

Family Court Processes

Applying to the Family Court is usually not the first step you should take, unless a mother who is incarcerated feels that her child is not safe, something must be decided urgently, or she cannot come to an agreement with other parties without the Court's intervention. If possible, she should try to come to an agreement about her child(ren) with other guardians before applying to the Family Court.

Dispute between you and another guardian

Before applying to the Family Court, parents usually have to complete a **Parenting Through Separation course**. This is not available in prisons, but inmates may be able to apply for temporary release to complete the course. The course is not completed with ex-partners, but with other separated parents and caregivers.

Before applying to the Family Court for an Order, parents also must complete a **Family Dispute Resolution meeting**, which is an attempt at resolving the dispute that is less formal than a court hearing with a trained mediator. This is free of cost to those on low income. There are two mediation providers, [Fairway](#) (0800 774 420) and [FamilyWorks](#) (0800 337 100). They may be able to arrange a mediation inside prison – or, if unable to do so, can provide a certificate demonstrating that you attempted a mediation.



Dispute with Oranga Tamariki

If a child is in Oranga Tamariki care while their mother is imprisoned, the Family Court will have made orders about the care and protection of the child. A parent, guardian, or young person who has been removed by Oranga Tamariki can apply to the Family Court to be released from the custody of Oranga Tamariki, or to change an order. You may also appeal a decision by the Family Court for Oranga Tamariki to the High Court.

A guardian makes major decisions about their child's upbringing (for example, relating health, education, religious upbringing, travel). If Oranga Tamariki is also a guardian, then those decisions will be made jointly with them. Parents are entitled to have enough information to make a decision on major decisions. If parents disagree with a decision made by Oranga Tamariki they may go to the Family Court to review that decision.

Family Court



In the Family Court, you can represent yourself, or in some parts of the process you can have a lawyer represent you. Even if you represent yourself, it is always recommended that you seek legal advice so that you understand the process and your rights before you go to Court. You can apply for legal aid to instruct a lawyer, or pay for a lawyer yourself. The [Family Legal Advice Service](#) provides advice to parties who plan to apply to the Family Court. You can find a lawyer who offers the service on the Family Court's [website](#).

If there is a Family Court hearing, the court will focus on the "best interests" of your child. Among other things, the Court will consider what the child wants, the history of care, the standard of care the child will receive, and the stability of the home. The length of a mother's sentence will affect what a Court orders as it will effect what is in the child's best interests.

The Court is unlikely to order a mother day-to-day care of her child straight away once she leaves prison if she has been away from her child for a long period of time. The Court is more likely to order you contact to allow you to re-establish the relationship with her child.

The Court may order that a caregiver brings the child in to visit you in prison, or that the child calls or writes to their mother. Once you leave prison this could turn into day-to-day care once the relationship has been re-established.

Urgent process

If a mother needs a Court application to go urgently through the Court (for example, they think the child is in danger or might be abducted), she does not need to go through Family Dispute Resolution or wait for a scheduled hearing. She can ask a family lawyer to make an urgent application to the Court.

More information about the Family Court can be found at justice.govt.nz/family/about/