

**RICHARDSON
MURRAY**

Family Law 101.

We go further.

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Introduction.

The law says to try and resolve issues informally, before going to court.

However, in some circumstances, we understand this is not always possible.

So we have assembled this Guide, a 'Family Law 101', to help you understand and navigate the family law system a little bit better.





Hello!

We are a team of experienced professionals, consisting of Queensland Law Society Accredited Family Law Specialists, Senior Associates, Lawyers and Senior Paralegals. Our team structure enables us to combine our collective knowledge to ensure that you receive the most exceptional representation.

Our family lawyers are more than just lawyers. We are understanding of our clients' needs during challenging times. We take the emotion out of decision making. We provide comfort and reassurance. We guide our clients through the maze of Family Law. Our clients are well informed from the outset as to the path that we will take and what to expect along the way. At Richardson Murray, anything less than excellence is not good enough. Our client service and client care is unsurpassed. We go above and beyond to ensure results and client satisfaction, so that you can move on with the next chapter in your life.

Meet Anton Richardson & Stephanie Murray.

Stephanie and Anton have worked together for close to 10 years. They were introduced by a mutual friend and colleague, Katrina, who advised that they should meet as she had worked with both and recognised that they shared the same ethic and approach to family law. Katrina was right. From the initial introduction, Stephanie and Anton have worked together and have grown an exceptional family law team. Many members of Richardson Murray have worked together with Stephanie and Anton for several years, (with some up to 10 years), and have progressed their careers from law graduates to associate and senior associate lawyers. Firm culture develops naturally in a working environment where everyone is friends and there to support each other.



Separation and divorce.

We go further.

What is separation & what to consider?

Separation is when you stop living together as a couple, even if you are still living in the same house. You do not need to get permission or your partner's agreement. You have 'split up'. Separation is a major step for everyone, and a time when you need help and information. Most people admit feeling the worst they have ever felt in their life. Grief, where you feel the loss of an important part of your life, may be the reason for this.

You may experience the following:

- Shock and denial;
- Anger and blaming your former partner or another person;
- Sadness and depression; and
- Moving forward, acceptance and adjustment to your new life.

Talking to friends and family can help you sort out your feelings. Trained help, like counsellors and support hotlines, may assist you and your children cope better with the changes.

Some of the things you need to consider are:

- Where will your children live, and who will take care of them?
- How will you and your former partner support yourselves, and the children?
- What, how and when will you tell the children, family and friends?
- Who will pay outstanding bills or debts?
- Who will stay in the family home?
- How will the rent or mortgage now be paid?
- What will happen to any joint bank accounts, or other joint finances?
- What will happen to property like cars and furniture?
- Are you going to change your will?

How do I separate from my partner?

To separate, you do not have to apply to a court, or fill in any forms. You will not get a certificate saying you are separated – it is much less formal than divorce. You will need to:

- Make proper arrangements for the children first;
- Tell organisations such as Centrelink and Medicare that you are separated;
- Make proper arrangements for any children involved;
- Tell your family and friends; and
- Sort out your financial affairs.



I'm thinking of separating from my partner – what should I do first legally?

1

Early legal advice can be very helpful when considering separation. Make sure to engage an experienced family lawyer, preferably one who practices exclusively in family law. Knowing and understanding the process and procedure involved in a legal separation is imperative. If you know your rights and entitlements, it will assist you in any discussions that you may have with your spouse partner. You may wish to make a proposal or if you are considering a proposal that has been made by your partner, you will be informed as to whether what is being offered is fair or reasonable.

When going to see your lawyer, you will get the most out of your first appointment if you are organised.

- If you are seeking advice regarding parenting matters, then write down what parenting arrangement you consider to be in your children's best interest and why.
- If you have any concerns, then make a list and give examples of incidents which have caused you to hold the concern.
- If you have any evidence, such as text messages or photographs, then make sure to print them or save them somewhere safe where they will not be lost or deleted.
- If you are seeking advice regarding financial matters, then make a list of your current assets and liabilities.
- Write out a brief chronology of the relationship history in bullet point format, addressing when the relationship started who had what assets or liabilities, what were your respective roles during the relationship, were there any lump sum financial contributions made by either of you or your family or friends, such as gifts or inheritances or compensation payments.

