



FAMILY

This sheet is intended to provide **general legal information** about the law in Queensland. **This information is not legal advice.** If you have a particular legal problem you should contact a solicitor for legal advice. At the end is a list of agencies that might be able to assist you, including legal agencies.

What are my parents' responsibilities?

Your parents should care for you until you reach 18. They are able to make decisions for you BUT as you get older, you have the right to have a say in decisions about you and their role should become more about giving advice. When you are under 16 your parents or carer must:

- provide you with food, clothing, and shelter
- protect you from risk to your personal safety and health
- ensure you go to school
- ensure you are not left unsupervised for an unreasonable length of time if you are under 12.

If your parents do not look after you properly and Child Safety Services believes you are at risk of harm, then they may ask a court to grant a Child Protection Order.

If the court does this then Child Safety Services can become your guardian.

Parents can discipline you but they could be charged by the police if they go too far; for example, if they hit you anywhere hard enough to leave bruises or if they hit you anywhere on the head. Also if discipline causes injuries or psychological damage then Child Safety Services may also want to apply for a Child Protection Order.

Who is my legal guardian?

Your birth parents are usually your legal guardians until you reach 18, even if you leave home, unless:

- you have a Child Protection Order (then your parents or Child Safety Services may be your legal guardian)
- you are adopted (then your adoptive parents are your legal guardians)
- your birth father is not named on your birth certificate, then only your mother is your legal guardian.

What if my parents split up?

If your parents separate, they should come to an agreement about where you will live and who you will spend time with as well as other specific issues, such as: who is responsible

for your day to day care or your long-term welfare and development; sometimes where you will go to school; or who will be your doctor. They can do this by a written agreement (a Parenting Plan or Consent Order). Consent Orders need to be approved by the Family Court or Federal Magistrate's Court and can be enforced by the law.

If your parents cannot agree then the court will have to decide these things and make a Parenting Order. The court will consider what you want to happen and look at what is best for you. Sometimes this may be done through a solicitor called an Independent Children's Lawyer. Independent Children's Lawyers are appointed by the court. Their role is to tell the court your wishes and also to tell the court what they think is best for you after collecting information about your situation from a variety of people.

Who pays maintenance if my parents split up?

If your parents separated before October 1989, then the court will deal with this as part of the Parenting Plan/Consent Order, or Parenting Order. If your parents separated after October 1989 or you were born after October 1989, maintenance is now generally done through the Child Support Agency.

The money is paid to the parent or adult with whom you are living. It is not possible for you to claim maintenance from the Child Support Agency. If you have issues about claiming money from a parent to support yourself where your parents have separated, you may be able to go to court. See a solicitor for advice.

Can my parents cut me out of their will?

You have the right (no matter what your age) to apply to a court for money out of your deceased parent's estate. You can exercise this right if your parent has not left you anything or has not organised things so that there is enough money for your general living expenses. If you previously relied on them for this and if the court is convinced that you continue to require this financial support, you should apply to the court within nine months

of your parent's death. See a solicitor for advice.

Can my parents spend money left to me in a will?

Until you are 18 years of age you are not able to make decisions about anything left to you in a will. Usually your parents are given the job of looking after this property until you are 18 years old. It is not your parents' property to use as they want. It must be used for your benefit.

If you are having hassles about what your parents are doing you should contact a solicitor. They may be able to investigate what is happening for you. It is also possible to ask the Supreme Court to make an Order that someone else look after your property. You would need to get legal help to do this.

Domestic Violence?

Domestic violence is against the law and you have the right to be safe. If you are:

- married
- living in a defacto relationship or
- in a 'relevant relationship' eg you are a couple or you are being cared for by someone who is not a relative

and your partner has been:

- violent
- harassing
- emotionally abusive (humiliating, isolating, extremely critical etc.)
- intimidating (controlling)
- acting indecently
- wilfully damaging your property
- threatening to do any of these things;

then you can apply to the court for a Protection Order or Temporary Protection Order under Queensland's domestic violence laws. Also, you can apply for an Order against a relative or informal carer (usually if someone cares for you because of a disability or illness).

Children and young people (under 18) are only able to seek Domestic Violence Orders or have one placed on them for intimate personal (including dating) or informal care relationships.

