consent as contemplated in Part VII of the *Family Law Act 1975*, from removing or attempting to remove or causing or permitting the removal of the said child/children (full name and date of birth of each child) from the Commonwealth of Australia for a period of (x) months/years;

AND IT IS REQUESTED that the Australian Federal Police give effect to this order by placing the name/names of the said child/children on the Family Law Watchlist in force at all points of arrival and departure in the Commonwealth of Australia and maintain the child's/children's name/names on the Watchlist for the said period, or until the Court orders its removal.

### Sample wording – conditional

That until further order, or else subject to the authenticated consent of all parties required to provide consent by Part VII of the *Family Law Act 1975*, each party, (full name and date of birth of each party) their servants and/or agents be and are hereby restrained from removing or attempting to remove or causing or permitting the removal of the said child/children (full name and date of birth of each child) from the Commonwealth of Australia for a period of (x) months/years;

AND IT IS REQUESTED that the Australian Federal Police give effect to this order by placing the name/names of the said child/children on the Family Law Watchlist in force at all points of arrival and departure in the Commonwealth of Australia and maintain the child's/children's name/s on the Watchlist for the said period, until the Court orders its removal, or with consent of all parties.

**You should get legal advice about which Watchlist order is most appropriate for your situation.** You can seek legal advice from a Legal Aid office, community legal centre or private law firm.

#### **Absolute**

If the order made by the court is absolute and refers to the parties or a party having an 'injunction' against them, then written consent **will not** override the order. You will need to apply to the court for your child's name to be removed from the Watchlist and should get legal advice about this.

#### **Conditional**

If the order made by the court is conditional and all the parties – usually the parents – are willing to give consent, you should not have to apply to the court for your child to travel overseas.

In practice the Federal Police will keep your child's name on the Watchlist but change the alert to note the consent. This means that the alert will still trigger at the airport and most likely Federal Police officers will speak to the person trying to travel with your child.

The Federal Police will want to make sure that your child is only travelling with the person who has been given consent and that the travel dates and destination (if included in the order or consent) match up with the plane tickets. If the consent has been properly given, your child should still be able to travel, but the Federal Police make that decision on the day.

For more information, see Factsheet 2 ‘How do I remove my child’s name from the Family Law Watchlist?’

## Service and procedural orders

These are examples of service and procedural orders and should be included under the heading **Interlocutory Orders** in your **Initiating Application (Family Law)** or **Application in a Proceeding**.

### If your case is urgent, then you may want to ask for:

- **Dispensing with the requirement for a section 60I certificate** – this order is asking for permission to file your application without first going to family dispute resolution and getting a section 60I certificate.

#### Sample wording

That the requirement for a section 60I certificate be dispensed with.

- **Urgent listing/short notice** – this order is asking that the court deal with your application on the earliest possible date.

#### Sample wording

That the matter be listed urgently on short notice.

### If you cannot find the other parent or will have difficulty serving them, then you may want to ask for:

- **Substituted service** – If you do not have an address for the other party, or will have difficulty serving them, you may need to ask for permission to ‘serve’ the other party through a different method – for example via email, text message or social media, or sending it via registered post to someone who you know is in contact with the other party. To ‘serve’ someone essentially means to provide them with a copy of the court documents you have filed.

#### Sample wording

That the rules for service be dispensed with provided that the Applicant send the Initiating Application (Family Law), the Affidavit, the Notice of Child Abuse, Family Violence or Risk, the Genuine Steps Certificate, the Parenting Questionnaire, and the Undertaking as to Disclosure to the Respondent by [eg private Facebook message, email, text message, etc].

- **A location order** – If you are unable to locate the other parent and do not have a way of contacting them, then you may need to ask for a location order. This is an order that requires a person or government department like Centrelink or a school to provide information to the court about a child’s location. If this is required, you should get further legal advice.

#### Sample wording

That pursuant to s67N(2) of the *Family Law Act* that the Chief Executive Officer of Centrelink furnish forthwith to the Federal Circuit and Family Court of Australia at [court location] information about

the location of the child [child/ren name/s born DOB] or the mother/father [name born DOB] that is contained or comes into the records of Centrelink.

That pursuant to section 67P(1)(d) of the *Family Law Act* leave be granted to disclose the information provided to the Registrar of the Federal Circuit and Family Court of Australia at [court location] and that the Court arrange for a process server to effect service of the documents on the respondent and that the applicant pay the costs associated with such service.

