

# Preventing Children Being Removed from New Zealand



## HOW CAN YOU PREVENT A CHILD BEING TAKEN OUT OF NEW ZEALAND?

If you believe that your child is about to be taken out of New Zealand in breach of a parenting order, you can ask the High Court, the District Court or the Family Court to make an order to prevent this. You can also do this if you've only applied for a parenting order or are about to apply for one.

The Court can order the Police or a social worker to get the child and place them with a suitable person until the Court can deal with the case further. This is often called an **order preventing removal**.

People other than parents can also ask the Court to intervene if they have been given day-to-day care of or contact with a child under a parenting order, or have applied for a parenting order or are about to apply.

It's important that you apply to the Court quickly. Once your child leaves New Zealand, they become subject to the laws of other countries or to international laws.



## HOW DO YOU APPLY TO THE COURT?

You should get a lawyer to help you apply. You need to be able to prove to the Court –

- that taking the child out of New Zealand would breach a current **parenting order** that gives you day-to-day care of or contact with the child, or
- that you have **applied** for a parenting order or are **about to apply**, and the other person is about to take the child overseas to prevent you getting day-to-day care or contact under an order.

You will also need to tell the Court why you believe the child is about to be removed – for example, because their other parent has said they will take the child with them when they go to live overseas.

## HOW LONG WILL IT TAKE FOR THE COURT TO MAKE AN ORDER?

If your case is urgent, you can apply to the Court without telling the other person (a “without notice” application). The Court may make an order within a few hours.

In cases that are less urgent, the other person will be given a copy of your application (an “on notice” application) before the Court makes an order. This allows the other person, and their lawyer if they have one, to come to Court when it hears your application. The other person can then tell the Judge why they think the order should not be made.

## WHAT ACTION CAN THE COURT TAKE?

If the Court believes on reasonable grounds that the child is about to be taken out of New Zealand, it can issue a warrant for the **Police** or a **social worker** to get the child and place them with someone suitable until a Family Court deals with the case.

The Court can also order that the child’s **passport** be given to the Court. This will include any parent’s passport that has the child’s name in it. The Court can also order the person who was about to take the child overseas to give their passport to the Court.

If the other person has already made travel plans, the Court can also order them to hand over any **travel tickets** for them or for the child.

If the Court does not issue a warrant, it can make an order that the child not be removed from NZ, either for a limited time only or until the Court makes another order.

### NOTIFYING NZ AIRPORTS

If the Court has made an order preventing removal of the child, you can ask for the child's details to be entered onto the Customs Service computer system for passengers (called a **CAPPs** listing). Your lawyer will be able to arrange this for you.

This means that the child can be stopped from leaving any NZ international airport by Customs officers when the child's details are checked on the Customs system.

This is especially important if the child is a citizen of more than one country, because a NZ Court cannot prevent other countries from issuing a passport for the child.

### IF YOU GET AN ORDER PREVENTING REMOVAL, CAN YOU TAKE THE CHILD OVERSEAS?

No. The order prevents **anyone** from taking the child out of New Zealand – including you. If you want to take the child overseas, you will have to ask the Court to change (vary) or cancel (discharge) the order.



## CRIMINAL OFFENCES

It's a criminal offence to take, or try to take, a child out of New Zealand knowing that a current parenting order gives day-to-day care or contact to some other person, or as a way of preventing a parenting order being complied with.

It's also an offence to take a child overseas knowing that a case involving the child is about to go to Court or that another person is about to apply for a Court order.

If convicted of these offences a person can be jailed for up to **three months**, or fined up to **\$2,500**, or both.

It's also a criminal offence to try to stop a Police officer or social worker from taking the child if the Court has issued a warrant for them to do this. If convicted for this offence, a person can be jailed for up to **three months** or fined up to **\$2,500**.

## NEED MORE INFORMATION OR ADVICE?

For more information or advice, look on the Family Court website ([www.justice.govt.nz/family](http://www.justice.govt.nz/family)), or contact a family lawyer ([www.familylaw.org.nz](http://www.familylaw.org.nz)), a community law centre, or the nearest Family Court office.

## LEGAL AID

Anyone who needs a lawyer but can't afford one may be able to get legal aid. This is where the Government pays some or all of the lawyer's bills (sometimes you may have to pay some or all of it back).

You can get information on **legal aid** by –

- contacting your local Legal Aid Services office, based at your local District Court (see the blue Government pages at the front of the phonebook)
- visiting the Legal Aid Services pages on the Ministry of Justice website at [www.justice.govt.nz/service/getting-legal-aid](http://www.justice.govt.nz/service/getting-legal-aid), or
- seeing a lawyer and discussing legal aid with them.

Legal aid is available for all Family Court cases, except dissolution of marriage (divorce).



MINISTRY OF  
**JUSTICE**  
*Tābū o te Ture*

[www.justice.govt.nz/family](http://www.justice.govt.nz/family)