



Family law in Australia - after you have separated: making arrangements about the children

September 2013

This information is for parents who are no longer in a relationship together. It has information on the law in Australia and making arrangements for the children after you have separated.

What the law says

The law's main concern is what is best for the children. This includes:

- protecting the children from violence or harm
- helping the children have relationships with both parents.

The law applies to all children, whether or not you were married.

What is the best way to make arrangements for the children if we have separated?

If possible, try to come to an agreement with the other parent. If you can agree, you can make a parenting plan.

A parenting plan is a document that includes all the arrangements you have both agreed to about the children. It must be in writing, dated and signed by both of you. You do not have to sign this in front of a witness.



What if there is no agreement?

You can apply to a court for a parenting order.

A parenting order can say:

- where the children live
- who they have contact with
- what happens about other issues such as schooling, medical or religious observance.

The court will decide what is in the children's best interests. You will have to go to a court hearing.

You will usually have to go to family dispute resolution before you apply for a parenting order. See our other fact sheet 'The first step: getting help to reach decisions about the children'.

You can call Victoria Legal Aid or a community legal centre at any time for information and advice about your situation. You do not have to wait until something happens. You can use an interpreter for free. See 'Where to get help' on the last page of this fact sheet.

Can grandparents and other family be involved?

If it is in the children's best interests, grandparents and other extended family can be included in parenting orders or parenting plans.

Extended family or anyone concerned about a child's welfare can apply for parenting orders or make a parenting plan.

Do the children have to spend equal amounts of time with each parent?

No. The law says parents have equal shared responsibility unless the court says otherwise. This means sharing decisions about the children equally.

This does not mean equal time with each parent.



What should we consider when making decisions about the children?

When making arrangements for the children it is best to think about:

- your children's safety
- your children's needs
- the quality of care
- a settled environment
- what is practical, for example, travel times to school and other activities.



Cho and Htet have separated and made a parenting plan together. The plan outlines where the children live and other arrangements about the children's care and activities. Cho is becoming concerned because Htet has not picked up the children when he is supposed to, many times. She is worried about the children not getting to school on time and being upset. Htet gets angry when she tries to speak to him about it.

Cho contacts Victoria Legal Aid, using an interpreter. She talks to a lawyer about her situation. Cho decides to apply to the court to make a parenting order. She applies to Legal Aid for help with this. The court will look at Cho and Htet's parenting plan, talk to both of them and make an order with arrangements that are in the best interests of the children. When a court order is made, both Cho and Htet must follow it. The courts have free interpreters that can help Cho and Htet.

What if my children do not want to visit the other parent?

This will depend on the children's ages and if there is a parenting order that says they should. The law says you should encourage the children to see their other parent. If the children refuse, talk to a lawyer about your situation.

What if I or my children are unsafe with the other parent?

If you or the children feel unsafe, you should call the police quickly on 000.

It is the police's role to make sure you are safe and to help you if you are unsafe. Tell the police if you do not understand or speak English. They will get an interpreter.

If you think the children are at risk of physical or mental harm by spending time with the other parent, get legal help quickly.

You can also:

- call services that can give you support or accommodation
- apply for an order that stops your former partner from making threats or from coming anywhere near where you live and work. The order can also protect children. This is called a family violence intervention order.

See our publication 'Safe at home – how to get a family violence intervention order' for more information on legal and other help.

See the end of this information sheet for services that can help you.



What if parenting orders are not being obeyed by the other parent?

If the other parent is stopping you from spending time or communicating with the children contact the Family Law Courts and get legal help.

If the other parent does not turn up to spend time with the children, you cannot make them. You may be able to change the parenting order.

If court orders are not being followed, get legal help quickly. You can get help to make the other parent obey the order or you can apply to make different orders.

What if our parenting order or arrangement is no longer right for us?

If you both agree, you can make a parenting plan and that will change the parenting order.

If you and the other parent do not agree you will have to return to court to change the parenting order.

If you need help to make a new arrangement you can use a family dispute resolution service to help.

Get legal help. Victoria Legal Aid or a community legal centre can help you.



Can I take my children interstate or overseas?

The law says children have a right to a relationship with both parents and other important people in their lives. Moving a long distance away may affect these relationships.

Try to reach an agreement with the other parent. If you can reach agreement, write down an outline together of how the other parent will see the children.

You may need this to apply for a passport for the children.

If you cannot get permission you may need to get a court order.

If you have parenting orders, get legal help before doing anything which may break them.

What if my children are not returned after seeing their other parent?

You can apply to the court to have the children returned. The police do not have the power to return the children to you automatically unless you have a court order.

Get legal help quickly if you think the other parent may take the children out of the country without your permission. You can get a court order that stops this happening. The Family Law Courts have a 24 hour telephone number for this situation: 1300 352 000

If you have parenting orders, and your child has not been returned from overseas call the Australian Federal Police on 13 14 44 or contact your local police station.

The Australian Federal police look after international crime and the Victoria police (at your local station) look after Victorian crime and safety.

Call Victoria Legal Aid or a community legal centre for legal help.

See 'Where to get help' on the last page for all the telephone numbers mentioned above.

Who has to financially support the children?

Every parent has a duty to financially support their children. The amount depends upon the income of each parent and how much time is spent with the children, the number and ages of the children and if either parent has a second family.

Contact Victoria Legal Aid for other publications on child support or for legal help.

Where to get help



If you need an interpreter:

Call the Translating and Interpreting Service for an interpreter to help you speak to any of the agencies in this section. Ask the interpreter to put you through to the agency you need. This is usually free.

Tel: 131 450



If you are deaf or have a hearing or speech impairment:

Use the National Relay Service to phone any of the agencies (including Victoria Legal Aid) in this section. This is free. For more information about the NRS visit www.relayservice.com.au

TTY users: Call 133 677 and then ask for the phone number you need. Include the area code.

Speak and Listen users: Call 1300 555 727 and then ask for the phone number you need. Include the area code.

Internet relay users: Connect to www.iprelay.com.au/call/index.aspx and then ask for the phone number you need. Include the area code.

Victoria Legal Aid

Legal Help

Tel: 1300 792 387

Open Monday to Friday, 8.45 am to 5.15 pm

You can get legal information and help regarding separation, divorce, children, property and residency issues.

Roundtable Dispute Management

This service has trained dispute resolution practitioners that can help people reach agreements together about the children.

Tel: 9269 0500 or 1800 136 832 (if you live in the country).

www.legalaid.vic.gov.au

For information about children and dividing up property, see our other Family law in Australia information sheets:

- Separation and divorce
- Dividing property after you have separated
- The first step: getting help to reach agreement with the other parent.

For your nearest community legal centre:

Tel: 9652 1500

www.communitylaw.org.au

Family Relationship Centres and advice line

Tel: 1800 050 321 for locations of Family Relationship Centres, and other services that can help you reach agreement about the children

Family Court / Federal Magistrates Court

Tel: 1300 352 000 for information on the Family Law Courts. This number can be called 24 hours

www.familylawcourts.gov.au

InTouch Multicultural Centre Against Family Violence

Tel: 8413 6800 or country callers 1800 755 988

www.iwdvs.org.au

Acknowledgements: Victoria Legal Aid gratefully acknowledges the significant contribution made to the development of this publication by the Women's Legal Service of Victoria, the Islamic Women's Welfare Council of Victoria, Footscray Community Legal Centre, Wyndham Legal Service and the Chinese Community Social Services Centre Inc.

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