



# Access to Children



**[gotocourt.com.au](https://gotocourt.com.au)**

Get a Good Lawyer. Fast.

**Phone:** 1300 636 846

**Website:** [gotocourt.com.au](https://gotocourt.com.au)

**Email:** [solicitors@gotocourt.com.au](mailto:solicitors@gotocourt.com.au)



Children who are supported and encouraged to maintain a relationship with parents, grandparents and other relatives, can adapt to the changing situation with greater ease. Obviously, reaching an amicable agreement for access to children is not always possible, and in some situations a parent may need to apply to the [Family Court](#) or the [Federal Circuit Court](#) for Orders outlining parental responsibility and visitations.

## ➤ Parenting Plan versus Consent Order



If the parents can agree on the care arrangements and access to children after [divorce](#) or the breakdown of a [de facto relationship](#), then a parenting plan should be made, or [Consent Orders](#) obtained.

Parenting plans are written agreements which are signed by both parents, and set out the agreed arrangements for access to the children. This kind of agreement not only outlines each parent's responsibilities and rights, but can also include details of child support payments. A parenting agreement is not a legally enforceable agreement, and is not to be confused with a Parenting Order made by the Court where agreement cannot be reached.

The requirements of a parenting plan are outlined in section 63C of the [Family Law Act 1975](#). A parenting plan or written agreement approved by the court is known as a Consent Order, and covers parenting arrangements, child maintenance and financial arrangements, if required. This is a legally enforceable agreement, and holds the same weight as a Parenting Order made by the Court after a hearing.

Parenting plans are often entered into and drafted during a successful mediation; however, it is recommended that this agreement be transposed into a Consent Order, and filed and approved by the Court.



## ➤ Applying to the Court for Access

If you cannot agree on parenting arrangements, then you may need to apply to the Court to obtain a **Parenting Order**, outlining parental responsibilities and access. Before doing so, you must have attempted mediation in the hope of reaching an agreement. A copy of a certificate from an accredited family dispute resolution centre must accompany the application.

The requirements of a Parenting Order and who may apply are outlined in sections 64B and 65C of the **Family Law Act 1975**.

## ➤ Issues Covered by a Parenting Order

A Parenting Order can deal with many issues including:

- who the child should live with
- the time the child is to spend with the other parent
- the allocation of parental responsibilities
- how the child will communicate with the other parent
- the payment of child support, and
- any aspect of the care, welfare or development of the child.

An application for a Parenting Order can also be made by Grandparents. If your matter is complex then the application should be filed with the Family Court; however, all other applications should be filed with the Federal Circuit Court.

## ➤ Moving Away With Children

If one parent is planning on moving away with the children and this is going to limit the time the other parent can spend with them, then a court may not give permission to do so. The parent who is moving should consider applying to the Court, prior to the move, for a **Relocation Order**. The court will consider what is in the **best interests of the child** before granting permission to move away from the other parent.

If the other parent wants to stop the move, then they can apply to the courts to prevent the relocation. The costs involved in one parent needing to travel to visit their child or children, or vice versa, can be taken into account when assessing **child support** liabilities.







## ➤ Travelling Overseas With Children



If a parent is planning to take their children **overseas** they need to get written permission from the other parent, even if the children already hold a passport. If the child doesn't hold a passport then both parents need to sign the Passport Application providing consent for the child to obtain one. Providing consent for a passport does not mean the parent consents to international travel, and on each occasion permission needs to be obtained from the other parent.

If one parent won't sign the application, then the other parent can write to the Department of Foreign Affairs and Trade, asking that they consider issuing a passport due to 'special circumstances'. If this fails, then an application to the Federal Circuit Court will have to be made for an Order allowing the child to travel internationally.

If a parent is concerned that a child may be taken from Australia without permission, an application can be made to the Court for one of the following Orders:

- preventing a passport to be issued
- requiring the passport to be delivered to the Court, or
- placing the child's name on the AFP Airport Watch List, which prevents them from leaving the country.

## ➤ Recovery Order

If the child is not returned after a scheduled visit then an application can be made to the Federal Circuit Court for a **Recovery Order** under sections 67Q and 67T of the Family Law Act 1975. A Recovery Order can authorise a police officer to take appropriate action to find, recover and deliver a child to the persons named on the Order.



## Everyone's situation is different...

Where you go from here depends on your own situation as everyone has their own individual priorities and has demands on their life that they need to deal with.

This information guide points you in the right direction as to what options might be available to you so you can get the outcome that you need - options that many of our clients are not aware of before talking to us.

**If you would like some personal advice on your particular situation and would like to talk directly with a lawyer in your local area who is also a specialist in family law, then please call our lawyer hotline on **1300 636 846** (Free Call, No Obligations).**

### *“Get A Good Lawyer. Fast.”*

- ✔ *Guaranteed availability - all Australian courts*
- ✔ *Simple, upfront rates - no hidden costs*
- ✔ *Expert advice and strong representation*

Civil | Criminal | Family | Drink Driving | Traffic | Immigration

NATIONAL LEGAL HOTLINE

**1300 636 846**  
7am to Midnight, 7 Days

Call now on

**1300 636 846**

and speak direct with a Family Lawyer to get your child custody questions answered. You can also request a callback at [gotocourt.com.au/family-law](http://gotocourt.com.au/family-law)

When you call the hotline you will speak directly with a lawyer. Your conversation will be treated with the strictest of confidentiality and sensitivity. At the end of the call you will have some clarity on the steps you need to take next and how you can have the best chance at an outcome that will ensure you and your children are looked after.

Scan this QR code to find more details about family law:

