



Protecting sensitive information disclosed in family law parenting proceedings

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In an emotionally difficult landscape of family law, parenting proceedings often require parties to disclose deeply personal and sensitive information, such as medical records and counselling notes, that can feel invasive and distressing. Until recently, such disclosures were often unavoidable even when the information was irrelevant or potentially harmful if exposed.

However, in light of reforms to the *Family Law Act 1975 (Cth)*, which came into effect on 10 June 2025, eligible parties can apply for Court orders aimed at safeguarding sensitive information in parenting matters.

What types of sensitive information can be protected?

From 10 June 2025, you can ask the Court to make an order to protect certain confidential and sensitive information being utilised as evidence in parenting proceedings. This confidential information is known as 'protected confidences'. The person who the sensitive and confidential information belongs to is referred to as the protected confider. The person who is providing the professional service, such as a doctor or counsellor, is the confidant.

The types of sensitive information which can be protected relate to communications occurring where a person, including a child, seeks treatment or support from:

- health services, with health including both physical and psychological health;
- specialist family violence services; and
- specialist sexual violence services.

This includes information relating to assessing or maintaining health, confidential counselling, health records, prescriptions or provision of medication and diagnosing or treating an illness, disability or injury.

Who can apply to the Court for an order to protect sensitive information?

If you are a party to parenting proceedings (or in other words, the protected confider), you can apply to the Court to protect your own sensitive information. The confidant, being the person who retains the confidential information, such as your GP, counsellor or psychologist, can also apply to the Court.

In the case of a child, an [Independent Children's Lawyer](#) or other person who has parental responsibility of a child can ask the Court to protect sensitive information related to the child.

Other people who can apply to the Court include a [litigation guardian](#) and person in possession or control of a relevant document or information. The Court can also make an order on its own initiative.

What does the Court consider when deciding whether to make an order to protect your sensitive information?

The Court considers whether access to the protected confidences would likely cause harm to a protected confider or a child involved in the proceedings.

Types of harm that may be considered include:

- physical harm;
- psychological harm;
- mental distress;
- financial harm; and
- a detrimental impact on your capacity to care for a child.

The Court further considers whether there are any means to limit the likely harm, or the extent of the harm if the sensitive information is produced, copied or used.

The Court also takes into account the importance of the sensitive information to the proceedings and the issues in dispute between the parties.

The Court can only make an order to protect the sensitive information if the likely harm to the protected confider or a child in the proceedings, by the information being disclosed or used in Court, would outweigh the benefit to the Court of being able to access and use the information in proceedings.

In parenting proceedings, the Court must regard [the child's best interests](#) as the paramount consideration when determining whether to disclose the information.

What types of orders can you ask the Court to make to protect your sensitive information?

There are various orders that the Court can make to protect your sensitive information or sensitive information relating to your child. These orders include:

- an order that you do not need to provide the sensitive information to any other party, even if they request it;
- an order that any other party or parties to your case cannot [issue a subpoena](#) to a professional or service that holds your sensitive information;
- an order that any other party or parties to your case cannot inspect or copy the sensitive information, even if the sensitive information has been produced under subpoena and is stored by the Court; and
- an order that sensitive information cannot be adduced as evidence in a Court hearing – that is, it cannot be put before the Court as evidence.

How the Court orders intersect with your duty of disclosure

Whilst parties in family law proceedings continue to have a duty of disclosure, the Court recognises that some information may be sensitive and require special handling.

A party may apply for an order to protect sensitive information relating to themselves or their child. If such an order is made, the Court may allow the sensitive information to be disclosed in a restricted or controlled way, while the party continues to comply with their duty of disclosure.

If the Court does not make an order protecting the sensitive information, the party is required to provide the sensitive information in accordance with their duty of disclosure.

Get help from a family lawyer

If you are going through a parenting dispute and are unsure about how you or your child's sensitive information will be handled or used in your proceedings, please contact us today and speak to one of our experienced family lawyers.

Contacting Smith Family Law

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