



Family law changes from May 2024

Factsheet for parents and parties

Family law is changing. These changes may affect you if you have a parenting matter before the court that won't be finalised before 6 May 2024, or are trying to determine the right parenting arrangement for your child.

This factsheet will help you to understand how the new law operates. It contains general information only and is not intended to represent legal advice.

Parenting arrangements for children after separation

Most separating parents make their own arrangements for parenting their children after their relationship ends. Where parents cannot agree about these arrangements or would like certainty about their future parenting arrangements, parents (or certain caregivers) can apply to the family court for parenting orders.

These orders will generally cover a range of issues, including the time a child is to spend with each person, and who is responsible for making decisions about major long-term issues. The court must always make orders that are in the best interests of the child.

THE LAW ABOUT HOW A COURT MAKES PARENTING ORDERS HAS CHANGED.

What are these changes about?

The *Family Law Amendment Act 2023* sets out new laws about:

- **what** a court must consider when determining what is in the child's best interests, and
- **how** separated parents are to make decisions about long-term issues for their children.



What will the court consider is in the best interests of my child?

The Court will consider six factors to decide what parenting arrangements will be in the best interests of your child.

These factors include:

- the safety of the child and people who care for the child (including any history of family violence and family violence orders)
- the child's views
- the developmental, psychological, emotional and cultural needs of the child
- the capacity of each person who will be responsible for the child to provide for the child's developmental, psychological, emotional and cultural needs
- the benefit to the child of having a relationship with their parents, and other people who are significant to them (e.g. grandparents and siblings), and
- anything else that is relevant to the particular circumstances of the child.

If the court is making orders about an Aboriginal and/or Torres Strait Islander child, the court will also consider how parenting arrangements will help that child to experience their Aboriginal and Torres Strait Islander culture.

If you are asking the court to determine parenting orders, it is important that you provide the court with reasons why the orders you want are in the best interests of your child.

How will parents be expected to make decisions about children?

Courts will often make orders about how parents decide major long-term issues (for example, healthcare, education and religion). You can apply to the court for an order to make decisions jointly or to have sole responsibility for some or all of these decisions. The court will make these orders based on what is in the best interests of the child.

If the court makes an order for joint decision-making on major long-term issues, you will be required to consult with your former partner and make a genuine effort to come to a joint decision on these issues unless the court order says otherwise.

You can also agree to jointly make decisions about major long-term issues without this being decided by the court. Where this is possible, you can formalise this agreement through a parenting plan or apply to a court for consent orders.

The new laws encourage parents who do not have court orders to consult with each other about major long-term issues in relation to the child, and make decisions in the child's best interests. You are not encouraged to consult if it would not be safe for you to do so.



What do the new laws say about spending time with children?

Decisions about how much time a child spends with each parent depend on what is in the best interests of the individual child.

While many people believe that parents are entitled to spend equal time with their child, this has never been the case under Australian law.

How can I change my final parenting orders?

Changes have been made to the law to make it clear that if you want to change your parenting orders, the court must:

- consider whether there has been a significant change of circumstances, and
- believe it is in the best interests of the child for the final parenting order to be looked at again.

If the court is not satisfied that these requirements are met, the orders cannot be changed without the agreement of the other parent or party.

Will the new laws change my existing parenting orders?

Existing parenting orders will not be automatically changed by the new law. People with existing parenting orders should continue to follow those orders.

When do these changes start?

Most of the changes in the new law will come into effect on 6 May 2024. From this date, these changes will apply to all new and existing proceedings, except where the final hearing has already begun.

If you have a family law matter where the final hearing has not started before 6 May 2024, these laws will apply to you.



More information

If you would like a detailed explanation of these changes, or information about other parts of the *Family Law Amendment Act 2023*, you may also refer to the [Factsheet for Family Law Professionals](#) which explains each part of the new Act in detail.

The *Family Law Amendment Act 2023* can be found on the [Australian Parliament website](#).

If you need legal advice or support, please refer to the Family Law Services and Support factsheet which can be found [here](#).