



Parenting Orders

Obligations, consequences and who can help
FAMILY COURT OF WESTERN AUSTRALIA

It is important that you read this information

You have been given this document because a Court has made an order about children that affects your parental obligations and requires you to take certain steps.

IF THIS DOCUMENT IS ATTACHED TO A PARENTING ORDER, IT FORMS PART OF THAT ORDER

It is important that you understand the terms of the order and the obligations it creates. If you are unsure about any of the terms or obligations, ask the Judicial Officer when the order is made or your lawyer, if you have one. You can also get legal advice about an order if you were not represented at Court.

What is a parenting order?

A parenting order is a set of directions made by the Court about your parental responsibilities.

All parenting orders are legally binding. There are penalties for people who do not obey them.

There are three types of parenting order:

- Interim order; applies until final orders are made following the trial.
- Final order; made at the end of the trial, they apply until the Court says otherwise, or they expire.
- Consent order; made by agreement between the parties and the Court, they apply until the Court says otherwise or they expire.

Parenting orders will cover issues such as:

- living arrangements for a child;
- time spent and communication with a child;
- parental responsibility for a child;
- financial support for a child (only if child support law does not apply or permits this);
- any other aspect of the care, welfare or development of a child; such as religion, education, medical, travel and other issues;

A parenting order may also direct the parties to follow certain steps before applying to a Court to change the order. It may also state the process for resolving disputes that arise from the order.

Your legal obligations

You must do everything a parenting order says:

- This means taking all reasonable steps to follow the order.
- If you cannot follow the order, or the order becomes impossible to follow, you should seek advice about getting the order changed.
- Sometimes people talk to each other about changing arrangements set out in a parenting order.

These talks do not change the order

The Court may order you to attend a post-separation parenting program. You must attend. If you fail to go to a program as ordered, without reasonable excuse, you may be in breach of the parenting order and be penalised.

Changing a parenting order

Sometimes the needs or circumstances of you, your children or the other party will change. You may find yourself in a position where you cannot follow the order. This does not stop the Court order.

A parenting order remains in force until a new parenting order changes it in some way

Parenting orders can generally only be changed by making an application to the Court. Some parenting orders can be amended by later parenting plans, but only where the original order specifically allows it.

You should always seek legal advice if you want to change your parenting order.

What do I do if the other party is not following the order?

If you want to resolve a disagreement about a parenting order, without changing the order or going to court, community-based family dispute resolution can help you and the other party work through your disagreement. Resolving issues this way is less formal than going to Court and should cost less in money, time and emotions.

If an agreement cannot be reached, you may consider filing a Court application. You should always seek legal advice before making an application to the Court.

If you are currently involved in a parenting case in the Family Court

You should write a letter to the Court requesting a hearing. At this hearing the Judicial Officer will try to resolve your dispute.

You can also begin contravention proceedings (see below), but it may take longer for your dispute to be resolved. You will need to get permission from your Judicial Officer before you can make any application.

In any other case

Make an application to the Family Court of WA to start contravention proceedings.

Information about how to file an application for contravention proceedings can be found in the “Contravention Proceedings Kit” available on the Family Court of WA website or from the registry.

What are the penalties for not following an order?

If the Court finds a person has breached a parenting order without reasonable excuse, it may impose a penalty. Depending on the situation and the type of contravention, the Court may order that the person who breached the order:

- pay the other party’s legal costs;
- compensate the other party for lost time with a child;
- attend a post-separation parenting program;
- undertake a community service order;
- pay a bond;
- pay a fine; or
- face imprisonment.

The Court may also make a further order that discharges, varies or suspends the order or renews some or all of an earlier order, or adjourn the case to allow a person to apply for a further order that alters the parenting order.

Location and recovery orders

If you breach a parenting order and you cannot be found, the Court may make a location order. This order requires another person or organisation, including government departments; to give any information they have about where you and the child may be located.

If you breach a parenting order by failing to return the child as required, the Court may make a recovery order. This is an order issued to the Marshal of the Courts and all Federal or State Police to find and return the child. The order may also allow a search of any vehicle, vessel, aircraft or any other premises where the child may be found.

Need more information?

For more information about the Family Court of WA, including access to the legislation, forms or publications listed in this brochure:

- go to www.familycourt.wa.gov.au;
- call 08 9224 8222 or 1800 199 228; or
- visit the Family Court of WA registry.

For more information about dispute resolution services:

- go to www.familyrelationships.gov.au; or
- call the Family Relationship Advice Line on 1800 050 321, the line is open from 8:00am to 8:00pm Monday to Friday, and 10:00am to 4:00pm on Saturdays.

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