

Child Abduction - Thailand

Disclaimer: Any information contained in these pages relating to the legal system in Thailand is provided for general information only. Independent legal advice should be sought in Thailand for specific information relating to individual cases.

Parental Child Abduction

In Thailand parental child abduction is not a criminal offence. It is considered to be a dispute between the parents and a civil matter to be settled by a court of law.

Thailand has signed the 1980 Hague Convention on the Civil Aspects of Child Abduction but the UK has not yet been able to enter into treaty relations with Thailand. This means the Convention does not operate between the UK and Thailand. However, the Convention may be in effect between Thailand and other countries.

Custody Issues

A child (either male or female) ceases to be a minor when they turn twenty years old. Thai law provides that while a child is still a minor, they are subject to parental powers. If the person exercising parental power (either the mother or father) is judged by the Thai court to be incompetent, abuses their parental power or is guilty of gross misconduct, the court may order the removal of 'parental power' either partly or wholly.

In general civil law applies to child custody disputes with the exception of the four provinces of Pattani, Narathiwat, Yala and Satun, where Islamic (Shariah) law would apply only if both parents in the case are Muslims. If none or only one parent is Muslim, the application for custody or parental power is treated by the law court under civil law, regardless of whether the father or the mother is Muslim. Under Thai law men and women are treated equally regardless of race, language, gender, age, etc.

The duration of a court case relating to child custody could be from approximately six months to eight years depending on whether the case has to be appealed to the Appellate Court and subsequently to the Supreme Court.

A divorce certificate from a foreign country which has been obtained in accordance with the law of that country will be recognised under Thai law. There is no other procedure that needs to be performed for it to be recognised. A mother will not lose custody of her child if she remarries.

Travel

Dual nationality is recognised by the Thai government.

Parents with custody of a child have an automatic right to remove that child from Thailand. This includes for the purposes of holidays. There is no requirement for a special application.

In principle the agreement of both parents is required for a child to leave the country. However, this may not be strictly applied by the authorities at ports of exit. There is no law requiring a left-behind parent to give authority in writing to the other parent. The child would not normally be stopped from leaving the country unless an immigration official had concerns about travel or legal irregularities.

It is possible, through the courts, for one parent to prevent the other parent from leaving the country with their child without the left-behind parent's consent. If the court rules the child must not be taken out of Thailand, the resulting court order can be passed to the Thai Immigration Bureau who should notify all immigration checkpoints not to permit the other parent to leave the country with the child. The Immigration Bureau will not normally act on a direct request from a parent, in the absence of a court order, to prevent the child leaving the country. A parent can submit a legal appeal against a court order preventing the other parent from taking a child out of the country.

An abducting parent caught trying to take their child out of the country while a 'stop' order is in place is not likely to be arrested for doing so. If there is a court order instructing the Immigration Bureau not to allow the child to leave the country, the immigration official at the checkpoint would merely turn them back.

There is no provision in Thai law requiring the wife to obtain permission from her husband to leave the country.

Thai law does not require a person to exit Thailand on the same passport they entered on. However immigration officials may in practice inspect a

foreigner's passport at the port of exit to see whether the holder entered the country legally and/or overstayed their visa. If there is no entry stamp in the passport the authorities may view the person has entered the country illegally.

Where a foreigner has acquired a new passport and no longer has or uses the one he/she entered the country on, they should contact the Immigration Bureau to have the entry stamp transferred into the new passport.

A British Emergency Travel Document (ETD) or Emergency Passport (EP), issued by the British Embassy, is recognised by Thai immigration. Where a new British travel document is issued it is the responsibility of the individual to arrange the transfer of any existing valid visas from the previous passport into the new one. This must be done through Thai immigration before departing the country.

Other information

UK court orders regarding custody, contact or ward-ship may be recognised by a Thai court without the need for a mirror order. However there is not necessarily a provision for enforcement of such a UK court order in Thailand.

The police or courts are not required to provide information about a case unless the person enquiring is an 'interested party' in the case. However, if an enquiry is made by the British Embassy under normal circumstances the courts may provide some limited information.

There is no known local organisation which provides mediation services. However, during a court case the court itself may provide mediators to help the parents resolve the situation. However, it is for the parents to decide whether they are willing to attend a mediation hearing.

The Lawyers Council of Thailand and Office of Attorney General have sections in their organisations who can provide free legal advice and assist in cases. To the best of our knowledge, there are no NGOs providing free legal service or help with funding.

The Pavena Foundation for Children and Women is one of the leading NGOs in Thailand that help provide assistance for women and children facing abuse and other difficulties. Tel: + 66 972 5489 90

Reunite is the leading UK charity specialising in international parental child abduction. The services range from offering practical impartial advice and mediation to providing a helpful support network aimed at those who have had their child abducted. For more information, visit [Reunite's website](https://www.reunite.org) www.reunite.org or call 0116 2556 234