2

It is sometimes a good idea to start collating your financial documents which can evidence what the balance of any accounts (bank, superannuation, shares) at the time of separation. This will also be relevant for what each of you held at the beginning, contributed to during, and any major transactions throughout the relationship.

It is recommended to speak to your lawyer before withdrawing money from any jointly held assets, or selling or disposing of any assets. Do not draw money from accounts which you are not legally entitled to draw from (for example a company account to which you are not entitled). Ask your lawyer to advise you as to your options and to recommend the best way to protect assets.

3

Do not be tempted to talk to anyone with an ear. Separation is an emotional event and if it can be done politely and considerately then it will be easier on all involved.

- Consider sharing your emotions with a qualified psychologist rather than friends. Avoid social media.
- Do not vent via inappropriate social media posts, which can potentially be used as evidence in future court proceedings.
- Think about changing your personal passwords, including to cloud storage, which can sometimes be accessed via multiple devices in a household.



Divorce.

What is Divorce?

Should you wish to formally and legally separate from your former husband or wife, acknowledging the breakdown of the marriage, you can file for a divorce.

No-fault principle

The Family Law Act established the principle of no-fault divorce in Australia. When granting a divorce, the court does not consider why the marriage ended and the only ground for divorce is that the marriage broke down and there is no reasonable likelihood that the parties will get back together – this is what's called 'irretrievable breakdown'.

The Federal Circuit Court of Australia has the jurisdiction, or power, to deal with divorce under Part VI of the Family Law Act. The granting of a divorce does not determine issues of financial support, property distribution or arrangements for children. It simply recognises that the marriage has ended.

Can I apply for divorce?

You can apply for a divorce in Australia if either you or your spouse:

- Regard Australia as your home and intend to live in Australia indefinitely;
- Are an Australian citizen by birth, descent or by grant of Australian citizenship; or
- Ordinarily live in Australia and have done so for 12 months immediately before filing for divorce.

It is important to note that you are not eligible to apply for divorce if you have been married for less than two years.

If you are eligible, you need to satisfy the court that you and your spouse have lived separately and apart for at least 12 months, and there is no reasonable likelihood of resuming married life. It is possible to live together in the same home and still be separated. You will need to provide a copy of your marriage certificate when you make the application.

You can apply solely or jointly with your spouse. You can also apply for a divorce online, through the Federal Circuit Court. You will have to pay a filing fee, but you can apply to have this reduced if, for example, you're experiencing financial hardship.

Once you have filed your application you will need to arrange personal service on the other party.

What will a court consider in divorce applications?

The Family Law Act established the principle of no-fault divorce in Australian law. This means that a court does not consider why the marriage ended. The only ground for divorce is that the marriage has broken down irretrievably – this is what you need evidence of. That is, that there is no reasonable likelihood that you will get back together. You must have been separated for at least 12 months and one day. Such evidence may be, for example, proof of different residential addresses, closure of joint bank accounts, and little to no telephone or text communication.

If there are children aged under 18, a court can only grant a divorce if it is satisfied proper arrangements have been made for them.

A divorce order becomes effective one month and one day after it has been made. On this date, a Certificate of Divorce is also issued. This means the parties are no longer legally married to one another and are free to remarry.



Can I make an agreement with my spouse without having to go to Court?

A marriage is legally binding – so a divorce also involves the law. To have your divorce formally recognised, you must apply to the court.

However, you and your spouse can 'separate', while remaining legally married – see the above paragraphs, 'Separation'. This avoids court, but means your marriage is still recognised by law.



Separation and children.

We go further.



Children & separation.

Separation is usually stressful for your children, and they, like you, may experience a range of emotions. Children need care and support from both parents – for example, reassure them that you still love them, allow them to love both of you (don't make them choose) and make sure your children don't hear or see you fighting with your partner.

