

CHILD ABDUCTION

CAN I PREVENT MY FORMER PARTNER FROM ABDUCTING MY CHILD?

In practical terms there is little the law can do physically to prevent a determined parent from abducting a child. However there are certain steps that a worried parent can take if he/she has good reason to believe that the other parent may snatch the child and possibly even take the child from the country.

DO I NEED TO START DIVORCE PROCEEDINGS?

No. Anyone who has a child lawfully in their care (whether that be under a court order or otherwise) is entitled to apply to the court for assistance, whether or not the parents of the child were married or even living together.

WHAT PREVENTATIVE STEPS CAN I TAKE?

If there are reasonable grounds to believe that the other parent intends to abduct the child an application can be made to the court for a **PROHIBITED STEPS ORDER**. This is an order made to prohibit the other parent from removing the child from the care of the parent with whom the child normally lives. In some cases this order will be necessary because without it the other parent would not be acting unlawfully by removing the child eg. if there has been no order in earlier divorce proceedings determining where the child is to live and the child has been living with one parent by agreement between the parties. In other cases it may be wise to obtain a prohibited steps order to reinforce existing rights - it will also mean that the authorities are likely to act more quickly in the event of an abduction taking place.

HOW DO I APPLY FOR A PROHIBITED STEPS ORDER?

First complete a standard application form and lodge it with the court. A date will be fixed for a preliminary hearing. The court will normally make an interim prohibited steps order which will remain in force until the final hearing.

In most cases however the situation will be urgent and one parent will be asking for an immediate order. In these cases the courts may be willing to make an **EX PARTE ORDER** i.e. an order which takes immediate effect and made without the other party being told about the hearing. This ex-parte order will last only for a few days and the court will fix a final hearing.

The court will decide whether the making of a prohibited steps order is in the best interests of the child and if so for how long the order should remain in force.

WHAT DO I DO IF MY CHILD IS ABDUCTED BY THE OTHER PARENT?

The first things to do are to inform the police and your solicitor. If you have a prohibited steps order or an order stating that the child is to reside with you the police should be shown the order.

If it is suspected that the other party is going to take the child out of the UK it may be possible to institute a **PORT ALERT**. This is a notification to all air and sea ports who will keep a particular lookout for the abducting parent and child and if possible stop them leaving the country. The police will need to have a copy of the prohibited steps order and will also want details of the child and the abducting parent - a photograph of both is always helpful.

If the child is actually taken abroad it will be necessary to ascertain the country to which the child has been taken. Many countries have entered into an agreement with the UK under the **HAGUE CONVENTION**.

Under that Convention participating countries will assist each other in the return of children. Countries such as America and Australia are parties to the convention. The Child Abduction Unit of the Lord Chancellor's Department will liaise with the equivalent authority in the other country to attempt to secure the return of the child.

If the child is kept in or is returned to this country the court can make specific orders for the return of the child to the care of the other parent. The police will normally assist in the enforcement of such orders.

Lees Solicitors LLP provide this fact sheet free of charge

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