



Parenting & COVID-19

15 April 2020

We expect that over the next few months many women will have questions about parenting matters but they may have difficulty obtaining legal advice.

To assist, we have prepared this information brochure. It attempts to provide some guidance. It does not provide an answer to every question. This current situation is unprecedented and there may not be a perfect solution to your question. The regulations are constantly changing, and this information is current at the date of publication.

This brochure is a guide only, not legal advice. If you are able, it is always preferable to obtain legal advice about your particular situation, especially if there has been domestic and family violence (DFV).

Women's Legal Service is providing legal advice to women during the pandemic.

***If you need advice please call our Helpline on 1800 957 957
(Mon - Fri 9am to 3pm) to make an appointment.***

DOMESTIC AND FAMILY VIOLENCE (DFV)

I am scared that I am going to be injured – can I leave the house?

Yes. The Queensland Government has made directions for people to stay at home, however you can leave to avoid injury or illness or to escape a risk of harm (such as fleeing DFV).

I am staying at home with someone who uses DFV, control or abuse. How can I increase my safety?

If you are living with someone who uses DFV, control or abuse it is important that you start creating a safety plan. The safety plan can include things that you are already doing to stay safe plus suggestions from professionals (such as DFV support workers). Your safety plan will change over time as the situation changes. It is important that the person using violence does not know your safety plan.

Things you might include in the safety plan:

- Call police (000) if you are in immediate danger.
 - Think about what you would say to police if you needed to call them in an emergency – it can be tricky to think on your feet during an emergency.
- Leave the house for 'exercise' as a chance to contact friends, family or support services to discuss your safety.
- Be aware of changes to local services (such as community centres or transport) that might have new hours or be closed due to COVID-19. Update your plan accordingly.
- Think about the layout of your house and where all the safest exits are. Consider if any rooms have lockable doors.
- Buy an emergency phone that you can keep hidden
 - Keep it charged with credit
 - Add phone numbers for support services and safe people.
- Keep ID and other important documents at a friend/family members houses.
- Pack an emergency bag. Keep it hidden or at a trusted friend/family member's house
 - This might include small amount of clothing, ID, medication, nappies or anything else you might need if you are out of the house for a couple of days or more at short notice.
- Talk with trusted friends/family about safe words to use in case of danger – ask them them to contact police in emergencies.
- Check with trusted friends/family if you can stay with them in case of an emergency.
- Talk to trusted neighbours about calling police in emergencies.
- Work out where your closest police station is and how you could access it in an emergency.
- Gather information about how you can access a DFV refuge
 - You can call DVConnect (1800 811 811) 24/7 or your local DFV service to learn about the process.
- Consider any accessibility needs you have (such as mobility or language) and let services know what they can do to assist you. You have a right to safety.

Please note that these are only suggestions and they may not suit every situation.
You know your situation best!

If you would like assistance to create a safety plan tailored to your circumstances you can contact the services below.

Referrals

- 1800 RESPECT (1800 737 732): <https://www.1800respect.org.au/help-and-support/safety-planning/>
- DVConnect: 1800 811 811
- ABC 6 April 2020
'Helping women at risk of domestic violence during the coronavirus pandemic'
<https://www.abc.net.au/life/helping-at-risk-dv-women-during-coronavirus/12110004>

PARENTING

Our family is well and healthy, but the government has told everyone to 'socially distance'. Should I send my child to their father's house? Can he keep the children from me?

Social distancing of healthy children does not mean that those children cannot move between two family homes, although some parents will make other arrangements based on their circumstances.

Courts will generally expect parents to comply with the terms of any orders. At all times, parents are expected to act reasonably.

The Queensland Government has made directions for people to stay at home, however there are exceptions that permit people to leave the house if they need to:

- comply with the orders of the court or
- continue existing arrangements for access to, and contact between, parents and children and siblings (but not allowing access or contact with vulnerable groups or persons – eg: a person over 70 years or a person with a medical condition that makes them vulnerable to COVID-19).

If it is safe, it is important to keep in touch with the other parent about any illness that you or your child may have.

Our changeovers were at school or OHSC (or a contact centre), but now they are closed. So where should changeovers be?