If you are living at home and one of your parents is suffering domestic violence, that parent can get a Protection Order and you can be protected under the same Order.

If your parent chooses not to get a Protection Order and you need to protect yourself, you can:

- call the Domestic Violence Hotline. If you are female call 1800 811 811 for advice and information on what you can do. If you are male call 1800 600 636. You can also contact the Kids Helpline on 1800 55 1800
- phone the police on 000 if there is violence between your parent and his or her partner. The police may apply for a Protection Order, which can cover you, or take other appropriate action, if they believe there has been domestic violence
- apply to the court for a Peace and Good Behaviour Order, if there is a threat of injury against you or your property. You should talk to a solicitor if this is what you plan to do because you will have to take this to court without help from the police
- report an injury to yourself or damage to your property to the police and ask that they take the person to court for 'Assault' or 'Wilful Damage'. The police will organise and run the case for you, but you will probably have to give evidence in court.

Adopted

If you are 18 or over, then you can apply to the Department of Communities-Child Safety Services to find out the identity of your birth parent(s). You apply by filling in a form or by phoning the Adoptions number below. You can get details about your birth parents including full names and dates of birth. You will only get their addresses if your birth parents say this is ok. You can then contact your birth parents. Remember you can get into trouble if you harass, annoy or threaten them. To get this information contact the Department of Communities. If your birth parent has said they do not want their details to be given out to you and do not want any contact with you, you will not get the information you asked for. If they are prepared to have the details given to you but do not want to be contacted, then you will get the information you wanted, BUT if you try to contact them it will be against the law and you could be taken to court.

If you are under 18, you can apply for your birth parents' names, date of birth and last known address along with what your name was before you were adopted. To get this information you will need both your adoptive parents and birth parents to say that it's ok.

When can I change my name?

You may use any name you wish as long as you don't intend to defraud anyone (eg. try to get more money from Centrelink). If you are under 18, you should get your parents' agreement. It is not necessary to register your change of name with the Registry of Births, Deaths and Marriages. It is enough just to use the new name.

However the Passport Office or Queensland Transport will want evidence of your change of name explaining why your name is different to that on your birth certificate.

If you are under 12 you must get your parents' consent to change your name. If you are aged 12 to 17, your parent(s) must have your consent to officially register you under a changed name. If you are under 18 you can usually only change your first name once before you turn 18 but your second name can be changed once every 12 months or more often if there is a real need to change. Once you turn 18 you may apply yourself to register a new name. There are different rules if you are born overseas and you should talk to a solicitor about that.

Who can help?

Youth Advocacy Centre (YAC) www.yac.net.au	3356 1002
Hub Community Legal www.communitylegal.org.au	3372 7677
YFS Legal www.yfs.org.au	3826 1500
Legal Aid Queensland www.legalaid.qld.gov.au	1300 651 188
Youth Legal Advice Hotline.....	1800 527 527
Aboriginal & Torres Strait Islander Legal Service www.atsils.org.au	3025 3888 or (free call) 1800 012 255 (24hrs 7 days a week)
Translating & Interpreting Services (24hrs)	131 450
Kids Help Line	1800 551 800
Immigrant Women's Support Service www.iwss.org.au	3846 3490
Domestic Violence Telephone Service	1800 811 811 (Women) 1800 600 636 (Men)
TTY (National Relay Service).....	133 677
Adoptions (Identifying Information).....	3224 7415 or 1800 647 983 (free call)
Public Trustee (Trust Management Enquiries)	1300 360 044
Child Safety After Hours Service (24hrs) (DOC) www.communities.qld.gov.au	3235 9999 or 1800 177 135 (free call)
Women's Legal Service.....	3392 0670
Aboriginal & Torres Strait Islander Women's Legal & Advocacy Service.....	372 9089 or 1800 442 450 (free call)
Registry of Births, Deaths and Marriages	1300 366 430
Community Legal Centres (CLCs) see www.naclc.org.au for your nearest CLC	

This sheet was last reviewed and updated in February 2020. The Youth Advocacy Centre does not accept responsibility for any action or outcome as a result of anyone relying on the information provided.