It is important to remember parents must first make a 'genuine effort' to resolve child-related disputes before attending court. This is known as family dispute resolution ('FDR'), which parties attend with a FDR practitioner, who will issue a 'FDR certificate', which may certify that:

1. Parties made a genuine effort to resolve, but they were unable to;
2. Parties did not make a genuine effort to resolve; or
3. One party failed to attend FDR.

An FDR practitioner may also decide to dispense with FDR, if satisfied one party is unable to negotiate freely, due to, for example, their psychological health, or a risk of violence.

Once the certificate is issued, parties must file it in their court application when they commence legal proceedings. There are another three things to file alongside this, in support of your application:

1. An Initiating Application, which is a form stating the orders that you seek;
2. A Notice of Child Abuse, Family Violence or Risk, so the court can decide whether urgent intervention is necessary; and
3. Your Affidavit, which is a written account of your evidence and experiences.



Who gets the children?

If you apply to the court for parenting orders, the court will decide your arrangements for the children, based on things like parties' contributions and the children's needs.

Through the court's eyes, the 'best interests of the children' are paramount, or most important. Sometimes, the court will order that children live with one parent and 'spend time' with the other.


For example, the children may live with the mother and spend every second weekend with the father. It is also possible for the court to order that the children spend a week with each parent. The outcome of each and every parenting matter is different, and depends on the individual circumstances and evidence of each case.

The court also decides who has parental responsibility, which means who gets to make decisions about the children, for example where they will attend school.

Usually, the court orders 'equal shared' parental responsibility, where the parents decide together, any decision that would have a long-term impact on the child. It is up to one parent to provide evidence of why 'equal shared' should not be ordered.



Through the court's eyes, the 'best interests of the children' are paramount, or most important. Sometimes, the court will order that children live with one parent and 'spend time' with the other.



What are parenting plans & consent orders?

A parenting plan is a voluntary agreement, made between both parents without going to court. It must be signed by both parents and can be changed as long as both parents agree.

Parenting plans are not legally enforceable, but parents can take steps to have the terms of the parenting plan formalised. They relate to things like who the child will live with, when they will spend time with the other parent, and arrangements for special days like birthdays or school holidays.

To be recognised by the Family Law Act, the Plan must consider the 'care, welfare and development' of the children.

Alternatively you can enter into consent orders which are legally enforceable. Once you and the other parent have agreed and signed the consent orders, they are filed in the court and considered by a registrar to ensure they provide for the children's best interests.

These interests are listed in section 60CC of the Family Law Act, and include things such as:

- The benefit to the child of having a meaningful relationship with both parents;
- The need to protect the child from physical or psychological harm;
- The extent to which each parent has fulfilled their obligations as a parent; and
- The capacity of each parent to provide for the needs of the child.



Parenting plans are not legally enforceable, but parents can ask for them to be. They relate to things like who the child will live with, when they will spend time with the other parent, and arrangements for special days like birthdays or school holidays.

A photograph of a family walking on a beach. A woman in a dark tank top is in the foreground, looking towards the camera. A young child is walking between her and another person whose arm is visible on the right. They are walking on a sandy beach with the ocean in the background.

How often can I see my children? Arrangements, ICL & Financial support.

How often can I see my children who do not live with me?

This will depend on what you and the other parent decide, or if there is no agreement, then the court will decide.

There are a range of possible outcomes:

1. Each of you have the children for a week at a time;
2. The children 'live' with one of you and 'spend time' with the other, for example every weekend;
3. The children 'live' with one of you and 'spend time', supervised, with the other at, for example a supervision centre.

Independent Children's Lawyers (ICL)

An ICL is exactly what they sound like – a lawyer appointed to represent the children and their best interests. They are usually appointed by the court, when:

- Allegations of child abuse or neglect exist;
- Serious mental health issues exist in relation to parents or children; or
- There are complex issues involved in the matter.

They provide an independent perspective about what arrangements are in the child's best interests. In order to do this, they do things like meet with the children, their school teachers and counsellors, and examine any medical records.

Documenting Arrangements

As mentioned, arrangements for the children can be documented in an informal 'Parenting Plan', or formal consent orders. In some cases, the documents need to be provided to your children's school or childcare centre.

