



Hon. Robert McClelland MP

Attorney-General

Hon. Jenny Macklin MP

Minister for Families, Housing, Community
Services and Indigenous Affairs

MEDIA RELEASE

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STRONGER LAWS TO DEAL WITH INTERNATIONAL CHILD ABDUCTION

Attorney-General Robert McClelland today announced the Gillard Government will introduce new measures to strengthen Australia's laws that deal with international parental child abduction.

Mr McClelland said the package of measures will include new criminal offences under the Family Law Act, extending the coverage of existing offences, allowing the family law courts to stop child support payments for parents who have abducted their child overseas and new information gathering powers for courts to locate children abducted from Australia.

"On average, two to three children are wrongfully removed from Australia or retained in another country every week by one of their parents," said Mr McClelland.

"Being forced to go through the experience of having your child taken away to another country is unimaginable for any parent.

"Australia is a signatory to the Hague Convention on the Civil Aspects of International Child Abduction, which provides a strong mechanism for lawfully seeking the return of abducted children.

"We are proposing these measures to ensure our laws remain as effective as possible to maximise the prospect of the safe return of children who are abducted by a parent and taken overseas.

"We want to strengthen the laws to stop children being abducted in the first place, improve the mechanisms to locate a child overseas and remove barriers so the child can be returned to Australia."

The proposed changes announced today are based on advice provided to the Government by the Family Law Council. The package includes:

- Allowing the Family Law Courts to suspend child support payments for parents who abduct their children overseas to both Hague and non-Hague signatory countries, where they are satisfied it is in the best interests of the child;
- New criminal offences under the Family Law Act to include the wrongful retention of a child overseas with a maximum penalty of three years imprisonment (currently it is only an offence to remove a child overseas);
- Extending the coverage of the offences to include where a parent attends, or has been invited to attend, family dispute resolution, as well as if an application for parenting orders has been filed with the family law courts;

- Removing potential barriers for foreign courts to order the return of children to Australia by providing the Commonwealth Director of Public Prosecutions with the ability to give an undertaking that prosecution will not be pursued if a child is returned to Australia;
- Greater powers for the Australian Family Law Courts to require individuals or entities to provide information to the Commonwealth Central Authority (CCA) to assist in locating children wrongfully removed from or retained outside Australia; and
- Adding defences to the offences including fleeing from violence and protecting children from imminent harm.

“It’s very distressing that any child is wrongfully removed to or wrongfully retained in another country,” Mr McClelland said.

“The abduction of children can have a severe emotional, psychological and financial impact for children and left-behind parents.”

The Minister for Families, Housing, Community Services and Indigenous Affairs Jenny Macklin said under the proposed changes, courts will be able to suspend the payment of maintenance or child support by a parent that’s left behind.

“Child support should always be paid in the best interest of the child,” Ms Macklin said.

Generally this is regardless of parents’ access arrangements. But unlike domestic matters, when children are wrongfully removed from or retained outside Australia, the left behind parent is unable to effectively access the Australian legal system or have the Australian courts appropriately determine issues of care and protection for their children.

“We believe that the family law courts are best placed to make a decision about whether suspending child support is in the best interests of a child who has been wrongfully removed,” Ms Macklin said.

Consistent with the recommendations of the Family Law Council, a range of exceptions will apply to the discretion of the Courts to suspend child support:

- Where the person applying to the Family Law Courts was not actually exercising rights of custody to the child at the time of the child’s removal from or retention outside Australia;
- Where the person applying consented or subsequently acquiesced to the child being removed from or retained outside Australia.

The Court should also have regard to whether the taking parent was fleeing from violence, whether the child objects to returning to Australia, and the best interests of the child.

Draft legislation to implement this change in policy is expected to be ready by the end of this year to be introduced in Parliament in the first half of 2012.

The Government will also consider the recommendations of the Senate Committee on Legal and Constitutional Affairs, which is inquiring into the issue of international child abduction.

Contact: **Ryan Liddell (McClelland) 0427 225 763**
 Keely Bell (Macklin) 0417 297 157