



SiS Support
Information +
Strength

Holistic family violence support for
Aboriginal + Torres Strait Islander people

Fact Sheet: Recovery

If your child or children usually live with you and another parent or guardian is refusing to return them, you can apply for urgent court orders to have them returned to your care. This is called a **recovery order**.

When a recovery order might be appropriate

the other parent is refusing to return the children to you

you don't know where the children are

you are worried about the children's safety with the other parent

the other parent has moved the children away without your permission

You should speak to a lawyer as soon as you become concerned that the children won't be returned to your care. The longer the children are in the care of the other person, the harder it may be to successfully get a recovery order to have them returned to your care.

Whether you will be granted a recovery order depends on many factors. **Some of these include**

- how long they have been with the other parent
- worries about drug or alcohol abuse
- whether the children are going to school like normal
- age of the children
- safety concerns
- the children's normal circumstances

The recovery process will then look like -

Application to the court

This will include an **affidavit** (your written evidence) setting out the reasons you are applying for a recovery order and a request for the matter to be heard **urgently**. You still need to file all the normal court documents, even though the matter is urgent.

First mention

The Court will consider and triage your matter to determine when it will be heard. This may take 2-3 days, a few weeks or longer, depending on how busy the Court is, and the Court's assessment of risk. This mention will be in front of a Registrar, and may happen without the other parent (ex parte) if the risk is too high to wait, or if you are applying because you don't know where they are. You (or your lawyer) will have to tell the court why you are applying and why it is urgent.

Orders

The Court will then make Orders. This might be an Order for everyone to return to Court for an interim hearing so they can decide whether the children should be returned to you. They might be Orders for the children to be returned to your care if the Court agrees it is in their best interests (such as if they are at significant risk with the other parent).

Recovery by the federal police

When seeking a recovery order, you can also ask for an order that if the other party **does not return the children** the Australian Federal Police can find and return them to you. You or your lawyer will need to complete the "Recovery Order Family Law Information Sheet" form to assist the Police in recovering your children. There may be costs to having the children returned to your care or you may need to travel to a Police station nearest to where the children are to collect them.



SiS Tasmania for legal and non-legal support for Aboriginal or Torres Strait Island Adults and Children who have or are experiencing Family Violence or Sexual Assault. Operates 9am-5pm Monday to Friday.

1800 747 827 [sistas.org.au](https://www.sistas.org.au)

scan the QR code for more resources and support information

Other support available:

FVCSS:	1800 737 732
1800RESPECT:	1800 727 732
POLICE (non emergency):	131 444
EMERGENCY:	000

The information contained in this factsheet is not legal advice. If you have a legal problem, you should talk to a lawyer before making a decision about what to do.