



PARENTING ORDERS- OBLIGATIONS AND CONSEQUENCES

What is a parenting order?

A parenting order is a set of orders made by a court about parenting arrangements for a child. A court can make a parenting order based on an agreement between the parties (consent orders) or after a court hearing or trial. When a parenting order is made, each person affected by the order must follow it.

A parenting order may deal with one or more of the following:

- who the child will live with
- how much time the child will spend with each parent and with other people, such as grandparents
- the allocation of parental responsibility
- how the child will communicate with a parent they do not live with, or other people
- any other aspect of the care, welfare or development of the child.

A parenting order can require the parties to follow certain steps before applying to a court to change an order. It can also state the process for resolving disputes that arise from the order.

If the parenting order provides that two or more people have equal shared parental responsibility, any decision about a major long-term issue in relation to a child must be made jointly. This requires each person to consult with the other person and make a genuine effort to reach a joint decision.

Your legal obligations

- You must do everything a parenting order says. In doing so, you cannot be merely passive but must take positive action and this positive obligation includes taking all reasonable steps to ensure that the order is put into effect. You must also positively encourage your children to comply with the orders. For example where the order states your children are to spend time with another party, you must not only ensure that the children are available but must also positively encourage them to go and do so. There are agencies in the community that can help you and your family adjust to and comply with the order.
- If a parenting order has been made that provides for a child to spend time with, live with, communicate with a person, or a person is to have parental responsibility for a child, then it is an offence to send the child from Australia without an order of the Court or without the consent in writing of the person in whose favour the order has been made. Penalty is imprisonment for three years.
- The order remains in force until a new parenting order or parenting plan changes it in some way.
- Even if the needs or circumstances of you, the child or the other party change, the court order applies until it is formally changed by a court or, in some situations, you enter into a parenting plan with the other party.
- Sometimes people talk to each other about changing arrangements set out in a parenting order. These talks do not change the order.



If you and the other party agree to change the arrangements, you may enter into a parenting plan or apply for consent orders that vary the existing orders. For more information about consent orders, go to www.familycourt.gov.au, call **1300 352 000** or visit a family law registry near you.

If you want to change a parenting order and the other party does not agree, 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 emotion. If an agreement cannot be reached, you may consider applying to a court for orders.

Penalties for failing to comply with a parenting order

A court can only penalise someone for failing to comply with a parenting order, which has not been altered by a parenting plan, if another person files an application alleging the person did not comply with the order. After considering all the facts of the case and applying the law, a court may decide that:

1. the alleged contravention was not established
2. the contravention was established but there was a reasonable excuse
3. there was a less serious contravention without reasonable excuse, or
4. there was a more serious contravention without reasonable excuse.

If a court finds that you have failed to comply with a parenting order without reasonable excuse, it may impose a penalty. Depending on the situation and the type and seriousness of the contravention, a court may:

- vary the primary order
- order you to attend a post separation parenting program
- compensate for time lost with a child as a result of the contravention
- require you to enter into a bond
- order you to pay all or some of the legal costs of the other party or parties
- order you to pay compensation for reasonable expenses lost as a result of the contravention
- require you to participate in community service
- order you to pay a fine
- order you to a sentence of imprisonment.

In addition to these orders, a court may also adjourn the case to allow you or the other party to apply for a further parenting order.



Location and recovery orders

If you breach a parenting order and you cannot be found, a court may make a location order. This order requires other people or organisations, 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, a court may also make a recovery order. This is an order issued to the Marshal of the Court, all officers of the Australian Federal Police and all state and territory police officers to find and recover the child. The order may also allow a search of any vehicle, vessel, aircraft or any other premises where the child may be found.

Source: Family Court of Australia website, www.familycourt.gov.au