



## What the law says

Here are some laws that look after you and your children. There are a raft of laws that protect the rights of New Zealand citizens

### **Domestic Violence Act 1995**

This Act says violence can be physical, sexual, emotional or psychological. The legal definition of domestic violence is: violence against that person by any other person with whom that person is, or has been, in a domestic relationship.

The Act defines a domestic relationship as: The relationship with another person if the person is a spouse or partner of the other person; or is a family member of the other person; or ordinarily shares a household with the other person; or has a close personal relationship with the other person.

It protects married couples; unmarried couples; gay and lesbian couples; children; family; anyone in a close relationship; and flatmates and others who may share accommodation. It also sets out information related to Protection Orders.

### **Crimes (Substituted Section 59) Amendment Act 2007**

This amendment to the original Act makes better provision for children to live in a safe and secure environment, free from violence by abolishing the use of parental force for the purposes of correction (Section 4).

It states that it is illegal to use force on a child for the purpose of correction. It sets out circumstances where force may be used; for example, preventing the child from engaging in a conduct that amounts to criminal offence, but this 2007 law change makes it clear that there is zero tolerance to violence in a domestic setting.

### **Care of Children Act 2004**

This Act deals with the guardianship of children, arrangements for the care of children, and resolving disputes as to children's care. It came into force on 1 July 2005. The Act makes the welfare of the child the most important priority, and shifts the focus away from parents' rights towards parents' responsibilities towards their children.



It emphasises that children should be consulted about decisions that affect them, and that decisions affecting a child should be made and carried out within a timeframe that fits with the child's sense of time.

## Other legal information

### *Custody disputes*

If there is a dispute over the custody and access of the child, options such as free counselling, mediation or a family group conference will be explored before a dispute goes to court.

The Family Court may appoint an independent lawyer for the child, whose is to:

- represent the child through the court process and in any negotiations between the parents or other parties to the case
- find out the child's views and make the judge aware of them
- make sure the child's best interests and all issues affecting their welfare are put before the court for it to consider
- explain the court process to the child and, at the end of the process, explain the judge's decision.

The Act also provides for greater recognition of extended whānau and other family members who for a long time have sat on the sideline in a child's life, and acknowledges the role that other family members may have in the care of children including stepparents.

It further protects children from violence, and gives children the right to appeal any decision made under the Act.

### *Parenting Orders*

Guardianship now ends when a child turns 18, marries, lives with another person as a de facto partner, or is removed by Court Order.

Parenting Orders (which replace Custody Orders and Access Orders) are made by the Family Court, and determine who will have day-to-day



responsibility for the care of a child.

Any other person given rights to contact with the child may be required to do so only under supervised visits, such as in cases of domestic violence.

### ***Enforcement of Parenting Orders***

The Act provides for new ways for the Family Court to deal with someone who is not complying with the children's care orders:

- the compliant parent has the right to apply for the non-compliant parent to be spoken to by the Court
- the Court can discharge the existing Parenting Order, or vary it – for instance, by reducing the time the child is in the care of, or has contact with, the non-compliant parent
- payment issues can also be taken to Court.

For more information on legislation visit [www.legislation.govt.nz](http://www.legislation.govt.nz).