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## THE NEW SHARED CARE LAWS EXPLAINED

A recent case in the Family Court of Australia has set the rules for how the new “Shared Parenting” laws will work for recently separated parents. The new case describes how the new Family Laws will operate for parents who cannot agree in the short term about where their children will live for the period up to 12 months until a Final Hearing can be heard.

Until recently the Family Court has usually maintained existing care arrangements for children on a short term basis after their parents separated, even if one parent was not happy with those arrangements.

Now, when the Family Court of Australia makes a decision about where children should live and how much time they should spend with each parent on a short-term basis, the Court will look at the following matters:

1. The competing proposals made by each parent.
2. The issue in dispute at the Interim Hearing stage.
3. Whether any issues are agreed or uncontested.
4. A detailed consideration of what is in the “best interests” of the particular children.
5. Whether the presumption
6. of equal shared parental responsibility is in the best interests of the children or should not apply as there are reasonable grounds to believe that there has been child abuse or family violence.
7. If the equal shared parental responsibility presumption does apply, whether the presumption



should be overturned as it is not in the child's best interests in all of their circumstances.

8. If the equal shared parental responsibility presumption does apply, whether the child or children should spend an equal amount of time with each of their parents.
9. If “equal time” is not considered to be in the best interests of the children, then children should spend “substantial and significant” time with each parent.
10. If neither equal time nor substantial and significant time is considered to be in the best interests of the children, then Orders should be made that are in the best interests of the child in his or her circumstances at the date of the Interim Hearing.

Overall, it is now far more likely that children will live equally between their mother and father after parents separate if such an arrangement is considered by the Family Court to be in their best interests and in all the circumstances is practicable.



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