

**OFFICE OF THE STAFF JUDGE ADVOCATE
48TH FIGHTER WING, RAF LAKENHEATH, UK**



INTERNATIONAL CUSTODY, VISITATION AND CHILD ABDUCTION

1. Q. My ex-husband has legal custody of our daughter. He says he's going to take her overseas with him to his next assignment. Can he do that?

A. Generally, yes. Unless a judge orders him not to take her out of the country, a custodial parent has the right possession of the child, including deciding on where to live. A parent with legal custody can take a child with him/her wherever they go to live in the absence of a court order. Two points. First, consider possible state laws that prohibit the custodial parent (the one with custody) from removing a child from the state absent court permission. This may give the non-custodial parent a little more room to argue. Second, should the custodial parent remove the child from the country, arguably visitation issues will change. Consider the possibility of moving the court to modify the visitation provisions to possibly include more time or have the moving party pay all costs incurred in periods of visitation.

2. Q. Can he get a passport for her? She's only 11.

A. As of July 2, 2001, as provided by Public Law 106-113, Section 236, both parents are required to execute the passport application for a minor child under age 14. A passport is a travel document issued by a competent authority showing the bearer's origin, identity, and nationality, if any, which is valid for the entry of the bearer into a foreign country. Under U.S. law, U.S. citizens must enter and depart the U.S. with valid U.S. passports. This requirement is waived, however, for travel from countries within the Western Hemisphere, with the exception of Cuba. However, each foreign country has its own entry requirements concerning citizenship, passports and visas. Information regarding those requirements may be obtained from the appropriate foreign embassy or consulate or from our publication "Foreign Entry Requirements."

The U.S. Department of State issues almost 1 million passports annually to children under 18. These passports are valid for 5 years (as compared to an adult passport which is good for 10 years). He can get a passport for her as well as a military dependent ID card (you have to be 10 years old or above to get one of these).

3. Q. How do I get a passport for a child?

A. Either parent can apply for a passport for a child who is a U.S. citizen. The parent who applies does not have to be an American citizen. The application is available at designated Postal Service offices. The parent must sign the form if the child is under 13 years of age. Issuance of a passport to one parent doesn't automatically stop the other one from obtaining a second passport for the child. Once it is issued, the passport's use is not "tracked" or controlled by the State Department. Either parent can request and obtain information as to the issuance of a passport for a child.

Parents interested in obtaining passport records of their child(ren) may submit a NOTARIZED letter to the Department of State, Research and Liaison Section, 1111 19th Street, NW, Suite 500, Washington, D.C. 20524-1705. The request must contain the full name, date and place of birth of the child(ren), address and telephone number for the requesting parent, as well as your reason for needing the information. If you are requesting a copy of the issued passport application, there is no fee. If an authenticated copy of the passport application is requested the fee is \$30.00 for the first copy and \$20.00 for each additional copy. The telephone number for information is 202-955-0291. The Research and Liaison Section does not accept fax requests. Please note that passport records requested from this office can take anywhere from 4-8 weeks to be completed.

For further information regarding the issuance or denial of U.S. passports to minors involved in custody disputes, or about international child abduction, please contact: U.S. Department of State Office of Children's Issues, CA/OCS/CI, Washington, D.C. 20520-4818, Phone: 202-736-7000, Fax: 202-312-9743

4. Q. I am afraid my wife will kidnap our son. Isn't there any way I can find out if she's gotten a passport for him?

A. Every year the U.S. Department of State receives nearly 3,000 reports of actual or expected abductions. About 1,000 of these involve children of dual nationality. The State Department has set up a "Namecheck Clearance System" as a lookout system for the denial of U.S. passports. While it's not a passport use tracking system, it does provide information to a parent or court about when a passport application is submitted on behalf of a child.

5. Q. How does the Namecheck Clearance System work?

A. It works in two ways. If the State Department has on file a court order that prohibits travel outside the U.S., grants custody to the parent who isn't applying for a passport, or grants joint custody to both parents, then the passport will be denied. If the State Department has on file a written request for information for a parent, guardian or court, then the Department will notify that parent, guardian or court if a passport application has been submitted for a child. The Namecheck Clearance System remains effective until the child turns 18 or a written request is made to end it. Changes in address, phone number or name should be made in writing.

6. Q. I'm concerned about my spouse keeping my children while they're stationed overseas. What are my rights?

A. Since the late 1970's, the Bureau of Consular Affairs has taken action in over 8,000 cases of international parental child abduction. They have also provided information in response to thousands of additional inquiries pertaining to international child abduction, enforcement of visitation rights and abduction prevention techniques. The Office of Children's Issues works closely with parents, attorneys, other government agencies and private organizations in the United States to prevent international abductions.

