



Navigating Christmas and time spent with children after separation

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E&A Lawyers has made the decision to no longer provide family law services. While we no longer take on any new family law matters, we are happy to assist by referring you to lawyers specialising in this area. Please don't hesitate to contact us if you would like a referral.

[CALL US IF YOU'D LIKE A REFERRAL TO A FAMILY LAWYER: 02 9997 2111](tel:029972111)

Separated parents who need to negotiate parenting arrangements for time spent with children over the Christmas and summer holiday period should ensure they turn their minds to this several months before the Christmas break. Many parents will be able to amicably make parenting arrangements for this period, but some parents will be unable to reach agreement. For those parents, it's important to know that any court applications to deal with parenting arrangements at Christmas must be filed by 4.00 pm on the second Friday in November in each year.

What to consider when negotiating parenting arrangements for Christmas

It is important to remember that parenting arrangements that suit your family will largely be dependent upon the:

- children's ages;
- distance between each parent's home;
- family traditions that may be in place;
- views of the child; and, of course
- each parent's preference.

More often than not, in family law matters, parties typically agree to share the festive days of Christmas (between Christmas Eve and Boxing Day). This ensures that the children have the benefit of spending at least part of Christmas Day with each parent. These arrangements traditionally alternate each year so that the children get to have the experience of waking up on Christmas morning with each of their parents.

What if we can't agree on Christmas parenting arrangements?

For separated parents who are simply unable to reach an agreement on time-spending arrangements for the Christmas holiday period, there is a limited timeframe in which they can initiate court proceedings to have the issue decided by the Court.

[Rule 5.03](#) of the *Federal Circuit and Family Court of Australia (Family Law) Rules 2021* requires that any application seeking interim [parenting orders](#) relating to the December school holiday period in any year, must be filed by 4.00 pm on the second Friday of November.

In **2025**, the last day to file an application for parenting orders is **before 4.00 pm on Friday 14 November 2025**.

Should I file a parenting orders application straight away?

The simple answer is no!

Initiating court proceedings should always be considered an avenue of last resort. Not only is it a lengthy and costly process, but unless there are issues of significant risk or other reasons justifying urgency, parties are only eligible to initiate proceedings for parenting orders in the Family Court once they have been able to demonstrate that they have made a 'genuine effort' to resolve their dispute first.

What is considered to be a 'genuine effort' to resolve a parenting dispute

In 2006 the *Family Law Act 1975* ("the Act") was amended by the *Family Law Amendment (Shared Parental Responsibility) Act 2006*. This introduced section 60I to the Act, which imposes an obligation on separated parents to make a 'genuine effort' to resolve any parenting dispute through [family dispute resolution](#) before they are eligible to commence court proceedings.

Unfortunately, what constitutes a 'genuine effort' is not defined by the Act, and there has been little case law since the introduction of this section to provide further clarity on exactly what is required.

What we do know is that [section 60I](#) of the Act limits the court's ability to hear an application for Parenting Orders unless the parties have first attempted to resolve their dispute by family dispute resolution. This is required to be evidenced by filing a Section 60I Certificate issued by a registered Family Dispute Resolution Practitioner and a Genuine Steps Certificate evidencing that they have taken genuine steps to resolve their dispute prior to initiating proceedings.

What exactly is 'family dispute resolution'?

Family dispute resolution (FDR) is mediation that is conducted by a qualified Family Dispute Resolution Practitioner (FDRP).

The FDRP is independent of both parties, and their role is to assist the parties to explore options for resolving some (if not all) of the issues that are in dispute. The role of the FDRP is facilitative in that they cannot provide legal advice to the parties or make a decision that will bind the parties.

How can I avoid having to go to Court for a parenting dispute?

Navigating parenting arrangements for spending time with children at Christmas post-separation is often going to be challenging. In circumstances where you have always had the luxury of being there for every milestone and special occasion, it is an adjustment to come to terms with the fact that you might not see your children on Christmas morning.

One of the best things that you can do for both you and your children is to plan early. Start thinking about what arrangements are going to be in the best interests of the children. Consider how you can ensure that they get to experience the magic of Christmas with both parents.

You should also think about how the school holiday period might be able to be shared between you and the other parent taking into consideration things such as your respective employment obligations and any desire either of you might have to travel with the children to visit family.

When communicating with the other parent, it is important to remain calm and to be flexible in your approach. Be prepared to hear the other parent out, consider alternatives and be willing to compromise.

Get help from a family lawyer

If it becomes apparent that any agreement regarding parenting arrangements (whether for Christmas or at any other time) is unlikely to be reached, we recommend speaking with an experienced family lawyer. We are able to provide you with tailored legal advice, help you negotiate with the other parent and initiate a family dispute resolution conference if it becomes necessary.

Contacting E&A Lawyers

For more information or to arrange a consultation with a lawyer, you can call or email us.

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