The Parenting Plan can also be made legally enforceable, by presenting them to and gaining approval from the court. This means, if one parent does something against what the orders or Plan says, the court may penalise them.

Who has to support the children financially?

Again, this depends on what the court decides (or the parents, in a parenting plan). The law says both parents are financially responsible – even if a parent has no contact with their child.

If parents can't agree on the amount each party should pay, they can apply to Services Australia (formerly the Department of Human Services) for an assessment. The dollar figure is based on both parents' incomes and the financial needs of the children, including health, education or childcare and any extracurricular activities.

A background image showing two women in conversation. One woman, with glasses and a white blazer, is smiling and looking towards the other woman, who has long blonde hair and is seen from the back/side. They appear to be in an office or professional setting.

What you need to know about binding and limited child support agreements.

If you are not living with the other parent of your child you may be entitled to, or have to pay to the other, child support. Child support is designed to have both parents contribute to the costs of raising children. This is designed to include housing, food, clothing, medical costs, school expenses and day-to-day needs.

Services Australia (formerly the Department of Human Services), also known as the Child Support Agency, manages the assessment of how much child support is payable in each circumstance. This is based on a formula using both parents incomes, and the percentage of care between the parents. This is assessed based on the number of the nights the child or children spend in the respective parents care.

Once an assessment is issued by DHS you have several options to arrange collection of child support:

1. Enter a private arrangement to agree on the amount and payment of child support including potentially by way of school fees, private health premiums or extra-curricular expenses. This can be an informal agreement which means that it is not able to be enforced, or it can be within a formal child support agreement.

Formal child support agreements can be by way of:

- a. Binding agreement – This agreement can reflect any payment amount and time frame. Each party must obtain independent legal advice as to the long term effects of signing the child support agreement given it will be in place until the termination date (usually when the children obtain the age of 18 or they no longer reside with that parent). These agreements can only be varied or revoked by agreement between the parties, or an application to the Family Court;
- b. Limited agreement – This agreement must be for payment of child support in an amount equal to or more than the assessed amount payable in child support. Neither party is required to obtain independent legal advice. The agreement can be ended by either party after a period of three years, or if there is a significant change in circumstances, prior to that date.

The agreements are then registered with DHS who are entitled to pursue the paying party for collection of child support.

2. Have the child support agency collect the payments of your behalf. DHS have the power to collect payments through alternative methods including having the person's employer deduct it from their wages and make the payment directly to the child support amount, recovering the amount from any government support, and deducting any amount owing from any tax refund they are entitled to from the ATO. Any arrears will continue to be accrue and will be required to be paid by on of the previously stated methods.



Can I change my child's name? Can I take my children out of Australia? Recovery orders.

Can I change my child's name?

This is considered 'parental responsibility' of a child, and the answer depends on what a court has ordered. If the court has ordered equal shared parental responsibility, this means one parent cannot make a decision considered to have a 'long-term impact', without the other parent's consent, including the children's name.

The only way a child's name can be changed, where parental responsibility is shared, is if both parties mutually agree.

Can I take my children out of Australia?

Similarly, if both parents agree, yes. However, there are usually conditions attached, where the travelling parent must inform the other parent about, for example:

- Where exactly the parent and children are travelling, i.e. the accommodation and address;
- Flight and other travel information;
- A contact phone number for during the trip; and
- The duration of the trip.

If you take your children abroad without consent of the other parent, where you share parental responsibility, this could be considered a breach of the orders and you could be penalised.

What is a recovery order?

A recovery order is defined in section 67Q of the Family Law Act 1975. It is an order of the Court that can require a child be returned to a:

- parent of the child
- person who has a parenting order that states the child lives with, spends time with or communicates with that person, or
- person who has parental responsibility for the child.

Who can apply for a recovery order?

You can apply for a recovery order if you are:

- a person who the child lives with, spends time with or communicates with as stated in a parenting order
- a person who has parental responsibility for the child in a parenting order
- grandparent of the child, or
- a person concerned with the care, welfare and development of the child. For example, you may be the person who the child lives or spends time with but there is no parenting order that states this.