Forty-four countries (including the United States) have joined the Hague Convention on the Civil Aspects of International Child Abduction. The Convention discourages abduction as a means of resolving a custody matter, by requiring (with few exceptions) that the abducted child be returned to the country where he/she resided prior to the abduction. In 1996, this office received approximately 700 applications under the Hague Convention. About half involved children abducted from the United States to other countries. Most of the cases involved Mexico, Canada, the United Kingdom, Germany and France.

There are still many countries, however, where the Hague Convention has not been accepted. In the event of an abduction to a non-Hague country one option for a left-behind parent is to obtain legal assistance in the country of the abduction and follow through a court action. Of non-Hague countries, the largest number of cases involved children abducted to Egypt, Japan, Jordan, the Philippines, and Saudi Arabia.

7. What can the State Department Do?

A. In cases where the Hague Convention on the Civil Aspects of International Child Abduction applies, assist parents in filing an application with foreign authorities for return of the child. In other cases, through our Embassies and Consulates abroad, attempt to locate, visit and report on the child's general welfare. The State Department may also provide the left-behind parent with information on the country to which the child was abducted, including its legal system, family laws, and a list of attorneys there willing to accept American clients. In all cases, provide a point of contact for the left-behind parent at a difficult time; monitor judicial or administrative proceedings overseas; assist parents in contacting local officials in foreign countries or contact them on the parents behalf; list the child in a passport look-out database to alert the custodial parent to an application for a U.S. passport and; alert foreign authorities to any evidence of child abuse or neglect.

The State Department Cannot:

- Reabduct the child
- Help a parent to violate host country laws
- Pay legal expenses or court fees
- Act as a lawyer or represent parents in court
- Give refuge to a parent involved in a re-abduction

If you would like more information, please call 202-736-7000 for information and instructions on how to obtain our publications, or write: OFFICE OF CHILDREN'S ISSUES, U.S. Department of State, Office of Children's Issues (CA/OCS/CI), 2201 C Street, N.W., SA-22, Room 2100, Washington, D.C. 20520-4818, **Telephone:** 202-736-7000

Special Requirements for Children Under Age 14

As required by Public Law 106-113

Effective July 2, 2001

Effective July 2, 2001, Minors Under Age 14 MUST:

1. Provide Application Form DS-11

- [To download an application form, please click here.](#)
- Or, forms can be obtained from any passport agency or acceptance facility. (Call to check hours of availability.)
- Many travel agents stock application forms for their clients as well.

NOTE: *Please do **NOT** sign the DS-11 application form until the Passport Acceptance Agent instructs you to do so.*

2. Submit Proof of U.S. Citizenship (for minors under age 14)

Note: Previous U.S. passports are not acceptable as proof of relationship to the applying parent(s)/guardian(s). Please see item #3 for documents that are acceptable as proof of relationship.

You will need to submit one of the following:

- Certified U.S. [birth certificate](#); or
- Previous fully valid U.S. Passport; or
- Report of Birth Abroad (Form FS-240); or
- Certification of Birth Abroad (Form DS-1350); or
- Certificate of Citizenship or Naturalization from BCIS.

NOTE: *A certified birth certificate has a registrar's raised, embossed, Impressed or multicolored seal, registrar's signature, and the Date the certificate was filed with the registrar's office, which must be within 1 year of your birth.*

A Delayed Birth Certificate filed more than one year after your birth may be acceptable if it:

- Listed the documentation used to create it **and**
- Signed by the attending physician or midwife, or, lists an affidavit signed by the parents, or shows early public records.

If you do NOT have a previous U.S. passport or a certified birth certificate, you will need:

1. Letter of No Record

Issued by the state with your name, date of birth, which years were searched for a birth record and that there is no birth certificate on file for you.

2. AND as many of the following as possible:

- Baptismal certificate
- Hospital birth certificate
- Census record
- Early school record
- Family bible record
- Doctor's record of post-natal care

NOTES:

- *These documents **must** be early public records showing the date and place of birth, preferably created within the first five years of your life.*
- *You may also submit an Affidavit of Birth, form DS-10A, from an older blood relative, i.e., a parent, aunt, uncle, sibling, who has personal knowledge of your birth. It must be notarized or have the seal and signature of the acceptance agent.*

NOTE: The following are

NOT proof of citizenship

- Voter registration cards
- Army discharge papers

[We have new information on foreign-born children adopted by U.S. citizens.](#)

NOTE: If you travel extensively, you may request a larger, 48-page passport at no additional cost. To do so, please attach a signed request for a 48-page passport to your application.

3. Present Evidence of Child's Relationship to Parents/Guardians (*for minors under age 14*)

Note: Previous U.S. passports are not acceptable as proof of relationship to the applying parent(s)/guardian(s).

