



Seirbhís Sláinte
Níos Fearr
á Forbairt

Building a
Better Health
Service



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treoir

informing unmarried parents

International Child Abduction

Where parents are not married to each other



Tel: 01 670 0120

International Child Abduction

Section 16 of the Non-Fatal Offences Against the Person Act 1997 establishes the offence of international child abduction in Irish legislation. It is an offence for any person including a parent or guardian to take or send a child under 16 years out of the State:

- a) in defiance of a court order, or**
- b) without the consent of each person who is a guardian, or without the consent of a person to whom custody of the child has been granted by a court, unless the consent of a court was first obtained.**

What if the other parent is not a guardian and has refused consent?

The consent of a parent who is not a guardian is not required. However, if that parent has applied to court for guardianship, and a summons has been served, the child cannot be taken out of the country unless the court grants permission. This applies even though the case has not yet been heard.

What is guardianship?

Guardianship is the collection of rights and duties that a parent, or non-parent, may have in respect of a child. For example, a guardian has a duty to financially maintain the child and has the right to make decisions in the major areas of the child's life e.g. choice of religion, of school, medical matters, decisions about leaving the country and where the child lives. See 'guardianship' at www.treoir.ie

Who is a guardian?

Parents

In the Republic of Ireland, unmarried mothers are automatically sole guardians of their children. Unmarried fathers do not have any automatic guardianship rights, even if his name appears on his child's birth certificate. In order to obtain guardianship rights a father must do one of the following:

- (a) signs a statutory declaration for guardianship (S.I. No. 5 of 1998 with the mother, which is appropriately witnessed, or
- (b) he is or has been living with the mother continuously for 12 months and at least 3 of these months are after the birth of the child. The 3 months period does not have to take place directly after the child is born. It can be fulfilled any time before the child turns 18 provided that it is part of the 12 consecutive months during which the parents have lived together. Only cohabitation after the 18th January 2016 will be taken into account, or

- (c) the father has got a court order for guardianship
- (d) By marrying the mother

Non-parents

It is possible for persons other than parents to apply to court for (limited) guardianship rights. For more information see '**guardianship**' at www.treoir.ie. The court will make its decision in the best interests of the child. The court can decide what guardianship rights to grant; these may include the right to make decisions about '**country of residence**'.

Rules that apply in relation to international child abduction

The Hague Convention on the Civil Aspects of International Child Abduction is the main Convention covering child abduction and this has been signed by over 90 countries, including Ireland. The Hague Convention seeks to protect children from the harmful effects of abduction and retention across international boundaries by providing a procedure to bring about their prompt return. It is based on the principle that the court of the child's habitual residence is best placed to decide any custody disputes. For further information and links to the Regulations and Conventions that apply in relation to child abduction, see '**child abduction**' at www.treoir.ie

What can I do if I think my child might be abducted?

There are a number of things you can do if you fear that your child may be abducted:

- Contact the Gardaí informing them of the perceived threat
- If you are the legal guardian of your child (or have applied to be a guardian) you may contact the Passport Office and request that you be informed if the other parent applies for a passport for your child
- Apply to the court requesting that it direct who should hold the passports, e.g. yourself, the gardaí, the courts
- The Irish Centre for Parentally Abducted Children* produced a Prevention Pack in which you can record details of your child such as DNA samples, photographs and a description. This could be useful to the authorities in the event of an abduction. The Pack can be downloaded from '[child abduction](http://www.treoir.ie)' section at www.treoir.ie

**Please note that this organisation is no longer operating.*

What can I do if my child has been abducted?

If your child has been removed from Ireland without your consent to a country which has signed the Hague Convention, you can apply to the Irish Central

Authority for Child Abduction, or to the Central Authority for Child Abduction in the State to which the child has been removed, to request to have your child returned to you (see below for contact details). All child abduction cases are treated as a matter of urgency. The Central Authority for Child Abduction does not charge for its services. If a child has been removed to or retained in a country which has not signed up to any of the international conventions, contact the Department of Foreign Affairs (see below for contact details). In a situation where a child is removed within Ireland contact your local Gardaí. In general, these situations will be dealt with in your local District Court as part of custody/access proceedings.

Will the court order the return of my child?

Under the Hague Convention the court will generally order the return of the child other than in situations where one of the exceptions contained in Article 13 of the Convention applies. These include if it can be shown that the child would be at risk if he/she is returned and appropriate steps have not been taken to remove this risk. If the court is of the opinion that the child is mature enough the court will consult the child before making its decision.

Useful Addresses

- **The Central Authority for Child Abduction**
Department of Justice and Law Reform
LoCall: 1890 555 509 / 01 479 0200
E-mail: child_abduct_inbox@justice.ie www.justice.ie
- **Department of Foreign Affairs**
LoCall: 1890 426 700 / 01 4780822
- **Gardaí** If you believe your child is at risk of abduction contact the Gardaí at your local garda station. See **www.garda.ie**
- **Passport Office**
Tel: Dublin - 01 671 1633 / Cork - 021 494 4700 www.passport.ie

If you would like to talk through your individual situation, call Treoir on our confidential helpline at: 01 670 0120



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