



## LIV COVID-19 Information-HUB

- To view up-to-date information & updates relating to the Courts click [here](#)
- For LIV Services & Support click [here](#)
- For general information for the profession click [here](#)
- Legal Practice Contingency Planning [here](#).

**DHHS** – Directions from Deputy Chief Health Officer (Communicable Disease) in accordance with the emergency powers arising from declared state of emergency (*Public Health and Wellbeing Act 2009* (Vic) s.2000)

1. [Stay at Home Directions](#).
2. [Restricted Activity Directions](#)
3. [Victorian Government Gazette – Isolation \(Diagnosis\) Direction](#)  
Victorian Government Gazette has issued a direction from the Deputy Chief Health Officer requiring people diagnosed with Coronavirus to self-isolate in order to limit the spread.
4. DHHS FAQs – [Coronavirus Stay Home and restricted activities Directions](#)

Vic Government News Alerts :-

- [Crisis Council of Cabinet Set up to Combat Coronavirus](#)
- [State Control Centre Activated to Oversee COVID-19 Response](#).
- [Hotline Help for Businesses Dealing with COVID-19](#)
- [Economic Survival Package to Support Businesses and Jobs](#).
- [VGG S.145 of 23 March 2020](#) – Ministers of the Crown.

**FCC/FCA** news alerts:-

- [COVID-19: Border restrictions and shared parenting orders](#)
- [Child Dispute – in-person interview protocol](#)
- [Radio interview with Chief Justice Alstergren – Parenting arrangements and COVID-19](#)
- [Media Release – Statement from the Hon. Will Alstergren – Parenting Orders](#)
- [COVID-19 Update: Information for parents](#)
- [Changes to registry services](#)
- [Notice to the Profession – COVID-19 Measures and listing arrangements](#).

**VCAT** – [Coronavirus \(COVID-19\) response](#)

[Victorian Courts – Coronavirus Information](#) - Victoria's courts and the Victorian Civil and Administrative Tribunal (VCAT) have implemented a number of measures in response to the coronavirus disease

[COVID-19 update: statement from the Magistrates' Court of Victoria](#) - The Magistrates' Court of Victoria has today announced a number of operational changes to assist the court to manage lists in these unprecedented

times. While all court venues remain open and operating, The Court is seeking to reduce physical appearances in our busy courthouses to increase social distancing

[Federal Court of Australia –COVID-19 update](#) - The Federal Court of Australia is taking steps to reduce the risk to court users and court staff from in-person attendance in court buildings. Unless exempted by the court, all in-person listings including mediations from court premises listed to 30 June 2020 are vacated

[County Court - Witnessing affidavits and certifying documents](#) - The Registrar will accept the filing of an affidavit which has not been sworn or affirmed, provided that a sworn or affirmed version is filed as soon as practicable.

**VLA** - [Justice sector updates due to COVID-19](#) - Organisations across the justice sector are [taking active steps to limit the spread of COVID-19](#). Read the update about courts and tribunal services across Victoria, correct as of 18 March. [The March Legal Aid Brief newsletter is now available](#).

**LPLC** - [COVID-19: LPLC deferral option for 2020/21 premium renewals](#) - For the upcoming insurance renewal LPLC will offer all law practices (solicitors and barristers) currently insured with LPLC the option to defer payment of their renewal premium to 30 November 2020

[Courts working to provide remote hearings under COVID regime](#) - Courts say they are working overtime to bring in digital solutions so the justice system can work effectively in the coming months.

COVID-19 Factsheet: Budget measures – [changes at the Federal and State Level](#)

**AIFS**– [A message from the Director](#)

The importance of 'family' as our first line of defence has been in the spotlight in 2020.

## PRACTICE RESOURCES

[Joint Practice Direction issued by the Family and Federal Circuit Courts now allows practitioners to sign Affidavits electronically – COVID-19](#)

The Courts have released a new joint practice direction in relation to COVID-19. Please note that this new practice direction supersedes FCoA Practice Direction 2 of 2020 and FCC Practice Direction 3 of 2020. Joint Practice Direction 2 of 2020 [Federal Circuit Court link](#) and the [Family Court link](#). The Courts also have a dedicated page for all COVID-19 related information for the profession which you can access at the following links: [Federal Court](#) and [Family Court](#).

[Family Court of Australia and Federal Circuit Court of Australia COVID-19 update](#)

The Family Court of Australia and the Federal Circuit Court of Australia have responded to the evolving impact of the COVID-19 pandemic and have made immediate and significant changes to court operations. Due to the escalating situation regarding the coronavirus, some [urgent operational arrangements will be put in place effective immediately](#).

