



Family Law: Children and COVID-19

Last updated 13 October 2020



The following is information only as a general guide to the law and is not a substitute for legal advice. If you would like legal advice, please call the Women's Legal Centre on 02 6257 4377.

Resolving family law matters can be stressful, and the COVID-19 pandemic has made this especially challenging for many women. Daily life has changed, and there are increased stresses relating to separation, divorce and working out arrangements for children with a focus on their best interests.

Restrictions are being eased progressively, so it is important to access updated information about current restrictions if you are navigating the court system or parenting arrangements regarding your children. The Family Court website provides important information regarding [children and COVID-19](#).

This factsheet provides general information only. Please contact us if you require specific advice relevant to your family law situation. If you have a solicitor acting for you, it is important to speak with your solicitor.

Are the Family Court/Federal Circuit Courts still operating?

The Family Court and Federal Circuit Court have provided guidance that, where possible, Court events such as hearings and mediations are to take place by telephone or videoconferencing. Face-to-face Court events and face-to-face interviews with family consultants will only take place in exceptional circumstances.

New matters can still be filed electronically with the Court and will be allocated a date as soon as possible. If you are self-representing and do not have access to electronic filing, contact the Family Court on 1300 352 000.

What is the COVID-19 Court List?

In April 2020, the Family Court established a list dedicated to urgent parenting-related disputes arising from the COVID-19 pandemic, including those involving domestic and family violence.

Eligible applications will be assessed immediately and may be heard by a Judge within 72 hours if the matter is urgent. Visit the [Family Court website](#) for more information about how to apply, and contact us for assistance.

I have parenting orders in place. Does COVID-19 affect these?

Court orders are legally binding and should be followed. Even under the current circumstances, you are still required to meet your obligations.

Situations may arise that make compliance with your current orders difficult. If travel restrictions, quarantine or school closures mean your orders are no longer workable, you should try to reach an alternative solution. For example, if changeover usually occurs at a child's activity which is now cancelled, you should make alternative arrangements for changeover.

If it is safe to do so, you should communicate with the other party about how you can make the current orders work. If you can't agree to vary the arrangement, or if it is unsafe to do so, and one or both parents or carers continue to have real concerns, you can make an application to the Court for a variation of the orders. It is important to seek legal advice prior to any application to the Court.

What if I can't comply with the orders because of COVID-19?

If a parent wants to change parenting arrangements this should be done on the basis that the change is in the best interests of the children.

If COVID-19 restrictions mean it is simply not possible to comply with your orders, then one adjustment that could be made is to facilitate your child using technology to maintain contact with their other parent – Facetime, Zoom and Skype are a few options. If appropriate, consider offering additional time at a point in the future when restrictions are eased, in lieu of time missed due to COVID-19 issues.

How can I change Parenting Plans and agreements?

If an agreement can be reached about new parenting arrangements, even if they are to be adjusted for a

short period of time, this agreement should ideally be in writing. Writing can include email or text.

If you are unable to reach an agreement directly with the other party about parenting matters you should seek legal advice about your options such as mediation, Family Dispute Resolution, or in exceptional circumstances, an application to the Court in relation to parenting matters.

What happens if a parent breaches the parenting orders?

If a breach occurs, contravention proceedings may be commenced by an application to the Court. The contravening parent may raise a reasonable or lawful excuse to not comply with the orders. A reasonable excuse is when the person believed on reasonable grounds that their actions of non-compliance were necessary to protect the health or safety of a person, including themselves or the child. This contravention must only last the amount of time necessary to protect the health and safety of a person.

It may be possible that the circumstances relating to COVID-19 amount to a reasonable excuse to breach the orders. This will be determined on the individual circumstances, however, the Court will not accept COVID-19 alone as an excuse not to abide by orders.

Are children allowed to travel between me and my ex-partner?

Yes. Currently all States and Territories allow you to uphold current parental agreements. You can drive your children to their other parent or carer's residence, and they can visit your residence to pick children up.

Free legal advice

For more information or free legal advice, call us on 02 6257 4377 from Monday to Friday between 9am and 5pm. Email us at admin@womenslegalact.org.