

Child abduction and how to prevent it

DECEMBER 2020

Health warning

The law of child abduction is a very complex subject. If you are faced with the possibility of a child being abducted or removed from your care, or you want to know how you can lawfully remove a child from the Bailiwick, then you should take immediate legal advice.

The definition of abduction is technical and you cannot afford to get it wrong. At worst, your child could be taken to another country or you could commit a criminal offence if you remove a child without the required consents. Further you could be in breach of a Court order, such as a residence order or a prohibited steps order, which could place you in contempt of Court and liable to a fine or imprisonment.

The Law

The following is nothing more than a summary of the law and must not be regarded as a substitute for taking legal advice or reading the actual law itself, which is set out at Sections 91(b) and 74 to 77 of ['The Children \(Guernsey & Alderney\) Law, 2008'](#).

Child abduction is the wrongful removal of a child.

['The Children \(Guernsey & Alderney\) Law, 2008'](#) makes it a criminal offence to abduct a child. The offence is committed if a person takes or sends a child under the age of 16 out of the Bailiwick, without either the consent of every person who has parental responsibility (or HSC if the child is subject to a care requirement) or the approval of the Court.

The offence of child abduction is a serious matter punishable by fine or imprisonment.

A Police or Customs Officer may arrest a person if he has reasonable grounds to believe that a child has been or is about to be abducted.

The law provides specific defences, namely that an offence is not committed if the removing party can show that they reasonably believed that any person required to give consent had consented or would have agreed (if that person had full knowledge of all the circumstances) or if the removing party had taken all reasonable steps to contact that person but was unable to do so.

The law further clarifies certain particular circumstances where consent is not required. One example is that if the person taking or sending the child out of the Bailiwick has a residence order in their favour, then they can remove the child for a period not exceeding 28 days. The law sets out several other circumstances where consent is not required, but again if you are in any doubt as to your legal position you must take legal advice.

In all of this, it must not be forgotten that even if you fall within one or more of the exceptions of the law, that removing a child may be in breach of other orders made under the 2008 Law, namely orders for residence, contact, prohibited steps, specific issue or possibly the enforcement provisions of the 2008 Law.

If a formal application to remove a child is required, this is brought before the Court as a specific issue application. If an order is required to prevent removal of a child, then this is a prohibited steps application. See Orders available and International relocation.

Preventing child abduction

If you have any concerns about a child being taken out of the Bailiwick, it is essential that you seek immediate legal advice to prevent removal. Depending on the circumstances, you may need to do the following:

- Make an immediate application to the Court for a prohibited steps order to prevent removal.
- Contact the Police immediately if you believe that a criminal offence has been or is about to be committed. They will be able to carry out an urgent investigation and if necessary inform Customs at the harbour and the airport.

The Police will require as much information as possible, including photographs of the children and copies of documents such as birth certificates and passports. Do not forget however that it is possible to leave Guernsey and travel to the UK without a passport.