[COVID-19: Children's Court of Victoria introduces new temporary measures](#)

The Children's Court has issued a practice direction for temporary measures to ensure the health, safety and wellbeing of all court users. This includes electronic filing of documents and reports, social distancing measures within the court, and for all persons who do not need to be at court or who meet the Department of Health guidelines criteria for isolation not to enter the premises

[COVID-19: Family court update on parenting orders](#)

The [Family Court of Australia](#) and the [Federal Circuit Court of Australia](#) are acutely aware that the current pandemic is having an enormous impact on families and the Australian community. Parents are naturally deeply concerned about the safety of their children and how the COVID-19 virus will affect their lives

**ACCSA** – [Children's Contact Services and Virtual Visits](#)

SAC Report – ['Crossover Kids': Children at the Intersection of Child Protection and Youth Justice across Victoria](#)

The Sentencing Advisory Council has today released the second of three reports examining the child protection backgrounds of sentenced and diverted children in Victoria.

# NOTEWORTHY NEWS

## [Family law property pilot very close to cap](#)

Victoria Legal Aid's pilot program to help separating couples use legally assisted mediation to divide up their property is very close to reaching its cap, and will soon close to new applications.

## [Stay at home directives and the exceptions for parenting arrangements](#)

In response to COVID-19, the Victorian Government has issued a "Stay at Home Direction" which requires Victorians to stay at home other than in.....

## [Country kids committing their first crime after entering child protection](#)

Children as young as 10 in country Victoria are carrying out their first crime after they enter the children protection system. Victoria's Sentencing Advisory Council has analysed cases before the Children's Court over one year, focusing on "crossover kids" - young people who are known to both child protection and the justice system.

## [Law Council wants family law inquiry discontinued after One Nation live broadcast hearings](#)

Lawyers are concerned a federal parliamentary inquiry into the family law system is being used for political purposes to undermine domestic violence claims made by women.

## [Aboriginal children stolen from families eligible to apply for redress under landmark scheme](#)

The trauma and suffering of Victorian Aboriginal people removed from their families and loved ones during the stolen generation era will finally receive redress under a new \$10 million scheme.

## [Families grapple with co-parenting orders amid coronavirus crisis](#)

Separated parents are grappling with co-parenting arrangements amid the coronavirus crisis, as infection fears and...

## [Court closure 'not an option' in face of family violence spike](#)

Closing down the Family Law Courts is not an option, the Courts' Chief Justice says as stress, social isolation and job losses are expected to lead to a spike in domestic violence during the COVID-19 pandemic. The Family Court has implored parents to act "sensibly and reasonably" as compliance with court orders became "difficult if not impossible" amid the unfolding crisis.

## [Coronavirus: Kids a no-go as access visits vetoed](#)

Parents allowed only supervised visits with their children face the prospect of months without seeing them, as many contact centres suspend face-to-face services to halt the spread of coronavirus.

## [Parents urged to use 'common sense' approach as coronavirus crisis complicates custody cases](#)

Parents should be complying with Family Court orders unless there is complete lockdown or risk to human life, according to family law experts. "Each case has to be looked at separately and on its own fact," family lawyer and LIV past president Caroline Counsel told Virginia Trioli. **[ABC PODCAST]**

## [State seeks law to ban coercive domestic abuse](#)

NSW Attorney-General Mark Speakman will consult this year on laws to ban coercive and controlling behaviour, which has been identified as a precursor to almost every intimate partner homicide reviewed in the state.

## [Victoria Legal Aid Brief – April 2020](#)

This is a challenging time for all of us and there has been a significant amount of change and upheaval in the past few weeks. Like many of our partners in the justice sector, we are adapting to new ways of delivering services to ensure the health and safety of the community, our partners and staff.

## [Treaties and international agreements relevant to family law proceedings in Australia](#)

In family law disputes, the parties often have a significant connection to Australia: they are born here or have become Australian citizens, they have all or most of their property here, and they live in Australia when they separate. But, there are also many cases where parties separate in circumstances where they were born overseas, have lived overseas, married overseas, invested overseas, or had a partner who was not an overseas citizen. Issues then arise as to the country in which the proceedings should be conducted.

# LATEST CASES

## PARENTING:

[FERRICK & FERRICK \[2020\] FamCAFC 61](#) (25 March 2020) (Aldridge, Kent and Austin JJ)

Where the appellant mother appeals from final orders allocating equal shared parental responsibility to the parties and providing for the child to spend substantial time with the father...