You will need to submit one of the following:

- Certified U.S. birth certificate (*with parents' names*); or
- Certified Foreign Birth Certificate (*with parents' names and translation, if necessary*); or
- Report of Birth Abroad (*Form FS-240*) (*with parents' names*); or
- Certification of Birth Abroad (*Form DS-1350*) (*with parents' names*); or
- Adoption Decree (*with adopting parents' names*); or
- Court Order Establishing Custody; or
- Court Order Establishing Guardianship.

NOTE: If the parent(s)/guardian's name(s) is/are other than that on these documents, evidence of legal name change is required.

4. Provide Parental Identification (*for minors under age 14*)

Each parent or guardian must submit one of the following:

- Valid Drivers License
- Valid Official U.S. Military ID
- Valid U.S. Gov't ID
- Valid U.S. or Foreign Passport with recognizable photo
- Naturalization/Citizenship Certificate from BCIS with recognizable photo
- Alien Resident Card from BCIS

NOTE: *Your Social Security Card does **NOT** prove your identity.*

If none of these are available, you will need:

1. **Some signature documents, not acceptable alone as ID**

(ex: a combination of documents, such as your Social Security card, credit card, bank card, library card, etc.)

AND

2. **A person who can vouch for you. He/she must**
 - Have known you for at least 2 years,
 - Be a U.S. citizen or permanent resident,

- Have valid ID, and
- Fill out a Form DSP-71 in the presence of the passport agent.

5. Present Parental Application Permission Documentation (*for minors under age 14*)

1. Both parents must appear together and sign - **OR**
2. One parent appears, signs, **AND** submits second parent's [Statement of Consent: Issuance of a Passport to a Minor Under Age 14, Form DS-3053](#) authorizing passport issuance for the child - **OR**
3. One parents appears, signs, and submits primary evidence of sole authority to apply (such as *one* of the following):
 - Child's certified U.S. or foreign birth certificate (with translation, if necessary) listing *only* applying parent; or
 - *Consular Report of Birth Abroad* (Form FS-240) or *Certification of Birth Abroad* (Form DS-1350) listing *only* applying parent; or
 - Court order granting sole custody to the applying parent (unless child's travel is restricted by that order); or
 - Adoption decree (if applying parents is *sole* adopting parent); or
 - Court order specifically permitting applying parent's or guardian's travel with the child; or
 - Judicial declaration of incompetence of non-applying parent; or
 - Death certificate of non-applying parent.

If none of the above documentation is available, the applying parent/guardian should submit [Form DS-3053: Statement of Consent: Issuance of a Passport to a Minor Under Age 14](#).

NOTE: A third-party in *loco parentis* applying on behalf of a minor under the age of 14 must submit a notarized written statement or affidavit from both parents or guardians authorizing a third-party to apply for a passport. When the statement or affidavit is from only one parent/guardian, the third-party must present evidence of sole custody of the authorizing parent/guardian.

6. Provide Two Passport Photos

Your photographs must be:

- 2x2 inches in size
- Identical
- Taken within the past 6 months, showing current appearance
- Color *or* black and white
- Full face, front view with a plain white or off-white background

- Between 1 inch and 1 3/8 inches from the bottom of the chin to the top of the head
- Taken in normal street attire
- Uniforms should not be worn in photographs except religious attire that is worn daily.
- Do **not** wear a hat or headgear that obscures the hair or hairline.
- If you normally wear prescription glasses, a hearing device, wig or similar articles, they should be worn for your picture.
- Dark glasses or nonprescription glasses with tinted lenses are not acceptable unless you need them for medical reasons. A medical certificate may be required.

[Click here for detailed information for professional photographers.](#)
[Go to information on acceptable digitized photos.](#)

NOTE: *Vending machine photos are not generally acceptable.*

7. Pay the Applicable Fee

[Click here to see passport fees.](#)

[Our 13 Passport Agencies Accept:](#)

For Passport Application and Execution Fee

Credit Cards - VISA, MasterCard, American Express, Discover
 Debit/Check cards (not ATM cards)
 Checks, money orders, bank drafts

[Our over 5,000 Passport Acceptance Facilities Accept:](#)

For Passport Application Fee

Personal checks, money orders, and bank drafts at all locations
 Exact cash at some locations

For Execution Fee

Money orders and bank drafts at all locations
 Personal checks and exact cash at some locations
 Credit cards at U.S. Postal Facilities and some other locations

*Note: When applying at one of the thousands of designated application acceptance facilities in the U.S., you pay the **application processing fee** to the “U.S. Department of State” and the **execution fee** to the facility where you are applying. When

applying at a Regional Passport Agency, both fees are combined into one payment to the “U.S. Department of State.”

Expedite Fee: ([See How to Get Your Passport in a Hurry.](#))

8. Provide a Social Security Number

If you do not provide your Social Security Number, the Internal Revenue Service may impose a \$500 penalty. If you have any questions please call your nearest IRS office.