



I AM IN PRISON AND MY CHILD IS IN CARE WILL I GET CONTACT?

It may be possible to arrange visits with your child while you are in prison.

This fact sheet has information on how decisions about contact are made by Department of Communities (sometimes called 'Child Protection') and the Children's Court and some things to think about with your contact.

There are other fact sheets that cover how to have a say about contact if your case is still at court or if your child is in care on a final protection order.

Can I just have a visit?

If your child is in the care of Child Protection, you will need an agreement with Child Protection to have visits or Children's Court orders which say Child Protection must arrange visits.

What does the law say about contact?

The law says Child Protection and a magistrate at the Children's Court must make decisions based on what they think is in your child's best interests. This includes if Child Protection or the court was asked to decide about whether your child should have visits with you in prison.

This means you may not get the contact you want if it is not seen as in your child's best interests.

The term 'best interests of the child' has a special legal meaning, and the court has to consider a number of things to decide what is in the best interests of a child. These include:

- protecting your child from harm
- the nature of your child's relationship with you
- any wishes or views expressed by your child considering their age and level of understanding, and
- the need for your child to develop and maintain contact with you.

I have not had contact for a long time. What should I do?

Talk to your child's case worker about what would be best for your child. Your child may be old enough to say what they want.

If you have not had contact with your child for a long time, you might agree that it is best that your contact start again with letters, photos, or drawings. Your child's case worker must see and approve anything you want to send to your child. If it is approved, they will send it on for you. They will also pass on any reply.

If you have a good relationship and your child is old enough, phone or video calls may be part of a plan to build to contact in person.

If your prison is too far away from where the child is living, for example, you are in a remote area prison and your child lives a few hours or more away, you may not be able to have contact in person until you are released.

If your case is still at court

Speak to your lawyer about what contact would be best for your child in your case. If you think Child Protection is not doing what is best, you may need to make an application to the court for temporary, or interim, contact orders while your case is at court.

Go over the written proposal with your lawyer before your case ends at court to check that it has a good plan for your contact, both while you are in prison and when you get out.

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If your child is in care on a final order

Read the written proposal to see what it says about your contact. If you don't have a copy, ask the case worker for one.

If what is in the proposal is not being followed, speak to the case worker to ask them to do what is set out in the proposal.

If nothing changes, the next steps you can take depend on what order your child is on. Get legal advice.

Where can I get more information?

You can:

- Ask the library contact person at the prison if they can download information from the Legal Aid WA website. There are other fact sheets for prisoners and Blurred Borders fact sheets on protection and care topics.
- Ring the Legal Aid WA Infoline on the dedicated prison line to ask for other fact sheets on protection and care to be sent to you. From the Infoline Aboriginal and Torres Strait Islander prisoners can ask for Legal Yarn.
- Ask to speak to the Prison Visiting Service.

Legal Aid WA contacts: Website + Chat www.legalaid.wa.gov.au, Infoline 1300 650 579, Legal Yarn 1800 319 803.

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