[PEERS & HEMSLEY \[2020\] FamCA 25](#) (24 January 2020) (Henderson J)

PARENTING ORDERS – International Relocation – Where the mother, father and children live in Australia – Where the mother seeks to relocate with the children to New Zealand – Where the father and Independent Children’s Lawyer oppose relocation – Where the mother’s application to relocate the children’s permanent place of residence is dismissed...

[Kalant and Jordain \[2020\] FamCA 43](#) (23 January 2020) (Gill J)

CHILDREN – initiating application in the face of previous final judgment – contravention applications – fresh complaints of sexual abuse – *Rice & Asplund* – change of circumstances justifying further hearing

[Dimas and Sarantos \[2020\] FamCA 9](#) (14 January 2020) (Bennett J)

RECOVERY ORDER – where the mother has unilaterally retained two young children in Greece – where children have been wrongfully retained within the meaning of the Convention of 25 October 1980 on the *Civil Aspects of International Child Abduction* – ..... PARENTING ORDERS – where it is in the best interests of the children to be returned to Australia forthwith – where parents should be prohibited from removing children from Australia – where interests of the children should be independently represented

[DORRACOTT & DORRACOTT \[2020\] FamCA 23](#) (23 January 2020) (The Honourable Justice Wilson)

Interim – wife seeking \$27,000 per month – husband by consent orders assuming financial responsibility for mortgages and larger liabilities – amount sought by wife excessive – application refused...

[HALSTEAD & LEES AND ANOR \(NO. 4\) \[2019\] FamCA 999](#) (20 December 2019) (Berman J)

With whom a child spends time – Where the family consultant reports favourably on observed time between the father, the paternal grandmother and the children – Where prior to the observed time the father had not seen the children for two years – Where further observed and reportable time is proposed – Orders...

[Glasson and Drover and Anor \[2019\] FamCA 974](#) (18 December 2019) (Rees J)

The principle in *Rice & Asplund* (1979) FLC 90-725 – Where final Orders were made by consent – Where the Applicant spends time with the child, but is not a parent of the child – Where the child has severe separation anxiety from the mother that is affecting her day to day functioning – Where the child is expressing strong views about spending time with the Applicant – Order for parenting proceedings to be continued

## PROPERTY & [SPOUSAL] MAINTENANCE:

[FINCH & FINCH \[2020\] FamCAFC 60](#) (20 March 2020) (Ryan, Aldridge and Tree JJ)

Whether the wife was denied procedural fairness – Excessive judicial intervention – Where judicial interventions were unwarranted – Where the primary judge expressed a “preliminary view”...

[LONG & PENG \[2020\] FamCAFC 56](#) (13 March 2020) (Strickland, Ryan and Watts JJ)

Findings of fact – Where the evidence proffered by both parties was compromised and deficient – Uncorroborated testimony of party subject to adverse credit findings...

[LAGIOIA & RAPINO \[2020\] FamCA 11](#) (17 January 2020) (Gill J)

Where an application is made under s 44(3) – where the Wife sought leave to institute property proceedings out of time – where hardship is not established – application dismissed...

[KEHOE & SEDEN \[2019\] FamCA 989](#) (13 December 2019) (Stevenson J)

Interim – Where the wife seeks a partial property settlement of \$250,000 – Where the husband seeks to pay \$50,000 – Where the wife has no independent resources to fund her litigation – Order made for the wife to receive \$100,000 partial property settlement...

[Field and Kingston \[2019\] FamCA 863](#) (21 November 2019) (Foster J)

FAMILY LAW – PROPERTY – Property Adjustment – Where both parties seek adjustive orders – Where appropriate to make adjustive orders – Where discussion of applicable principles – Where consideration of relevant contributions and s 75(2)

factors – Where orders made for property adjustment. SPOUSE MAINTENANCE – Where consideration of applicable principles – Where application dismissed

## **PRACTICE & PROCEDURE:**

[SIKOUSKA & BEKINSKI \[2020\] FamCAFC 59](#) (10 March 2020) (Strickland J)

Where the documents filed by the applicant are incompetent and do not identify error by the Magistrate – Where there is no satisfactory reason given for the failure to file a Notice of Appeal within the prescribed timeframe ...

[SPENCER & SPENCER \[2020\] FamCAFC 55](#) (13 March 2020) (Strickland, Ryan and O’Brien JJ)

Appeal against order dismissing application for costs – Where the primary judge in the costs application was not the same judge who determined the property proceedings – Where the primary judge found there were no circumstances justifying a costs order being ...