- **Ex parte listing** – If there are concerns that a child is at risk of serious harm and the matter needs to be heard urgently, or there are concerns that the other parent will go into hiding with the child, then you may ask for an order that your application be dealt with ‘ex parte’. This is asking for permission not to serve the other parent first and for the application to be heard by the court without the other parent being there. If this is required, you should get further legal advice.

#### Sample wording

That the service of the application be dispensed with and that the application proceed on an ex parte basis.

## Your Affidavit

An affidavit is your written statement of evidence and tells the court why it should make the orders that you are asking for.

You will need to include in your affidavit details about:

- Your personal history including your date of birth, date of marriage/relationship, and date of separation and children's name/s and date of birth/s.
- All current parenting plans or court orders, including any family violence orders. Attach copies to your **Initiating Application**. If you are filing an **Application in a Proceeding** and the court does not already have a copy of these documents, attach them to your **Affidavit**.
- Circumstances of the care of your child since the court orders were made.
- **Risks to your child:** any concerns for your child's safety or welfare, including any involvement by the Department of Communities and Justice (DCJ, previously known as FaCs/DoCS) either in the past or the present.
- **Passports:** whether your child has a passport (either Australian or from another country), where the passport is located, whether your child may be travelling on a foreign passport, whether your child is eligible for a foreign passport and if so, whether only one parent's signature is required to obtain such passport.
- **Risk of removal:** why you think that your child is going to be removed from Australia; whether the other party has any links/connections to any particular country or countries, where your child is likely to be taken overseas and why.

### Tips for writing an affidavit

- Divide the affidavit into paragraphs.
- Number each paragraph.
- Keep each paragraph short and deal with one issue per paragraph.
- Be specific rather than general. Think about who, what, when, where, and how. Provide exact dates wherever possible. If you can't be exact, make your best estimate.
- Focus on the issues relevant to your application, namely, that you have a genuine concern that your child will be removed from Australia by the other party and that there is a real risk of this happening.
- When you are writing about a conversation, quote it exactly, or write: 'On or around [DATE and TIME], [NAME] said to me words to the effect of "*I'm going to my Mum's. Don't call.*"
- Keep your affidavit under 10 pages.
- To attach a document, refer to it in your Affidavit and then write "**Annexed to this affidavit and marked with the letter "A" is a copy of [DOCUMENT NAME]**". Write the letter "A" at the top of the front page of the attached document. If you have more than one annexure, the second document should be marked "B" and the third document marked "C", etc.
- You can attach up to 5 annexures.
- Sign the bottom of each page of the affidavit in front of a Justice of the Peace (JP) or lawyer and complete and sign the "jurat" at the end of the affidavit. This is the statement at the end of your affidavit which sets out when, where and before whom you have signed the affidavit.
- Make sure the JP or lawyer who is witnessing the affidavit signs each annexure.
- If you need to correct any errors, cross out the error and put your initials next to the change. The JP or lawyer who is witnessing the affidavit must also put their initials next to the change. These changes can only be made prior to completing the jurat.



- If asking for short service, include details of any urgency in your matter.
- If you do not have a section 60I certificate from a family dispute resolution practitioner, explain why you did not go to family dispute resolution, for instance, if it is an urgent matter.
- If asking for a service order or location order, explain why you do not know where the other parent is, all reasonable attempts you have made to locate the other parent, and how you know the method you have selected is the best way of contacting the other parent.
- Anything else which you think is relevant.

**Important:** This is not a complete list. What you will need to include will depend on your circumstances.

## Service

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When you start a court case, the law says you must tell the other parent about the case by serving them with a sealed (stamped) copy of your court documents.

‘Serving’ means giving the documents to the other parent or bringing them to their attention. If you are filing an **Initiating Application**, you will need to follow the rules of ‘special service’. You can find these rules in the **Service Kit** available from [www.fcfsa.gov.au/forms/service-kit](http://www.fcfsa.gov.au/forms/service-kit), by calling 1300 352 000 or at your nearest Federal Circuit and Family Court of Australia registry.

If your case is urgent and/or you can’t find the other parent or will have difficulty serving them, you may want to ask for special orders about service. See the section above under the heading ‘Service and procedural orders’.

If you are concerned that the other parent will go into hiding with the child, and the court allows your application to proceed ‘ex parte’, then you do not have to serve them first with a copy of your court documents or tell them you have filed an application, unless and until you are ordered by the court to do so.

