

Can I be involved in a child protection court case if I'm not the child's parent or guardian?

Sometimes, the Childrens Court can let people who are not a child's parents or guardian be involved in a child protection court case (proceedings). This factsheet explains:

- what the magistrate considers when deciding if you can be involved in the court proceedings
- how to ask if you can be involved in the court proceedings.

Who can be involved in child protection court proceedings?

The law says certain people are 'parties' to a child protection order application in the Childrens Court. These parties are:

- a parent of a child (this includes the child's mother and father, the child's long-term guardian, or a person who has orders under the *Family Law Act 1975* (Cth) for the child to live with them or spend time with them)
- the Director of Child Protection Litigation
- the child or young person.

What does the magistrate consider when deciding if I can be involved?

The law says the Childrens Court may make an order allowing a person who is not a party to the child protection proceedings to become a 'non-party participant' and be involved in the proceedings.

When deciding if you should be a non-party participant the magistrate will consider:

- if you can give relevant information to help the court (for example, what you know about the child or their parents)
- your relationship with the child.



Grandparents, family members or the child's carers are some examples of non-party participants the Childrens Court has previously allowed. The magistrate considers each request to be a non-party participant on a case by case basis. The magistrate may deny your request if they don't think you should be involved in the court proceedings.

How can a non-party participant be involved?

The Childrens Court has some different options magistrates can consider when making a non-party participant order. These options are outlined in the *Child Protection Act 1999*.

If the court makes an order allowing you to take part in the proceedings as a non-party, it must state:

- how you may take part
- whether your participation is allowed until the proceedings end or only for a particular part of the proceedings
- whether you will be subject to conditions and whether you may be required to do a thing that a party to the proceedings is or may be required to do
- whether a provision or all provisions of the *Child Protection Act 1999* apply to you as if you were a party to the proceedings.

Get legal advice to find out what sort of order you should ask the court for based on your situation.

How do I apply to be a non-party participant?

1. Get legal advice. You can contact Legal Aid Queensland on 1300 65 11 88 for help with this.
2. Find out when the matter is going to be mentioned in court and attend the court on that day. You can ask one of the child's parents or Child Safety to tell you the court time and place.
3. Before the court date, you will need to file a *Form 44 – Application in a proceeding* with the court along with a *Form 25 – Affidavit* explaining why you want to be involved in the court proceedings and to provide information about your relationship with the child. Get legal advice to help you decide which court orders to ask for in the application, and what information to include in your affidavit.
4. You will need to serve (give) copies of the completed application and affidavit to the other parties involved in the proceedings. Get legal advice.
5. The magistrate will make a decision about whether to make you a non-party only after it is satisfied all of the other parties involved in the proceedings have had a reasonable time to consider whether they think it is appropriate for you to be involved in the case and how. The magistrate will want to hear submissions (information) from the other parties about their views.
6. When you attend court, listen to what the magistrate says. If the magistrate makes an order to allow you to become involved in the case, take a note of the next court date and anything else the magistrate tells you to do before the next court date.



Where do I get the forms from?

Court forms and documents can be downloaded or printed from the 'Forms' section of the Queensland Courts website, in the '*Child Protection Act 1999 and Childrens Court Act 1992*' category. Visit www.courts.qld.gov.au/about/forms

What do I need to do after court?

If the magistrate agrees to make you a non-party participant in a court proceedings, make sure you get a copy of the order from the court registry. You will need this order if you want to apply to Legal Aid Queensland for a lawyer to represent you.

You should also file a *Notice of address* for service with the court registry. Give a copy to the lawyer applying for the child protection order and to the other parties to the proceedings or their lawyers.

Your *Notice of address for service* will give the court and the other parties in your case, the address where court documents and notices can be served on you, and your contact telephone number and email address.

If a lawyer is acting for you, your lawyer will file the *Notice of address for service* as it is your lawyer's address that needs to be given to the court and the other parties in your case.

If the details on your *Notice of address for service* change, you will need to file another one and give a copy to the other parties in the case. This will give the court and the other parties involved in the case your updated contact information.

Can I get a lawyer to represent me if the court allows me to be a non-party participant?

If you want a lawyer to represent you, you can apply for legal aid. You should get free legal advice from us before you complete a *Legal Aid Queensland application form*. Call Legal Aid Queensland on 1300 65 11 88 (cost of a local call from a landline in Australia) to get free legal advice.

If you submit an application form, you will need to attach a copy of the magistrate's non-party participant order and any other documents the application form asks for.

Do you need extra help accessing our services?



If you would like this factsheet explained in your language, please phone the Translating and Interpreting Service on 13 14 50 to speak to an interpreter. Ask them to connect you to Legal Aid Queensland. If you are deaf or have a hearing or speech impairment you can contact us using the National Relay Service. To make a call, go to the National Relay Service website and ask for 1300 65 11 88 (Legal Aid Queensland's legal information line). These are free services.



Your Local Legal Aid Queensland office:

BRISBANE

44 Herschel St, 4000

BUNDABERG

3rd Floor, WIN Tower,
Cnr Quay & Barolin Sts, 4670

CABOOLTURE

Ground Floor, Kingsgate
42 King St, 4510

CAIRNS

Level 2, Cairns Square Complex,
42-52 Abbott St, 4870

INALA

Level 1, Inala Commonwealth
Offices, 20 Wirraway Pde, 4077

IPSWICH

Level 7, 117 Brisbane St, 4305

MACKAY

Ground Floor,
17 Brisbane St, 4740

MAROOCHYDORE

Ground Floor, M1 Building
1 Duporth Ave, 4558

MOUNT ISA

6 Miles St, 4825

ROCKHAMPTON

Ground Floor, 35 Fitzroy St, 4700

SOUTHPORT

Level 2, 7 Bay St, 4215

TOOWOOMBA

1st Floor, 154 Hume St, 4350

TOWNSVILLE

3rd Floor, Northtown
280 Flinders St, 4810

WOODRIDGE

1st Floor, Woodridge Place,
Cnr Ewing Rd & Carmody St, 4114

For more information
about our services visit
legalaid.qld.gov.au

or phone 1300 65 11 88
or 1300 650 143 (Indigenous Hotline)

