

FAMILIES AND THE LAW

Family breakdowns and the law

My parents have split up. What will happen to me?

If your parents are splitting up, or have split up, things can be pretty tough and confusing. Your parents might need to work things out like where you will live, who you will live with and what time you will spend with each parent and any siblings that you have. Arrangements for where children will live will often be made by parents without having to go to court.

If parents can't make a decision together, sometimes they go to court. If the court makes a decision about where a child will live, the law says that your *best interests* are the most important thing. Working out what is in your best interests can be hard. It doesn't necessarily mean you will get what you want, although the court will take your choices into account, as well as the needs of other family members. Each family is unique so there are many different arrangements that can be made.

As a general rule the law says:

- It is in your best interests to have a meaningful relationship with each of your parents, and your siblings (how and when this might happen depends on your family's circumstances); and
- Children should be protected from physical or psychological harm (for example children should not be exposed to abuse, neglect, or violence).

Protecting you from harm is considered the most important thing.

How old do I need to be to decide who I want to live with?

There is no rule about how old you have to be to choose who you want to live with. You can have an opinion at any age. However, parents most often decide where young children are going to live.

If the court is deciding where you will live, the Judge will take into account your views. However, they will also consider a lot of other things and try to figure out what is best for you based on all the information they have.

What can I expect if my parents go to court?

If your parents go to court to sort things out, the court will want to know if they have made suitable arrangements for you. The court may ask that you talk to a counsellor or other professional about what you want, and how you're feeling about the situation.

How can I have a say in what happens if my parents go to court?

During the court process, you might have a chance to explain how you feel and what you think about your family. You may meet lots of different people as your family goes through the court process. These might include a family consultant, social workers, and medical professionals. There might be reports to the court about your family. If you have an opinion about where you would like to live or decisions affecting you, discuss this with these people. The court does not let children attend court.



Disclaimer: The material in this factsheet is a general guide only. It is not legal advice. The legal information was correct at the time of publishing, however may change without notice.



**Legal Services
Commission**
OF SOUTH AUSTRALIA

We help people understand the law and how it can affect them.

For free legal help,
call the Legal Help Line:

1300 366 424

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What does an Independent Children's Lawyer do?

A family law court might ask an independent children's lawyer to look into your situation and try to find out what's best for you, and then work towards this. To do this the lawyer may talk to you and other people involved in your life, like your teacher or doctor. They will listen to what you want and make sure the court knows this, but the lawyer or court may not follow your views. You can ask the independent children's lawyer any questions you might have about the court case.

Being abused or neglected

What counts as child abuse or neglect?

Child abuse or neglect includes things like physical, sexual and emotional abuse. This can include threats, verbal abuse, being sexual with a child, and threatening behaviour.

Everyone has the right to feel safe. If something like this has happened to you or to another young person, or if you're worried that it will, it's a good idea to tell someone you trust, or call the police (131 444 or 000 if it is an emergency). You can also call the Kids Helpline on 1800 55 1800 to talk to someone or the Child Abuse Report Line on 13 14 78. These places can help you get protections to keep you safe.

Some people—like doctors, nurses, teachers, principles and police—must tell the Child Abuse Report Line if they have a suspicion on reasonable grounds that a young person is being sexually or physical abused or neglected.

Sometimes the Department for Child Protection (formally known as 'Families SA') may become involved. If you or your family

members have any questions about what is happening or what might happen to your family call the free Legal Help Line as soon as possible on 1300 366 424.

It is really important to get legal advice as soon as possible so you understand what's going on and what you should do.



Contact us!

Got a legal problem?
Call our free Legal Help Line:
[1300 366 424](tel:1300366424)

Would you like more information, resources, or a free visit?
Email: cle@lsc.sa.gov.au

To apply for legal aid online,
visit: www.lsc.sa.gov.au



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