Where changeovers can occur will ultimately depend on what restrictions or lockdowns are implemented by the government.

If travel through the city/town is still permitted:

- (a) If you have court orders or an agreement that states that changeovers are at school - look through the rest of the orders to see whether there are any other alternative changeover locations listed. If there is an alternate location that is safe (and still open for business), you could propose doing changeovers at that place during this period.
- (b) If there isn't an alternate location (or it isn't open for business), you could propose an alternate location that is safe and open (for example – a police station or a contact centre).

Do not put yourself at increased risk of DFV during this period. Your safety and the safety of your children is still important.

Unless a court order requires you to do changeovers at your former partner's house (or at your house), you do not have to agree to that now.

If schools are 'student-free', does that mean is it a 'school holiday period' under our parenting orders or agreement?

If your order or agreement defines school holidays to include 'student free days' – then follow what your court orders say. It is a good idea to slowly and carefully read through your court orders – some orders talk about 'non school periods' and explain where children live in those times. If your orders list what is to happen during 'non school periods' then it explains what parenting arrangements will occur during this closure.

If your orders or agreement does not specify what happens during non school periods or on student free days, then you could write to the other parent and suggest that this be considered a school holiday period.

I want to keep our children out of school, but their other parent wants them to go to school. What can I do?

At the date of this brochure, Queensland schools remain open for children of essential workers. However, parents have the option to keep their children at home.

If it is safe (and there are no DVOs prohibiting you from communicating to them) you should text or email your concerns about schooling to the children's father and attempt to reach an agreement.

For example, if your child has a particular underlying health issue that makes them more vulnerable to infection, communicate that information and any supporting documents and health recommendations to the other parent. If the other parent needs them to be at school because they are an essential worker, then you could offer to care for the children instead of them going to school.

Unless there is a court order that one parent has sole parental responsibility for the children's major long-term decisions, then health and education decisions ought to be made jointly (with both party's agreement).

If you cannot reach an agreement, there are free or discounted family dispute resolution services (like [Relationships Australia](#) or the [Family Relationship Centre](#)) available that may be able to assist you to mediate the discussion. However if it needs to be done in a short time frame you may need to use a private service.

Private mediation services can be located through:

- [Family Mediators](#)
- [Brisbane Mediations](#)
- [Australian Institute of Family Arbitrators and Mediators \(AIFLAM\)](#)
- [Family Dispute Resolution Register](#)

If you consider the child's attendance at school or at the other parent's home to be such a risk because (for example they have a significant underlying health issue), see the section below for further information.

What if schools close, how do I work out parenting arrangements for the children?

If schools close completely, then both parties need to try their best to keep following the parenting arrangements while complying with the public health directives.

Unless there is a court order that one parent has sole parental responsibility for the children's major long-term decisions, then health and education decisions ought to be made jointly (with both party's agreement).

Both parents will be responsible for arranging for the children's care and supervision for the time each parent ordinarily spends with the children according to the Orders.

If you need to juggle work commitments, you will need to negotiate with the other parent:

- (a) Whether it is possible for one or both of you to work from home as well as care for the children.
- (b) Whether you can take turns caring for the children while the other parent works from their home, or out of the home.
- (c) How the parent who is caring for the children during school hours will assist the children to access remote learning materials.
- (d) How both parents will ensure that they follow all relevant public health directions.

It is likely that increased cooperation and communication will be needed to negotiate these decisions. If it is unsafe for you to do this, then you should get legal advice.

If you cannot reach an agreement, there are free and discounted family dispute resolution services (like [Relationships Australia](#) or the [Family Relationship Centre](#)) available that may be able to assist you to mediate the discussion. However if it needs to be done in a short time frame you may need to use a private service.

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- **Family Dispute Resolution Register**

Our family home/members have been directed to self-isolate or quarantine at home for 14 days – what happens with the parenting?

If you have been directed to self-isolate at home, you should read the accompanying information from the medical staff or government agency, which will tell you which family members need to isolate and for how long.

If you and a child/children have to remain at home then it is usually a good idea to:

- (a) Follow the isolation direction
- (b) Communicate that information to the other parent, by email, as soon as possible.

