



Can I take my child abroad?

By Sarah Beskine

I am writing about the rules regarding taking your child abroad if you are separated from their other parent. I am a partner at Hopkin Murray Beskine Solicitors and Mediators (www.hmbsolicitors.co.uk) where I advise and mediate on divorce/separation, and disputes regarding children.

There is often confusion about whether it is permitted to take children abroad without agreement. First you need to know who has Parental Responsibility: the legal rights and responsibilities for a child. All mothers have it, and most fathers and civil partners. The father will have PR if he is married to the mother, or on the birth certificate for a birth after 01.12.03 (14.05.06 in Scotland) or through an Agreement. If there was a civil partnership at the time of the mother's fertility treatment or if they later became civil partners and registered the birth jointly or had an Agreement, they will both have PR.

If you have a Residence order that states your child lives with you, this almost always carries with it the right to go abroad for up to 28 days without needing to get consent.

Without a Residence order, the law states that to take a child abroad, you need agreement from every person PR. Without agreement, you need the court's permission otherwise it is a criminal offence to take your child across an international border - even for a day trip.

I think most, or many, separated parents consult with each other before taking their children abroad. If things usually run smoothly then you probably never

needed to think about these issues. If, however there is conflict or difficulty in making arrangements for contact then it is best to get things in writing: essential before booking tickets. This means that you should not be subject to the last minute whim of the other parent withdrawing agreement and causing havoc to your plans and disappointment to your children.

If consent is withdrawn at the last minute, then you no longer have agreement to go abroad and you need to ask the court's permission. The courts are used to having last minute applications filed - as the school term comes to an end some parents find their plans are disrupted because the other parent has withdrawn consent. The court can make a decision quickly but you need to get an application put in very speedily to make sure the court look at it in time. You need to show things such as return tickets, and whether it is a suitable trip - not for example taking the child into dangerous territories.

Applying to take a child permanently abroad is a very different matter and I will write about it another month. If you would like to contact me with any queries please e mail me on reception@hmbsolicitors.co.uk

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