

COVID-19: Changes to court processes and tips for representing yourself

FACTSHEET

This factsheet is part of a series from Legal Aid NSW that aims to help answer your questions about COVID-19 and family law.

You may be worried or confused about how COVID-19 will affect you and your family. Sometimes a crisis can make legal problems worse or new problems might develop. Legal Aid NSW understands that there will be a lot of questions about family law issues, parenting and staying safe. This series of fact sheets will give you helpful information and contacts to support you and your family to manage all the changes that are happening in our community.

The Family Law Courts have made changes to the way they work to stop the spread of COVID-19. The information in this fact sheet might change as the pandemic continues. It is important you contact the courts directly for the most up to date information.

How will my case be heard in court?

The Family Law Courts are limiting the number of people attending court in person, to help reduce the spread of COVID-19. This will mean that many cases are happening on the phone. It also could mean that your case is delayed during the pandemic.

Will Legal Aid NSW help me?

- Legal Aid NSW is doing most work and advice over the phone now.
- You may not have the opportunity to meet your lawyer face to face before going to Court.
- There are no duty lawyers at court. You will need to contact us in the weeks before your court date.
- Call us 9.00 am to 5.00 pm Monday to Friday, except for public holidays:
 - Early Intervention Unit on 1800 551 589
 - Family Advocacy Support Service on (02) 9219 6300
- You can also contact your nearest Legal Aid NSW office www.legalaid.nsw.gov.au/contact-us/legal-aid-nsw-offices

How do I contact the court?

Visit the court websites for updates:

- Family Court
<http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/home>
- Federal Circuit Court
<http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/about/covid/covid-news-hp>
<http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/about/covid/covid-faq/parenting-faq>

Contact the Family Law National Enquiry Centre:

- Email on enquiries@familylawcourts.gov.au.
- Phone on 1300 352 000

Email the Judge's associate about procedural issues:

- You can do this if you do not have a lawyer.

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- You can ask about procedural things, not about the issues in your case.
- Use the court file number so they know who you are.
- Make sure that the other parties are copied into your email.
- Find the email address on the court website.

How do I file my court documents?

- To stop the spread of COVID-19, you are not allowed to drop off court documents for filing.
- If you need to file court documents to start a case in the Family Law Courts, you need to:
- Use the Commonwealth Court's Portal www.comcourts.gov.au. If you have questions about using the Portal you can email support@comcourts.gov.au.
- If a document cannot be filed on the Portal, email your documents for filing. You should contact the Court to get the email address.
- Do not post or deliver copies of documents to the court.

What if my case is urgent?

The courts will still do some urgent cases face-to-face. There may be limits on the number of people in a court room. The new process for filing documents will still apply even if you go to court in person.

If you need legal advice about an urgent matter or you are not sure if your matter is urgent, you should get legal advice as soon as possible.

If your case is very urgent, contact the National Enquiry Centre and make a phone application on 1300 352 000. This number is available 24 hours a day 7 days a week. The types of application that might be considered urgent might include:

- If a family member or the other parent has taken your child from you and your child is in danger and the police have not been able to assist.
- If you are worried the other party in your case will sell off assets within the next 24 hours and you need urgent help to stop this from happening.
- Where there is a risk that the other parent will take the child overseas. This is unlikely to happen at the moment because of the travel ban.

If your case is not urgent, you can e-file or email documents to the court for filing. Write a covering letter addressed to the Registrar of the Court explaining:

- Why your case is urgent and cannot be heard on the phone.
- Why a telephone hearing is not helpful in your situation.

What should I do before my court date?

If you don't have a lawyer there are a few things you should do before the first court date:

- If you have a court date during the COVID-19 pandemic, it will probably happen by phone.

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- Get legal advice to help you understand where your case is up to in court. Call at least a week before your court date. The lawyer will be able to tell you what you can do to make sure you get the most out of your court hearing.
- Before your hearing starts, make sure you have read your paperwork and have copies of the court documents in front of you.
- Make sure you have filed all your evidence. The Judge will need to have all your documents.
- Be ready to do a short summary of what you are hoping for. Write down one or two sentences before your hearing so you are clear on the day.
- If you are worried about being alone, you can have a support person with you. The support person cannot speak to the Judge, but they can take notes and provide you with emotional support.

What will happen at my court appearance?

Things to consider if you are appearing in court by phone or via technology:

- Make sure you have a good phone or computer where you can download the technology you need.
- Plan for how you will manage your documents. You will need to share documents you want to refer to before or during the hearing with the court and the other parties.
- Make sure you are not interrupted during the hearing. If you have children, try to plan for someone to look after them for you.
- Sometimes hearings can go for a long time. Make sure you can charge your phone or computer.
- Plan for a hands free call so you can pick up your documents. Try using headphones.
- Make sure you have good reception when you take the call.
- If the line is blocked, you cannot hear or cannot get through to the Court, email the Judge's associate about your problem.

These are some tips on what to do in the hearing:

- Do not put your phone on speaker.
- When you call in, put your phone on mute until you are asked to speak. Typing, shuffling paper, chewing and drinking can be heard on the phone and will make it hard for others to hear.
- Do not put the phone on hold.
- Try to be patient. You will get instructions from the court about what is happening.
- You may need to have access to a computer or smart phone to get documents from other parties in the case. Make sure your phone and/or computer are charged.
- If you have a support person with you, then you should tell the Judge this when you first get on the phone. Tell the Judge your name and say if you are the applicant or a respondent.
- When talking to the Judge call him or her "Your Honour".
- If you are asked a question by the Judge or a lawyer, keep your answers short and clear unless you are asked for detailed answers. The courts are very busy places and the Judge may only have a few minutes to talk to you about your case.
- Try to speak slowly and clearly. The Judge and other people in the court room need to be able to understand what you say. If there is a large pause on the other end of the phone, you can check if the Judge has heard what you are saying, before you keep talking.

- Do not talk over the top of anyone. Wait for the Judge to ask you a question before you talk.
- Only talk to the Judge and not the other party. If the other party says something you disagree with, you should tell the judge not the other party.
- If you have trouble hearing one of the Judge's questions, or do not understand what has been said, ask for the question to be repeated.
- If you need to check something in a document, you can tell the judge you need a minute to look.
- Do not try to guess an answer you think the Judge wants to hear.

What will happen with my final hearing?

If you are waiting a final hearing in the next two months, you will be contacted by the Court for a call-over hearing.

The purpose of this call-over will be to work out:

- **How should the trial run?**

For example, should everyone attend court in person, is it a case that can run over the phone, should the Judge read everyone's paperwork?

- **Should the trial run now?**

For example, the case could be sent to a different process like family dispute resolution (or mediation).

- **Who will need to participate?**

For example, do you have witnesses in your case, or is it just you and the other party in the case? Have you called those witnesses to check their availability?

- **How long will the hearing take and when can it start?**

If the hearing is going ahead how many days will it take and when will it be ready to start?

How can I get help?

For free legal help call 1300 888 529 or [call your local Legal Aid NSW office](#).

If you need an interpreter, call the Translating and Interpreting Service on 131 450 and ask for Law Access NSW. If you find it hard to hear or speak, call the National Relay Service on 133 677 and ask for Law Access NSW or visit www.relayservice.gov.au.

This factsheet is intended as a general guide to the law. Do not rely on this information as legal advice. We recommend you talk to a lawyer about your situation. This information is correct at the time of writing, however, it may change.

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