How do I apply for a recovery order?

Before you apply for a recovery order you should read the fact sheet Recovery orders. You should also refer to the Australian Federal Police Family Law Kit.

There are different processes for applying for a recovery order depending on whether you have a current parenting order or a parenting case pending in the Court. If there are no parenting orders in place you will need to file an initiating application seeking parenting orders at the same time as applying for a recovery order.

Separation and property.

We go further.



How our property will be divided?

After separation, it is common for parties to divide their assets, to begin on the path to their separate ways. This can be done in a few ways:

1. You and your former partner can agree informally;
2. This agreement can be formalised into consent orders in the Family Court; or
3. If you cannot agree, you can apply for the court to decide and make orders, relating to the division of property and payment of spousal maintenance, if applicable.

How will our property be divided?

There is no 'formula' used by the court, nor is there a 50:50 starting point – they decide by looking at all the evidence and making a 'just and equitable' decision. Sections 75(2) and 79(4) explain that the decision is based on things like:

- Worth of both your assets, and your debts;
- Financial contributions made by each party, like salary and income; and
- Non-financial contributions made, like care for children and homemaking.

The court will also consider future needs, of each party, like your health and ability to earn.

It is important to keep the court-imposed time limits in mind. If you were married, applications for property adjustment orders must be made to the court within twelve months of divorce. If you were a de facto couple, your application must be made within two years of breakdown of the relationship.

Essentially, the court will work out a percentage outcome: what percentage of the total property pool is afforded to each party? This is done after working through a four-step process:

1. Identify and value all assets and liabilities of the parties. Subtract liabilities from assets, to be left with a 'net property pool';
2. Consider the contributions of the parties made to the relationship;
3. Consider the parties' future needs; and
4. Determine whether the proposed percentage is just and equitable. When considering all the circumstances of the case, is this order fair?

For example, in a pool worth \$1 million, if the judge decides a 75:25 split is just and equitable, each party would receive \$750,000 and \$250,000 of the total pool respectively. To support an order being made in your favour, you would need to provide evidence of your contributions and future needs.

A background image showing the back of a person in a white shirt and dark pants walking on a beach, with a child and another person partially visible in the distance.

Superannuation and property pool.

How does the law treat superannuation?

The superannuation splitting law treats superannuation as a different type of property. It lets separating couples value their superannuation and split superannuation payments, although this is not mandatory. Splitting does not convert it into a cash asset – it is still subject to superannuation laws (for example, it is usually retained until retirement ages are reached).

Options for splitting superannuation:

1. A formal written agreement requires that both you and your partner instruct a lawyer, who must sign a certificate, stating that independent legal advice about the agreement has been given.
2. Seek Consent Orders to split superannuation
3. If you cannot reach an agreement with your former partner, seek a court order to split superannuation.

How do I split my superannuation?

1. Obtain valuation information
2. You need to get information to value the superannuation. You should provide the following forms to the trustee of the superannuation fund.
3. The [Superannuation Information Kit](#) provides the information and the forms you need, including:
 - Form 6 Declaration
 - Superannuation Information Request Form, and the
 - Superannuation Information Form
4. The superannuation fund may charge a fee for providing the information, and this is paid to them when you send the forms.
5. How is my superannuation valued?
6. There are different types of superannuation. The superannuation splitting legislation sets out methods for valuing most types of superannuation, but there are exceptions, including:
 - self-managed superannuation funds – they are generally valued with the assistance of an expert such as an accountant
 - where the Attorney-General has approved a fund using a different valuation method.
7. Decide the method of splitting
8. Either enter into a formal written agreement or obtain a court order.
9. You get court orders about the division of property in two ways:
 - a. If you and your partner have reached an agreement, then an [Application for Consent Orders](#) application can be filed in the Family Court, accompanied by a consent order recording the agreement. The orders can then be made in chambers without either of you attending court, or
 - b. as a result of a court hearing. Even if you start proceedings, you can reach an agreement at any stage and once the orders recording the agreement are made you do not need to attend court further.