## How do I confirm that my child’s name is on the Watchlist?

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To check whether your child’s name has been placed on the Watchlist, you will need to:

- Complete a **Family Law Watchlist Enquiry Form** available from [www.afp.gov.au/sites/default/files/PDF/FamilyLawWatchlistEnquiryForm-26032019.pdf](http://www.afp.gov.au/sites/default/files/PDF/FamilyLawWatchlistEnquiryForm-26032019.pdf).
- Fax or email the completed **Family Law Watchlist Enquiry Form** to the AFP Operations Coordination Centre Family Law (fax number: (02) 6148 9609; email: [alerts@afp.gov.au](mailto:alerts@afp.gov.au)) along with:
  - a. A certified copy of your ID, such as your driver’s licence or passport
  - b. A copy of the application or order (if available) that places your child’s name on the Watchlist
  - c. Your email address as the Federal Police will only respond to you by email

## Can the other parent get a passport for my child without me knowing?

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To obtain an Australian passport for a child, the Australian Passport Office will usually require:

- Each person with parental responsibility (this is usually the parents but can also include grandparents or other family members if a court has granted that person parental responsibility) for a child to sign the application for the child's passport OR
- An order made by an Australian court allowing one parent to obtain a passport for the child without the other parent's consent.

If the other parent applies to the court for an order allowing them to obtain a passport for your child, that parent is usually required to serve you with a copy of their court documents for you to be able to respond to the application.

The Passport Office can issue a passport to a child without the other parent's consent or a court order, but this is only where they have found that there are special circumstances and the parent applying for the passport can show that they have made all efforts to obtain the required consent from the other parent.

If you do not want your child being issued with a passport, you can create a **Child Alert** which is a warning to the Department of Foreign Affairs and Trade that there are circumstances that need to be investigated before they issue an Australian passport or other travel document to a child. To request a Child Alert, you will need to complete and submit a Child Alert form (PC9). For more information, see [www.passports.gov.au/passports-explained/childrens-passports/child-alert-requests](http://www.passports.gov.au/passports-explained/childrens-passports/child-alert-requests).

If your child is or may be eligible for a foreign passport, you should contact the relevant High Commission or embassy for that country based in Australia for information about their requirements to issue a passport to your child.

If:

- Your child is eligible for a foreign passport AND
- Only one parent's signature is required for a passport to be issued AND
- You have genuine concerns that the other parent has applied and will attempt to remove your child from Australia

Then you should speak to a lawyer about applying to the court for your child to be placed on the Watchlist.

## I tried placing my child's name on the Watchlist, but they have already left Australia

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Australia is a signatory to the *1980 Hague Convention on the Civil Aspects of International Child Abduction* (the Hague Convention) which is the main international agreement that deals with international parental child abduction. The Hague Convention provides a way for parents to seek to have their child returned to their home country. The Hague Convention is currently in force between Australia and over 80 countries. There is also a bilateral agreement in force between Australia and Egypt, and Australia and Lebanon, which aims to assist parents to resolve their parenting dispute across international borders.

If your child has been removed from Australia without your permission, you should get legal advice as soon as possible about the legal options available to you for your child's return. You can contact the Commonwealth Attorney-General's Department for information and assistance. You can also contact International Social Service Australia for free legal advice.

For more information, visit: [www.ag.gov.au/families-and-marriage/families/international-family-law-and-children/international-parental-child-abduction](http://www.ag.gov.au/families-and-marriage/families/international-family-law-and-children/international-parental-child-abduction)

## Important contact details

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**Federal Circuit and Family Court of Australia National Enquiry Centre (After Hours Number)** Phone: 1300 352 000

**AFP – Family Law Watchlist Alerts** Phone: (02) 5127 0004  
Fax: (02) 6148 9609  
Email: [Alerts@afp.gov.au](mailto:Alerts@afp.gov.au)

**Australian Passport Information Service** Phone: 131 232

**International Social Service Australia** Phone: 1300 657 843  
Email: [issnsw@iss.org.au](mailto:issnsw@iss.org.au)

**Commonwealth Attorney-General's Department** Phone: 1800 100 480

This fact sheet is intended as a general guide to the law. It should not be relied on as legal advice and it is recommended that you talk to a lawyer about your particular situation. At the time of writing, the information shown is correct but may be subject to change. If you need more help, contact LawAccess NSW on 1300 888 529.

Family Law Early Intervention Unit: 1800 551 589 • Legal Aid NSW [www.legalaid.nsw.gov.au](http://www.legalaid.nsw.gov.au)