



Royal Court of Jersey
Family Division

CHILD ABDUCTION

CHILD TAKEN FROM JERSEY OR ABOUT TO BE TAKEN WITHOUT CONSENT

Judicial Greffe
Royal Court House
Royal Square
St Helier
JE1 1JG
Tel: 01534 441300
Fax: 01534 441399
www.gov.je/familycourt

This is a complicated area of law and if you are worried your child is about to be taken abroad without your consent or you are trying to get your child back, you should obtain URGENT LEGAL ADVICE. If you are worried your child might be abducted then you may need to ask the Jersey Court for orders under the Children (Jersey) Law 2002 (see Children Law booklet) and/or to seek a non-removal injunction, and to contact the police if the threat to remove is imminent. Child abduction is also a criminal offence see – [Criminal Law \(Child Abduction\) \(Jersey\) Law 2005](#) so if there is sufficient evidence a formal criminal allegation can be made to the police, and ask for a port alert. Child abduction is when a person takes or sends a child out of Jersey without the permission of those with parental responsibility or permission from the Court, but unless there is a Court order forbidding this, if a person has a residence order for a child they will not be acting unlawfully if the child is taken or sent out Jersey for less than one month.

You may be eligible for Legal aid – to check this, contact the **Acting Bâtonnier (responsible for the allocation of lawyers to litigants under the Legal Aid Scheme)** Tel: 0845 8001066.

The Child Custody (Jurisdiction) (Jersey) Law 2005

This provides for the recognition and enforcement in Jersey with regard to the custody of children orders made in the United Kingdom, and for application to be made for the recognition and enforcement in the U.K. of Jersey orders and to make provision as to the enforcement of restrictions on the removal of children from Jersey or any part of the U.K. [Child Custody \(Jurisdiction\) \(Jersey\) Law 2005](#)

The Hague Convention on the Civil Aspects of International Child Abduction

Jersey is a party to The Hague abduction convention whereby there are agreed legal procedures with other countries who are also parties to the convention. For children who are habitually resident in Jersey and under 16 years old who have been abducted (wrongfully removed or retained) to a country which is a party to the Hague convention, the convention works on the principle of returning them to Jersey. The removal or retention will be considered wrongful if it is in breach of custody rights which have actually been exercised in Jersey immediately before removal or retention, and the applicant did not consent or acquiesce in the removal or retention. Hague convention courts are required to order the return of such children although there are a number of grounds for refusing a return order.

Link to Legislation - Family & Personal, including child abduction law, rules and parties to the Hague abduction convention can be found in the Divorce, separation and relationship breakdown guidance section of www.gov.je/familycourt

The Law constitutes the Attorney General as the Central Authority and Hague Convention matters therefore will be dealt with by the Law Officers' Department, Tel: 441200. If you need to make an application, the HCCH (Hague Conference on Private International Law) has useful information (see www.hcch.net) which can be submitted to the Law Officer's Department.

The application and supporting documents are sent off, with translations if necessary, to the Central Authority of the country to which the child has been abducted or retained. The Law Officers' department will check the progress of the case, liaise with the Central Authority of the state and the applicant, give advice about Jersey law and do all that it can to help to bring the case to a successful conclusion. There is no charge for the services of the Law Officers' Department.

The speed and manner in which a case is conducted in the overseas country is entirely dependent upon the procedures in that country. Every country has exclusive jurisdiction within its own territory. The Law Officers' provides a point of contact between the applicant or advocate and the Central Authority of each country but it cannot force another country to decide cases or enforce laws in a certain way.

The European Convention on Recognition and Enforcement of Decisions concerning Custody of Children

Jersey is also a party to the European convention. This applies when a child who is under 16 is improperly removed from Jersey in breach of a decision relating to his custody. The European convention is rarely used in abduction cases but is used in enforcement of existing orders. The Convention works on the principle of mutual recognition and enforcement of orders made in contracting states. There must therefore be an order of the court which can be recognised and enforced. Orders must be registered before being enforced, see article 17 of the Child Abduction and Custody (Jersey) Law 2005. There are however grounds on which enforcement can be opposed - see Schedule 2 of the [Child Abduction and Custody \(Jersey\) Law 2005](#).

The Law constitutes the Attorney General as the Central Authority and this Convention therefore will be dealt with by the Law Officers' Department, tel 441200. An application is made to the Law Officers' department to secure recognition and enforcement of an existing order, with the same information and documents as required under the Hague convention. The Law Officers' Department is required to co-operate with the other State to secure the prompt return of the child.

If your child has been taken to a country which has **not** signed the Hague Abduction convention, you should phone the Foreign and Commonwealth Office's Consular Directorate on 020 7008 0878 between 9:00 a.m. and 5:00 p.m. Monday to Friday. Outside of these hours Tel: 020 7008 1500 or 020 2008 7270. The FCO can give supply a list of lawyers from that country who can correspond in English. The FCO cannot give legal advice or act as your legal representative www.fco.gov.uk .

Other useful contacts

A very useful source of information is **reunite International Child Abduction** Centre at www.reunite.org or Tel: 0116 2556 234. Please check the reunite [Child abduction prevention guide](#).

Customs and Immigration Service –Tel: 448000

The Law Society of Jersey - www.jerseylawsociety.je

Permanent Bureau of the Hague Conference on Private International Law

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The Netherlands

<http://www.hcch.net>