Spousal maintenance.

The Family Court or Federal Circuit Court deal with two types of spousal maintenance applications:

1. Spouse maintenance is financial support paid by a party to a marriage to their former husband or wife in circumstances where they are unable to adequately support themselves.
2. De facto partner maintenance is financial support paid by a party to a de facto relationship that has broken down to their former de facto partner in circumstances where they are unable to adequately support themselves.

Under the Family Law Act 1975 , a person has a responsibility to financially assist their spouse or former de facto partner, if that person cannot meet their own reasonable expenses from their personal income or assets.

What does a court consider when making a decision?

The court considers the needs of an applicant and the respondent's capacity to pay. The court considers the following about both of you:

- your age and health
- your income, property, and financial resources
- your ability to work
- what is a suitable standard of living, and
- if the marriage has affected your ability to earn an income.

The court also takes into account with whom the children (under 18 years of age or adult children who are disabled) live.

Where the need exists, both parties have an equal duty to support and maintain each other as far as they can. This obligation can continue even after separation and divorce. The extent of the support depends on what the other party can afford to pay.

Is there a time limit for applications for spouse maintenance?

- If you were married, applications for spouse maintenance must be made within 12 months of your divorce becoming final.
- If you were in a de facto relationship, your applications for de facto partner maintenance must be made within 2 years of the breakdown of your de facto relationship.
- If you do not apply within these time limits, you will need special permission of a court. This is not always granted.

Family violence.

We go further.



Family violence.

What is family violence?

Family violence is a serious social issue that affects everyone in a family – children, parents and other members of the extended family.

The Family Court of Australia and the Federal Circuit Court of Australia (the Courts) take family violence very seriously.

The Courts are guided by the following principles in responding to family violence concerns:

- Safety is a right and a priority for all who attend and work at the Courts.
- Family violence affects everyone in a family, including children.
- Family violence can occur before, during and after separation and it may affect the ability of people to make choices about their family law matter and to take part in court events.
- The Courts have a particular concern about the immediate and possible longer term adverse impacts on children who experience or witness family violence.
- Even if children do not directly witness the violence, they are often very aware of it.

The family violence section of this website outlines what constitutes family violence, the [Family Law Act 1975](#) as it relates to family violence, the effect of family violence on children, notifying the Courts about family violence, and a range of other information you may need if you or someone you know is experiencing family violence.

Common forms of family violence

Family violence can take many forms: it can be physical, emotional, psychological or sexual.

Common forms of violence in families can include (but are not limited to):

- spouse/partner abuse (violence among adult partners and ex-partners)
- child abuse/neglect (abuse/neglect of children by an adult)
- parental abuse (violence perpetrated by a child against their parent), and
- sibling abuse (violence between siblings).

Studies show the impact of living with family violence can cause short or long term physical and emotional trauma to children, young people and adults. Not only does family violence, or the threat of family violence, affect a person's safety, create fear and disrupt family units, it can also affect a person's:

- readiness to take action in a family law matter
- willingness to come to the Courts
- ability to participate in court events, and/or
- ability to achieve settlement of their dispute through negotiation.



Common forms of domestic violence: physical abuse, emotional abuse, sexual abuse, social abuse, verbal abuse, spiritual abuse, economic abuse.

Cycle of violence.



PHASE 1: Tension-building Phase

Build Up: Tension between the people in the relationship starts to increase and verbal abuse, emotional abuse, psychological abuse and/or financial abuse occurs.

Stand-over: This phase can be very frightening for people experiencing abuse. They feel as though the situation will explode if they do anything wrong. The behaviour of the abuser intensifies and reaches a point where a release of tension is inevitable.

PHASE 2: Acute Explosion

The peak of the violence is reached in this phase. The perpetrator experiences a release of tension and this behaviour may become habitual.

PHASE 3: Honeymoon Stage

Remorse: At this point, the perpetrator may start to feel ashamed. They may become withdrawn and try to justify their actions to themselves and others. For example, they may say: "You know it makes me angry when you say that."

