



Parental Responsibility

In relation to a child, means all the duties, powers, responsibilities, and authority; which by law, parents have in relation to their children.

Best Interests of a Child

The Court must consider the primary and additional considerations which are as follows:

Primary Considerations

1. The benefit to the child of having a meaningful relationship with both of the child's parents;
2. The need to protect the child from physical or psychological harm from being subjected to, or exposed to abuse, neglect, or family violence.

Additional Considerations

1. Any views expressed by the child and any factors (such as the child's maturity or level of understanding) that the court thinks are relevant to the weight it should give to the child's views.
2. The nature of the relationship child with:
 - a. Each of the child's parents; and
 - b. Other persons (including any grandparent or other relative of the child).
3. The extent to which each of the child's parents has taken, or failed to take, the opportunity:
 - a. To participate in making decisions about major long-term issues in relation to the child; and
 - b. To spend time with the child; and
 - c. To communicate with the child.
4. The extent to which each of the child's parents has fulfilled, or failed to fulfil, the parent's obligations to maintain the child;
5. The likely effect of any changes in the child's circumstances, including the likely effect on the child of any separation from:
 - a. Either of his or her parents; or
 - b. Any other child, or other person (including any grandparent or other relative of the child), with whom he or she has been living;
6. The practical difficulty and expense of a child spending time with and communicating with a parent and whether that difficulty or expense will substantially affect the child's right to maintain personal relations and direct contact with both parents on a regular basis;
7. The capacity of:
 - a. Each of the child's parents;
 - b. And any other person (including any grandparent or other relative of the child);to provide for the needs of the child. Including emotional and intellectual needs;
8. The maturity, sex, lifestyle and background (including lifestyle, culture and traditions) of the child and of either of the child's parents, and any other characteristics of the child that the Court thinks are relevant;
9. If the child is an Aboriginal or a Torres Strait Islander child:
 - a. The child's right to enjoy his or her Aboriginal or Torres Strait Islander culture (including the right to enjoy that culture with other people who share that culture); and
 - b. The likely impact any proposed parenting order under this Part will have on that right;
10. The attitude to the child, and to the responsibilities of parenthood, demonstrated by each of the child's parents;
11. Any family violence involving the child or a member of the child's family;
12. If a family violence order applies, or has applied, to the child or a member of the child's family – any relevant inferences that can be drawn from the order, taking into account the following:
 - a. The nature of the order;
 - b. The circumstance in which the order was made;
 - c. Any evidence admitted in proceedings for the order
 - d. Any findings made by the Court in, or in proceeding for, the Order;
 - e. Any other relevant matter;
13. Whether it would be preferable to make the order that would be least likely to lead to the institution of further proceedings in relation to the child;
14. Any other fact or circumstance that the Court thinks is relevant.

Major Long-Term Issues

In relation to a child, means issues about the care, welfare, and development of the child of a long-term nature and includes (but is not limited to) issues of that nature about the child's:

1. Education (both current and future);
2. Religious and cultural upbringing;
3. Health;
4. Living arrangement changes that make it significantly more difficult for the child to spend time with the parent.

To avoid doubt, a decision by a parent of the child to form a relationship with a new partner is not, of itself, a major long-term issue in relation to the child. However the decision will involve a major long-term issue if, for example, the relationship with the new partner involves the parent moving to another area and the move will make it significantly more difficult for the child to spend time with the other parent.

Substantial and Significant Time

A child will be taken to spend this time with a parent only if:

1. The child spends time with the parent includes both:
 - a. Days that fall on weekends and holidays;
 - b. Days that do not fall on weekends and holidays;
 - c. The time the child spends with the parent allows the parent to be involved in:
 - i. The child's daily routine;
 - ii. Occasions and events that are of particular significance to the child; and
 - iii. The time the child spends with the parent allows the child to be involved in occasions and events that are of particular significance to the parent.

Reasonable Practicality

In determining whether it is reasonably practicable for a child to spend equal or substantial and significant time with each of the child's parent, the court must have regard to:

1. How far apart the parents live from each other;
2. The parents' current and future capacity to implement an arrangement for the child spending equal or substantial and significant time with each of the parents;
3. The parents' current and future capacity to communicate with each other and resolve difficulties that might arise and implementing an arrangement of that kind; and
4. Such other matters as the Court considers relevant.

Family Violence

Means conduct, whether actual or threatened by a person towards, or towards the property of, the person's family that causes that or any other member of the person's family reasonably to fear for or reasonably to be apprehensive about his or her personal wellbeing or safety.

Abuse

In relation to a child means:

1. An assault, including a sexual assault, of the child which is an offence under a law, written or unwritten, in force in the State or Territory in which the act constituting the assault occurs;
2. A person involving a child in a sexual activity with that person or another person in which the child is used, directly or indirectly, as a sexual object by the first-mentioned person or other person, and where there is unequal power in the relationship between the child and the first-mentioned person.

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