

# Children's Court orders are going to change

## Permanency for children fact sheet

### About this fact sheet

This fact sheet will help explain changes to Children's Court orders that are going to happen on 1 March 2016.

The changes are intended to reduce the time children spend in out-of-home care before permanent arrangements are in place for their care. Where possible, this will be achieved by children returning home safely within specified timelines. Where it is not safe for a child to return home permanently, alternative ongoing care arrangements will be found.

The material is relevant to families with children who may be on Children's Court orders when the changes happen and gives basic information about the new orders. If you may be affected by these changes, you should seek legal advice.

### How existing orders will transition

On the day the new laws come into effect under the *Children, Youth and Families Amendment (Permanent Care and Other Matters) Act 2014*, some orders will change automatically, and some will continue without change. The table below shows what will change.

#### Orders in place on the day the new laws come into effect that will change automatically

Current order	will become
Supervision order	Family preservation order
Supervised custody order	Family reunification order
Custody to Secretary order (in place less than 2 years)	Family reunification order
Custody to Secretary order (in place 2 years or more)	Care by Secretary order – conditions will lapse
Guardianship to Secretary order	Care by Secretary order
Long-term guardianship to Secretary order	Long-term care order

#### Orders that will not change on the day the new laws come into effect

Current order	will continue
Interim protection order	will continue to hearing date**
Undertaking	not affected
Interim accommodation order	not affected
Permanent care order	will continue##
Custody to third party order	will continue to end date**

\*\* These orders will no longer be available but existing orders will continue as indicated.

## Birth parents will need to seek leave of the Court to apply to vary or revoke a permanent care order.

## Differences between current and new Children's Court orders

Current order	New order	Significant differences
<b>Interim accommodation order</b>	<b>Interim accommodation order</b>	An interim order cannot be made if a final order can be made instead - otherwise no difference.
<b>Interim protection order</b>	<b>No equivalent</b>	Existing orders will continue. After the law changes, either a family preservation or family reunification order would be made instead, depending on whether the child can live with their parent.
<b>Undertaking*</b>	<b>Undertaking</b>	No difference.
<b>Supervision order</b>	<b>Family preservation order</b>	This order aims to keep a child at home safely – there is little difference from a supervision order. A child will still live with one or both parents and parents will have parental responsibility for the child.
<b>Custody to third party order*</b>	<b>No equivalent</b>	Existing orders will continue until their end date. After the law changes, a family reunification order would be made instead.
<b>Supervised custody order</b> <b>Custody to Secretary order</b> – where a child has been in out-of-home care for less than two years <sup>#</sup> and family reunification is planned.	<b>Family reunification order</b>	The aim of this new order will be to have children living back with their parents before they have been in out-of-home care for 12 months (or in some circumstances two years). The department will have parental responsibility for the child but parents' agreement will be needed about major long-term issues. If a child returns home, the order can become a family preservation order. Where a child has been in out-of-home care for more than two years, this order will not be an option.
<b>Custody to Secretary order</b> – where a child has been in out-of-home care for two years or more <sup>#</sup> , or ongoing alternative care is planned. <b>Guardianship to Secretary order</b>	<b>Care by Secretary order</b>	The aim of this new order will be to find a permanent or long-term carer for the child, preferably with extended family, or if not, with another family, except in exceptional circumstances. The order can be made for two years, and can only be extended if a permanent care order or a long-term care order is not appropriate, or if exceptional circumstances exist. Like a guardianship to Secretary order, this order will not include conditions, and the department will have parental responsibility for the child, to the exclusion of all others.
<b>Permanent care order</b>	<b>Permanent care order</b>	Permanent carer parents will be required to preserve the child's identity, connection to culture and relationships with their birth family. When one of these orders is first made, court-ordered contact between a child and their birth parents will be limited to four per year. More contact may be arranged by agreement. The child's birth parents will need to seek the leave of the Court to apply to vary or revoke the order. Siblings will be able to apply to vary. Like current permanent care orders, this order will continue until the child's 18th birthday. Permanent care parents will continue to have parental responsibility for the child, to the exclusion of all others.
<b>Long-term Guardianship to Secretary order</b>	<b>Long-term care order</b>	This order will be an option for a child of any age, provided there is a suitable carer for the child, a child aged 10 or over does not oppose the order, and a permanent care order is not an option. Like a long-term guardianship to Secretary order, it will continue until the child's 18th birthday, and will not include conditions. The department will have parental responsibility for the child, to the exclusion of all others.

\*The Department of Health and Human Services does not supervise these orders.

<sup>#</sup>Time in out-of-home care means the time a child has spent, cumulatively, on an order enabling placement in out-of-home care, since the first such order was made (including interim accommodation orders) during the current period of Children's Court involvement..

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Available at <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies-guidelines-and-legislation/changes-to-child-protection-law>

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