

Keeping children safe from harm – the law in New South Wales

Why do we have laws about caring for children?

- Across the world families and communities recognise that children are precious, and need to be protected and kept safe. In different places people go about this in different ways.
- In Australia governments have chosen to make laws to keep children safe and make sure their needs are met.
- Having laws means that all children have the same right to protection.
- Each state in Australia has its own laws but they share the same ideas.
- In New South Wales the law says that the government can only get involved with families as much as is needed to protect children or young people from harm, and to make sure they are developing well.
- The NSW Department of Community Services (DoCS) is the main government department that puts into practice the laws on keeping children safe, but the whole of government and the wider community shares this important job in different ways.

When can the government tell parents how to care for their children?

- The law says that DoCS can be called on if anyone in the community thinks a child or *young person* is at risk of harm.
- When DoCS gets a *report* that a child or young person is or may be at risk of harm, DoCS staff are responsible for deciding whether the report is right.
- The law says DoCS Caseworkers are then responsible to take action where the child or young person needs care and protection.

Information sheet 1 continues over ➤

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Continued from page 1...

When does the law say a child or young person is at risk of harm?

The law says a child or young person is at risk of harm if there are current concerns for their safety, welfare or well-being because of one or more of the following:

- if their basic needs are not met (eg they don't have enough food or clothing, or don't have a safe or secure place to live.)
- parents or caregivers aren't arranging necessary medical care (eg a child is very sick, but is not taken to a doctor.)
- a child or young person being physically abused or ill-treated (eg where a child has bruises, fractures or other injuries from excessive discipline or other non-accidental actions.)
- a child or young person being sexually abused (eg sexual activity between a child and older child or adult.)
- risk of serious physical or psychological harm resulting from domestic violence (eg where a child could be injured by a blow intended for his mother, or a child can't sleep at night because of their fear that there will be violence in the home.)
- risk of the child or young person suffering serious psychological harm (eg a child having to take care of his parent, or a child being ignored, threatened or humiliated in an ongoing way.)

What does the law say about children and decision making?

- The law says that if DoCS staff or the court are making decisions about a child or young person, the child or young person should be able to have their say about what they want. The way this is done will depend on their age and capacity to understand and talk about their views.
- This includes children having a say about plans, court applications, services and contact arrangements.
- When making decisions about children and young people, DoCS and the court must pay attention to the child's culture, language and religion, to their sexuality, and to any disability they may have.

What does the law say to parents about looking after children?

- The child's safety, welfare and well-being are more important than anything else.
- Parents are responsible for disciplining their children, but causing injury to children or young people for any reason is against the law.
- Parents should be able to ask for help when they need it to look after their children and keep them safe.

Information sheet 1 continues over ➤

Keeping children safe from harm – the law in New South Wales

Continued from page 2...

It's the Law

- The main law discussed in this sheet is the Children and Young Persons (Care and Protection) Act, 1998 (Sections 21-36). You can check it out on www.austlii.edu.au. Look at the alphabetical index for the New South Wales Consolidated Acts. The Act can also be found on the DoCS website www.community.nsw.gov.au
- Local libraries can assist with internet access.

Need more information?

Some of the words in this sheet may be new to you. If you want to know about any words that are underlined, look where you found this sheet for the Partnership with parents – *Word list*.

Other information sheets in this series include

- *Promoting safety – Agency responsibilities to children and parents*
- *Will they take the kids?*
- *When a report is made*
- *Going to case meetings with DoCS*
- *Information for parents attending care and protection hearings*
- *My child is in voluntary foster care*
- *My child is in foster care through the court*
- *Getting my children back home – Information for parents about restoration*
- *Word list*

Protecting children and young people from harm is everyone's responsibility. We are committed to working with families and other organizations to keep children safe.

This sheet has been prepared for general information and should not replace legal advice.