

OLD Section 60CC

Primary considerations are:

- 2(a) the benefit to the child of having a meaningful relationship with both of the child's parents; and
- (b) the need to protect the child from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence.

Additional considerations are:

- 3 (a) ~~any views expressed by the child and any factors (such as the child's maturity or level of understanding) that the court thinks are relevant to the weight it should give to the child's views;~~
- (b) the nature of the relationship of the child with:
 - (i) each of the child's parents; and
 - (ii) other persons (including any grandparent or other relative of the child);
- (c) the extent to which each of the child's parents has taken, or failed to take the opportunity:
 - (i) to participate in making decisions about major long-term issues in relation to the child; and
 - (ii) to spend time with the child; and
 - (iii) to communicate with the child.
- ~~(ea) the extent to which each of the child's parents has fulfilled, or failed to fulfil, the parent's obligations to maintain the child;~~
- ~~(d) the likely effect of any changes in the child's circumstances, including the likely effect on the child of any separation from:~~
 - ~~(i) either of his or her parents; or~~
 - ~~(ii) any other child, or other person (including any grandparent or other relative of the child), with whom he or she has been living;~~
 - ~~(e) the practical difficulty and expense of a child spending time with and communicating with a parent and whether that difficulty or expense will substantially affect the child's right to maintain personal relations and direct contact with both parents on a regular basis;~~
 - (f) the capacity of:
 - (i) each of the child's parents; and
 - (ii) any other person (including any grandparent or other relative of the child);
- to provide for the needs of the child, including emotional and intellectual needs;
- (g) the maturity, sex, lifestyle and background (including lifestyle, culture and traditions) of the child and of either of the child's parents, and any other characteristics of the child that the court thinks are relevant;
 - (h) [rights relating to Indigenous children]
 - (i) the attitude to the child, and to the responsibilities of parenthood, demonstrated by each of the child's parents;
 - (j) any family violence involving the child or a member of the child's family;
- (k) any family violence order that applies to the child or a member of the child's family, if:
 - (i) the order is a final order; or
 - (ii) the making of the order was contested by a person;
- (l) ~~whether it would be preferable to make the order that would be least likely to lead to the institution of further proceedings in relation to the child;~~
- (m) any other fact or circumstance that the court thinks is relevant.

How a court determines what is in a child's best interests

How do the 2024 changes to the Family Law Act compare?

NEW Section 60CC

General considerations

- (2) (a) **what arrangements would promote the safety (including safety from being subjected to, or exposed to, family violence, abuse, neglect, or other harm) of:**
 - (i) the child; and
 - (ii) each person who has care of the child (whether or not a person has parental responsibility for the child);
 - (b) **any views expressed by the child;**
 - (c) **the developmental, psychological, emotional and cultural needs of the child;**
 - (d) **the capacity of each person who has or is proposed to have parental responsibility for the child to provide for the child's developmental, psychological, emotional and cultural needs ;**
 - (e) **the benefit to the child of being able to have a relationship with the child's parents, and other people who are significant to the child, where it is safe to do so;**
 - (f) **anything else that is relevant to the particular circumstances of the child.**
- (2A) In considering the matters set out in paragraph (2) (a), the court must include consideration of:
- (a) **any history of family violence, abuse or neglect involving the child or a person caring for the child (whether or not the person had parental responsibility for the child); and**
 - (b) **any family violence order that applies or has applied to the child or a member of the child's family.**
- 3 . Additional considerations--right to enjoy Aboriginal or Torres Strait Islander culture...