When you email them:

- i. provide them with a copy of the document you have been given from the health professional or government agency
- ii. tell them about the isolation period dates
- iii. offer the other parent 'make up time' which can occur when the isolation period ends
- iv. suggest a way for the other parent to have non-face-to-face time with the child during the isolation period (for example: Zoom/ Skype/Facetime twice a week at 6pm).

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, even if by way of email, text message or WhatsApp between each other. This will be particularly important if there are later family law hearings and will assist all concerned, including the Court, to understand what agreement may have been reached.

The other parent / their family members have been directed to self-isolate or quarantine at home for 14 days – what happens with the parenting?

If the children's other parent has informed you that their family needs to self-isolate at home (and the child/children are at his home at that time), you should ask them to:

- (a) email you a copy of the document they have been given from the health professional or government agency
- (b) tell you when the isolation period ends
- (c) ask them for 'make up time' which can occur when the isolation period ends
- (d) suggest a way for you to have non-face-to-face time with the child during the isolation period (for example: Zoom/Skype/Facetime twice a week at 6pm)

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, even if by way of email, text message or WhatsApp between each other. This will be particularly important if there are later family law hearings and will assist all concerned, including the Court, to understand what agreement may have been reached.

What about international and inter-state travel? What if there are localised lockdowns?

At the time of publication, there is a ban on Australians travelling internationally, and many States have closed their borders.

International - If your child normally has to travel internationally, then you will be unable to physically send your child to the other parent (or get them back) under the current travel ban.

Domestic - If your child normally has to travel domestically and cross state borders, then you may be unable to physically send your child to the other parent (or get them back) due to flight restrictions. You may still be able to drive the child depending on the distance.

Queensland Border Restrictions include that interstate travel is restricted except for a permitted purpose. A permitted purpose includes to give effect to an Order of a Court, or when following an existing arrangement to allow children to have contact with the other parent or siblings (but not allowing contact with vulnerable groups). The children will need to travel with a copy of your parenting plan or parenting order.

You will need to check with the State that the children are travelling to, as it is unclear as to whether this exception will be applied consistently across all States. The exceptions may change rapidly with the development of the pandemic.

Once a person travels interstate, they may be subject to self-quarantine period. You will need to check this in each State and ensure yourself and the children comply.

Within Queensland - If your child normally has to travel within the same state, then you may be able to continue with the normal parenting arrangements (subject to flights being available and roads being opened). However if further restrictions are put in place and there are more localised 'lockdowns' of towns or cities, then you may be unable to physically send your child to the other parent (or get them back).

Police will not be able to assist you to recover a child under these circumstances alone.

If there are restrictions or other practical limitations (eg: no flights) that prevent a child from moving between households, then:

- (a) If it is safe - communicate that information to the other parent, by email, as soon as possible. Explain what the issue is and how it stops you from sending the child.
- (b) Attempt to find a practical solution. For example, you could offer the other parent 'make up time' which can occur at a time in the future when the health crisis has resolved.
- (c) Suggest a way for the other parent to have non-face-to-face time with the child during this period (for example: Zoom/Skype/Facetime twice a week at 6pm)

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, even if by way of email, text message or WhatsApp between each other. This will be particularly important if there are later family law hearings and will assist all concerned, including the Court, to understand what agreement may have been reached.

If you can't reach an agreement, or if it is unsafe to do so, either parent can approach the Court electronically and seek a variation of the orders. Obtain further legal advice about how to do this. You should keep the children safe until the dispute can be resolved. Also during the period of dispute, parents should ensure that each parent or carer continues to have some contact with the children consistent with the parenting arrangements such as by videoconferencing, social media, or if that is not possible, by telephone.

Even if the orders cannot be strictly adhered to, that you ensure that the purpose or spirit of the orders are respected when considering altering arrangements, and that all parents act in the best interest of the children.

I am extremely concerned that my child's health (or my health or a member of my household) will be at significant risk if I send them to the other parent. I have tried all the steps above to try to come to some alternative solution, but the other parent won't agree.

If you have court orders, the Court expects parents to comply with orders and not use the current health crisis as an opportunity to withhold children from their other parent. It is a legal obligation (which means that court can issue punishments if you or the other person doesn't comply).

