Is COVID-19 a reasonable excuse to withhold a child from a parent? A Family Law Lawyers Answer

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A common question asked of family law lawyers is: "*do I have to continue complying with parenting Orders during the pandemic?*"

There are very limited circumstances in which the Court will permit parents to fail to comply with Orders of the Court.

Parents will need to establish that there is a reasonable excuse for not complying. Whether the action or conduct is needed and necessary to protect the child from harm should be considered.

In a recent case of *Pandell & Walburg* (No 2) the Court considered the circumstances of COVID-19 and how it relates to the consideration of whether a parent has a reasonable excuse not to comply.

In this matter, although interim parenting Orders provided for the father to spend time with the child, the mother had been withholding the child for approximately 3 months. The father's family law lawyers filed an urgent application for time to resume and for make-up time. During the hearing, the mother claimed that she had received advice from the child's GP that as a result of a pre-existing health condition, the child was at greater risk of suffering an adverse reaction to a possible COVID-19 infection and she should self-isolate with the child.

The Court confirmed that the advice of the GP to self-isolate amounted to a reasonable excuse to contravene the parenting Orders and withhold the child. However, a later updated report confirmed that the child was no longer at high risk during the COVID-19 pandemic. From that point, the Court found that the mother did not have a reasonable excuse. Ultimately, the Court Ordered time with the father to resume and for make-up time with the child.

Our family law lawyers can assist and advise as to what constitutes a reasonable excuse.

For more information, visit our page on Parenting and Custody Disputes.

For advice about your family law matter contact one of our family law lawyers 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.