Pursuit: During the pursuit phase, the perpetrator may promise to never be violent again. They may try to explain the violence by blaming other factors such as alcohol or stress at work. The perpetrator may be very attentive to the person experiencing violence, including buying gifts and helping around the house. It could seem as though the perpetrator has changed. At this point, the person experiencing the violence can feel confused and hurt but also relieved that the violence is over.

Denial phase: Both people in the relationship may be in denial about the severity of the abuse and violence. Intimacy can increase during this phase. Both people may feel happy and want the relationship to continue, so they may not acknowledge the possibility that the violence could happen again.



Common forms of domestic violence: physical abuse, emotional abuse, sexual abuse, social abuse, verbal abuse, spiritual abuse, economic abuse.

Finding support.

In the event of an emergency please call Triple Zero (000).

Twenty-four hour helplines:

- DV Connect Womensline - 1800 811 811
- Telephone hotline for women, their children and pets experiencing domestic and family violence. Womensline offers emergency transport and accommodation as well as crisis counselling and interventions.
- DV Connect Mensline - 1800 600 636. Only available 9am to midnight, 7 days a week.
- Telephone counselling, referral and support services for men experiencing or using domestic and family violence.
- 1800RESPECT - 1800 737 732
- Provides support for people, friends and family experiencing or at risk of experiencing sexual assault, domestic or family violence. Support is also available for professionals supporting someone experiencing or at risk of experiencing sexual assault, domestic or family violence.
- Kids Helpline - 1800 551 800
- Phone and online counselling service for young people aged 5 to 25.
- Lifeline - 13 11 14
- National charity providing all Australians experiencing a personal crisis with access to crisis support and suicide prevention services.
- Policelink - 13 11 44
- Policelink can assist in making a non-urgent report or answer general police enquiries.

Local services:

- Domestic Violence Prevention Centre Gold Coast Inc. (DVPC) - phone 07 5591 4222 or 07 5532 9000
- The DVPC provides a wide range of programs to support women and their children affected by domestic and family violence and also work with men who perpetrate domestic and family violence. DVPC publish 'The Purple Book ' to help people recognise domestic and family violence and show them how to seek support.
- The Support Assessment Referral Advocacy (SARA) program - phone 0405 065 544
- The SARA Program supports women and their children from culturally and linguistically diverse backgrounds affected by domestic and family violence.

FAQ.

We go further.

Is a formal, court-ordered division of the assets ('property settlement') always necessary?

If the parties can agree informally on how to divide the assets, there is no need to go to court. We recommend this agreement is put into writing and signed by both parties, to mitigate any disputes in future.

Are there time limits on any family law proceedings?

- 1.You must wait twelve months following separation before you apply for a divorce.
 - 2.You have twelve months from the date of your divorce to settle your property matters or apply to the court for property orders.
 - 3.The court does not impose time limits for parenting matters – the only requirement is that the children are under 18 years old.
- You must appeal a decision within 28 days of the final order.

Can I bring a support person to court and legal appointments?

Absolutely, as long as everyone agrees – for example, the other party and the FDR practitioner.

What do I need to include in an affidavit?

- 1.Introduce yourself – full name, date of birth, address, occupation;
- 2.Explain why you are making the affidavit – usually to support an application you have made;
- 3.Write in the first person, about facts you know, relevant to the proceedings – you are essentially telling a 'story';
- 4.You can include evidence like screenshots or photographs, attached to your affidavit as 'Annexures'.
- 5.Stick to what is relevant; and
- 6.Try to be factual, not emotional.

I still live with my ex-husband, but we sleep in different rooms. Are we eligible for divorce?

Yes – as long as you have separated, and the marriage has broken down. This is shown with an affidavit, where you will explain things like the sleeping arrangements, reduction in favours done for each other, and division of finances.

Do I have to communicate with the other parent if we share parental responsibility?

Yes, because you must discuss matters related to the child. This includes, for example, where a child will attend high school, which GP, dentist or other health service they will attend, and the child's religion.

I don't agree with the court's order. What can I do?

You may appeal a decision made in the Family Court or Federal Circuit Court. To succeed, you must convince the Full Court that the judge who made the original orders, made an error.

