

## **OVERSEAS TRAVEL WITH CHILDREN**

Overseas travel with children in separated families can often become a major problem.

Where there are no Court Orders in place regarding children, parents are not strictly speaking required to obtain the other party's consent to travel overseas with their children. However, if your child does not have a current passport, then the other side's consent becomes a necessity, as you will need the non-travelling parent to sign the passport application. In many cases, the non-travelling parent will not do so. Sometimes there are genuine reasons for the refusal to sign, and sometimes there is no good reason.

If the non-travelling parent will not sign your child's passport, you will need to file an application with the Family Court seeking either that the other party's signature not be required, or seeking an Order directing the non-travelling parent to sign. If you can show the Court that you are genuine in your travel, that the travel is for holiday purposes (copies of return airflight tickets/itinerary will need to be provided), that you have ties to Australia, and that you have every intention of not absconding overseas with your child, you will be successful in obtaining an Order with regards to the passport, and also an Order that you be permitted to take your child overseas. You would only be unsuccessful if the Court takes the view that you are at risk of not bringing the child back to Australia, or if you were wanting to travel to an unsafe country where significant travel warnings by the Australian Government not to travel are in place.

Where Court Orders are in place for children, the *Family Law Act* states that if you wish to travel overseas with your child, you must first obtain the other party's consent to do so.

If parties want to avoid the issue of overseas travel becoming a dispute, they should enter into Consent Orders regarding their children's arrangements, and as part of those Consent Orders, factor in the ability for both parties to travel overseas with their children on various conditions. Your family law solicitor will be able to advise you on the usual conditions and types of Orders that are generally made with regards to overseas travel.

Oner Family Law can assist with all your family law needs. Contact us for more information.