However the court will not punish a person that doesn't comply if:

- (a) the person believes (on reasonable grounds)
- (b) that they need to do something different to protect the health or safety of the children or themselves or another person; and
- (c) they only stop complying with the orders for the amount of time that is necessary to protect the health or safety of that other person/s.

For more information regarding contraventions, read this court brochure entitled '[Compliance with parenting orders](#)'.

When making a decision about continuing or stopping the child having time with the other parent, ask yourself these questions:

1. Do I really need to stop the children from spending time with another person or going to a place to protect the health or safety of the children or another person? Why would the children or other person be safer if I didn't comply with the order? Is there some other sensible and practical solution that could be put in place instead? Have I proposed this to the other parent?
2. Is my belief reasonable? What information am I taking into account? Am I acting consistently in protecting my child/myself/others? (for example – it will not be reasonable if you stop the child from going to their other parent's, but send them to daycare, vacation care or a friend's house). Do you have evidence that the other parent does not intend on following the relevant restrictions, or hygiene guidelines which would pose a risk to the children's health or safety, or that of another person?
3. How long will I need to do this? When will I know that it is not necessary any more? You should only withhold your children for as long as is necessary to prevent an imminent risk to their health and safety. If the father is able to commit to following the relevant restrictions, or hygiene guidelines then you should reconsider whether withholding the children is still necessary.

Take some notes about your decision making which you can keep to look back on if there is a dispute that has to be determined by the court.

If you decide to withhold your child from spending with the father, then if it is safe, communicate that decision to them in writing. Include the reasons for your decision and how long you will expect this to be for. Propose any other safe method for the child maintaining a relationship with the other parent.

If there is a disagreement about the decisions made by parents during this pandemic, they can be considered later by the court (for example if the upset parent brings a Contravention Application). The Court can then decide whether or not there was a reasonable excuse for not complying with the order.

Currently, the Court is only able to hear very urgent matters during the course of the pandemic (for example, if there is an imminent risk to a child or another person).

If an Order is being breached but the matter is not urgent, then before a parent brings a Contravention Application they are required to attend family dispute resolution.

If you cannot reach an agreement, there are free or discounted family dispute resolution services (like Relationships Australia or the Family Relationship Centre) available that may be able to assist you to mediate the discussion. However if it needs to be done in a short time frame you may need to use a private service.

Private mediation services can be located through:

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What if the other parent withholds the child from me and the child is at serious risk of harm?

If a child is at serious risk of harm with the parent that is withholding them, you should:

- (a) obtain further legal advice immediately to discuss applying to Court for 'recovery' orders – you can contact the Family Advocacy and Support Service (FASS) on 1300 65 11 88;
- (b) contact Police and request they do a welfare check on the child; and
- (c) contact the Department of Child Safety to notify them.

If you feel that you need further guidance, the Family Relationships Advice Line can provide information, advice and telephone-based Family Dispute Resolution services to assist parents and carers to discuss any issues that arise and help them come to an agreement. The Family Relationships Advice Line can be contacted on 1800 050 321 or visit the website.

Please note that at the time of publication, the Family Court and Federal Circuit Court are still operating. However the Courts are minimising the number of cases being heard and are prioritising urgent matters (eg: parenting cases where children are at risk of harm). In most cases, the court will be hearing those cases by phone, rather than in person at the court.

If you have a very urgent matter, you can contact the Federal Circuit Court on 1300 352 000 or the Family Advocacy and Support Service (FASS) on 1300 65 11 88.

Some other useful resources are:

- We recommend that you keep yourself up to date with the latest '[Qld Health -Public Health Directions.](#)'
- The Family Court has issued a statement to assist parents '[Parenting Orders and COVID-19](#)'
- Legal Aid Queensland has also published this guide '[Ten tips for parents during COVID-19](#)'

HOUSING/INCOME/ HEALTH QUESTIONS

I am isolated at home and need help accessing essential medication and food and other supports

Call the Community Recovery Hotline – 1800 173 349

I need some more information about the health situation

Call QLD Health - 13 43 25 84