

Can I deny access to my child or children?

Generally, denying access to a child in Australia is not allowed.

Access to a child is only taken away in exceptional circumstances.

Cases, where access to a child might be denied, include when it is in the best interests of the child to do so or in order to protect a child's safety.

Instances where denying access to a child in Australia might occur include:

- cases where a history of violence is present
- drug or alcohol abuse is involved or
- where one parent may have extreme mental health issues.

Denying access to a child in Australia should only be done in extreme circumstances.

How does a court deny access to a child?

Should a court deny access to a child, the court will formally order the child to live exclusively with one parent.

However, such an order and denying access to a child in Australia is only made if it is in the best interests of the child.

Any parent requesting such an order will have to provide the court with a full report on the claim they are making including the basis on which they are making the claim.

The parent asking for such an order may be asked to provide relevant materials such as police reports, witness statements or evidence of the break down of the relationship.

You will find that even in disagreeable circumstances, such as a parent not paying child support or a parent not visiting a child enough, the court will not deny access to a child.

Instead of denying access to a child in Australia, you can limit the interaction a parent has with a child.

The paragraph "My rights as a parent" below can assist with understanding why courts are reluctant to deny access to a child.

My rights as a parent

"Meaningful relationship"

The Family Law Act 1975 (Cth) section 60CC(2)(C) states that when the court is trying to determine the best interests of the child, the court must consider:

"The benefit of the child having a meaningful relationship with both the child's parents".

The court will aim to allow a child to see both parents, where possible.

It is recommended that children maintain a positive relationship with both parents and other relevant relatives in order to help a child adapt during a separation process.

For this reason, denying access to a child in Australia is generally discouraged.

"Parental Responsibility"

The Family Law Act 1975 (Cth) also states that a parent has parental responsibility of a child until they are 18.

This means that, under the law, as a parent, you have certain duties, powers and responsibilities towards a child.

Ongoing parental responsibility as prescribed by the law is also another reason that denying access to a child in Australia is hard to grant.

What can I do if I am being denied access to my child?

If you are being denied access to your child without a formal order, you will need to either go to family law mediation or seek legal advice.

Do not simply snatch or attend the residence of the child in order to take the child back.

This could potentially result in a much longer and tougher long-term argument against you.

You might be advised to apply to the Federal Circuit Court or the Family Court for an urgent recovery order.

Hopefully, you will be able to negotiate some kind of contact with the child, even if it is supervised contact, in order to maintain your relationship in the short term.