

Changing Existing Parenting Orders

Date : September 22, 2020

Once final parenting orders are made in family law proceedings, they can only be changed with the assistance of your child custody lawyer in specific circumstances, including:

1. where the parties agree to a change, or
2. where a party can show that there has been a significant change of circumstances that makes a change necessary.

The Court will generally not “reopen” parenting proceedings that have been finalised to change parenting orders, unless there is a good reason for doing so and it is in the child or children’s best interest. Continuing litigation about parenting matters is generally not considered to be in the best interest of the children, or the parties.

A recent decision of the Full Court of the Family Court of Australia determined that there was a change in circumstances that warranted a change to existing final parenting orders.

In *Shan & Prasad* (2020) FLC 93-980, final orders provided for the father to spend no time with his children. The father applied to vary the orders. The trial Judge found that there was no sufficient change in circumstances (in accordance with the rule *Rice v Asplund* (1979) FLC 90-725).

The father had provided new psychiatric evidence from expert witnesses, and evidence from his work colleagues and current wife. The Full Court of the Family Court heard the case on appeal and it was determined that the trial Judge should have found (on a preliminary basis) that there was a sufficient change in circumstances, to “reopen” the parenting proceedings.

Whether a change of circumstances is sufficient to justify the reopening of final parenting orders is subject to the discretion of the trial Judge, and depends on the facts of the matter. The Court may take into account matters such as the time that has elapsed since the final orders being made, changes to the child or children’s health or the health of either of the parties. The children’s wishes and changes that have arisen that directly impact the children’s wellbeing can also be relevant considerations.

A child custody lawyer will be able to provide you with advice in relation to parenting orders.

[For more information, visit our page on Parenting and Custody Disputes.](#)

If you would like to arrange an appointment with a child custody lawyer, contact us on **1800 300 170** or email us at famlaw@matthewsfolbigg.com.au

Disclaimer

Family law situations can be complex and sometimes they can involve serious issues.



Information outlined is proposed to provide general guidance only. Due to the seriousness of legal matters as well as the uniqueness of your individual situation, professional advice should be sought. For advice, please contact one of our Family Lawyers.