

Who makes decisions about my kids? (Child Safety)

Anyone can talk to a lawyer for free at Tasmania Legal Aid.

To get free legal information call 1300 366 611, drop into our Hobart or Launceston office (no appointment necessary) or use the Legal Talk chat function on our website. We are open Monday to Friday, 9am to 5pm.

A lawyer can listen to your story and help identify the next steps you can take.

There are rules that Child Safety follow when they are working with a family to make a kid safe. The law says who can make decisions about a kid.

What decisions can Child Safety make?

Child Safety respond to reports about a kid. If Child Safety have information that shows that a kid is not safe, they will act to make the kid more safe. These actions may include:

- Talking with the family or carers and other people the kid lives with
- Suggest that the kid or family get some support
- Finding ways to support the family or others who the kid lives with.

If Child Safety think that a kid is not safe, or that plans to make the kid safe are not being followed, then Child Safety can ask a court to make some decisions about the kid.

Can Child Safety take a kid away?

The law says that Child Safety can ask a court for permission to remove a kid from their home if Child Safety thinks that the kid is not safe. Child Safety can only remove a kid from their home when a court decides that they can.

A court can also make an order for Child Safety to make decisions about medical treatment, school, therapy, the kid's money, and who the kid sees.

When will I be told that my child is going to be removed?

A court can decide to let Child Safety remove a kid either for up to 5 days (under a 'Warrant for Custody') or up to 4 weeks (under an 'Initial Assessment Order'). If Child Safety remove a kid for up to 5 days, the court has decided that they can do that without talking to the parents or carers of the kid. Police sometimes are involved in this.

If Child Safety remove a kid for 5 days and they think they need more time to work out what is best for the kid, they need to go back to court to explain this and to ask the court's permission to have the kid for longer.

If Child Safety think they need to remove a kid for up to 4 weeks, they will need to let the parents or carers of the kid know that they are going to go to court to ask a magistrate to give them permission to do this. They will do this by serving documents to the parents. These documents will include an application and an affidavit. Often parents or carers have only a very short time to get to court.

If I know there is a court date what can I do?

You should get a lawyer ASAP.

When Child Safety workers go to court to talk with a magistrate about a kid the court room is private – this is called a "closed courtroom". The only people who are allowed into a closed courtroom are people who are listed in the matter – this is usually just Child Safety workers and parents/guardians and their lawyers.

Who makes decisions for my child if they have been removed from my care?

When a kid is living with a carer, the carer decides about everyday things like:

- The food your kid eats
- The clothes your kid wears
- The time that your kid goes to bed at night.

When a kid is living with a carer, Child Safety decides on big things like:

- Changing the place where your kid lives
- Changing the school your kid goes to
- Sending your kid to hospital for an operation if they need it
- Sending your kid to talk to a counsellor.

The law says that you can have a say in big decisions about your kid but that Child Safety will have the final say. If the case is at court the magistrate can also make some of the big decisions.

You can speak with the Child Safety worker if you believe that some everyday should be changed – such as if you know your kid does not like to eat certain food.

What if I don't agree with the decisions that Child Safety make about my child?

When you and Child Safety do not agree on things like where your kid lives or goes to school you can ask the magistrate to decide if your case is still at court.

If your case is finished at court but you are still working with Child Safety to get your kids back you must tell Child Safety what you think is good for your kid and what you want to change.

In certain circumstances care and protection orders can be revoked (that is, they can be cancelled).

This is written for people who live in or who are affected by the laws of Tasmania, Australia. The law changes all the time – this information is not legal advice. If you have a legal problem, you should talk to a lawyer before making a decision about what to do.