What matters are included in a parenting order?

These are listed in section 64B of the Family Law Act, including:

- The person with whom a child will live;
- The time a child is to spend with the other parent;
- The communication a child is to have with the other parent;
- The communication the parents are to have with each other;
- Whether child support is payable; and
- Anything related to welfare, for example medical decisions.

I am a grandparent – can I apply for parenting orders related to my grandchild?

Yes. Section 65C of the Family Law Act states that a parenting order can be applied for by:

1. Parents;
2. The child;
3. Grandparents; or
4. Any other person concerned with the care, welfare and development of the child.

Is it expensive to go to court?

There are filing fees associated with use of the courts. For example:

- Divorce application \$930
- Initiating application for parenting matters \$360
- Response to initiating application \$360
- There are also legal fees associated with engaging a lawyer.

Who gets the matrimonial home?

It will depend on what you, informally, or the court decides. In some cases, the court may order that the matrimonial home be sold, with the proceeds divided equally.

Glossary.

We go further.

Helpful resources.

We go further.

Community Legal Centres

1. My Community Legal in Robina provides free legal advice on a walk-in basis, on Thursday evenings from 5pm. See <https://www.mycommunitylegal.org.au/free-legal/>.
2. Gold Coast Community Legal Centre in Southport provides free legal advice by appointment, 8:30am-4pm weekdays, or on a walk-in basis, on Tuesday evenings from 5pm. See <https://www.gcclc.org.au/>.

Advice phone lines

1. Family Relationship Advice Line is a national telephone service, helping families affected by separation and parenting matters. Call 1800 050 321.
2. DVConnect is a domestic violence helpline, available 24 hours a day. Call 1800 811 811.
 - a. DVConnect Womensline is a crisis helpline for females experiencing domestic and family violence. Call 1800 811 811.
 - b. DVConnect Mensline is a domestic and family violence helpline for males, available from 9am-midnight. Call 1800 600 636.
3. 1800RESPECT is a counselling and support service, available 24 hours a day, for people impacted by sexual assault, family violence or abuse. Call 1800 737 732.
4. Women's Legal Service provides free legal advice via phone for women with family violence and family law matters. Call 1800 957 957.
5. Legal Aid provides legal information via phone from 8:30am-4:30pm weekdays. Call 1300 65 11 88.
6. Lifeline is a counselling service, available 24 hours a day. Call 13 11 14.
7. Always call Queensland Police on 000 if you are in imminent danger.
 - a. To report non-urgent family violence to the police, call 131 444.

Legal advice

1. Contact Richardson Murray on (07) 5619 5933 for private legal advice.
2. LGBTI Legal Service offers free legal consultations to Queenslanders who identify as lesbian, gay, bisexual, trans and intersex. See <https://lgbtilegalservice.org.au/>.
3. Legal Aid provides legal advice, should you meet their eligibility. See <https://www.legalaid.qld.gov.au/Get-legal-help/Get-a-lawyer-to-represent-you>.
4. The Aboriginal & Torres Strait Islander Legal Service provides legal services to Aboriginal and Torres Strait Islander people in Queensland. See <https://www.atsils.org.au/>.

Useful links

1. To find a solicitor in Queensland, see https://www.qls.com.au/For_the_community/Find_a_solicitor.
2. Women's Legal Service provides fact and information sheets about a range of family law issues. See <https://wlsq.org.au/domestic-family-violence-and-family-law-fact-sheets/>.
3. The Family Court of Australia has also published family law fact sheets. See <http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/reports-and-publications/publications>.

If any of the above information is unclear, or to seek legal advice, please contact Richardson Murray – we will be more than happy to assist. See <https://richardson-murray.law/>, call 5619 5933 or email info@richardson-murray.law

References.

Family Court of Australia:

<http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/home>

Legal Aid Queensland:

<https://www.legalaid.qld.gov.au/Home>

Richardson Murray Website: <https://richardson-murray.law/>

We go further.



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**If you have any
questions please
call us to arrange a
confidential
consultation.**

www.richardson-murray.law

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