[KHALIF & KHALIF & ANOR \(NO. 2\) \[2020\] FamCA 73](#) (12 February 2020) (Watts J)

APPREHENDED BIAS – Application by the 1st respondent that the Judge recuse himself from hearing outstanding applications...

[Ahsan and Ahsan \[2020\] FamCA 69](#) (11 February 2020) (Hannam J)

ENFORCEMENT OF ORDERS– Where the wife seeks orders that the husband vacate the former family home – Where the wife seeks pursuant to rule 20.54 of the Family Law Rules 2004 (Cth) .....COSTS – Where the wife seeks orders that the husband pay her costs of the enforcement application in the sum of \$15,000 – Where circumstances justify the order for costs as sought by the wife – Order made as sought by the wife.

[FARNELL & FARNELL AND ANOR \[2019\] FamCA 981](#) (19 December 2019) (Rees J)

Subpoena objection – Where the children’s treating therapist objects to the production of his files – Where the Independent Children’s Lawyer submits the objection should be upheld – Where the inspection of material would compromise the therapeutic relations – Where it is not in the children’s best interest for the material to be inspected – Objection upheld...

[Emami and Emami \[2019\] FamCA 962](#) (02 December 2019) (Harper J)

Institution of proceedings – Application by the husband for leave pursuant to s 44 of the Family Law Act 1975 (Cth) to institute property settlement proceedings against the wife “out of time” – Leave not granted – no evidence filed in accordance with Court orders...

[Gomis and Dantas \[2020\] FamCA 45](#) (31 January 2020) (Hannam J)

NULLITY – Where a declaration of nullity is sought – Where the parties were validly married in Country D – Where the parties underwent a second marriage ceremony in Australia – Consideration is given to circumstances in which a marriage is found it be void – Where it is found that the Australian marriage is void – Declaration of nullity made

## **LEGISLATIVE UPDATES**

[Victoria’s new Gender Equality Act: a practical guide](#)

The new *Gender Equality Act 2020* was passed in Parliament at the end of February and will take effect 31 March 2021.

[Uniform Law update – Legal Profession Uniform General Amendment \(Miscellaneous\) Rule 2019](#)

Effective from 13 December 2019 amendments were made to some uniform general rules (UGR) with the aim to clarify some rules, assist practitioners to comply with their obligations, promote efficiency, certainty, clarity and accountability and enhance order and transparency.

## **RECENT SUBMISSIONS / CONSULTATIONS**

[LIV says legal services must be declared “necessary service” under COVID-19 regime](#)

The LIV has written to the Victorian Attorney-General Jill Hennessy asking for it be made clear that legal services is a ‘necessary service’ under the COVID-19 regime to reduce concerns lawyers and their clients could be fined for meeting

[Assistance to the legal and justice sector in light of COVID-19](#)

The LIV has written letters to the [Victorian Attorney-General](#) and the [Federal Attorney-General](#) with recommendations to ensure the legal profession and the justice system continue to provide essential services that we require at this time.

The [LCA has also written to the Federal Attorney-General](#) suggesting measures.

### [Consultation on proposed legislative reform of Children, Youth and Families Act 2005](#)

The Law Institute of Victoria has welcomed the introduction of a new framework to support children in out-of-home care and reduce the impact of the criminal justice system on young people in care...

### [Inquiry into Homelessness in Victoria](#)

The LIV, informed by lawyers practising across a range of sectors, calls for systemic changes to prevent and protect vulnerable Victorians from falling into insecure housing and homelessness...

### [LIV recommends Centrelink hardship provisions for victims of elder financial abuse.](#)

The LIV is concerned about the impact of Centrelink's Income and Asset's test in accessing the eligibility for a pension of a victim of elder financial abuse...

### [Joint Select committee on Australia's Family Law System.](#)

The LIV has written to the Law Council of Australia to provide feedback to the Joint Select Committee on Australia's Family Law System identifying key options for reform...

## UPCOMING CPD & EVENTS

**Webinar** Available now - [Briefing a Barrister during COVID-19 pandemic. 'Electronic Briefing, Electronic Hearings, Mediations and Conferences'](#). Dr Anna Parker, Foleys List

A helpful tool for solicitors and legal professionals to gain a 'professional skills' CPD point during the 2020 Coronavirus pandemic by Foley's List.

**9 & 14 Apr - LIV Live Chat – [COVID-19 Practice Continuity & Contingency Planning](#) Webinar**

The enforced virtualisation of the legal profession continues to uncover many issues for the legal profession to work with their clients. A key issue is the ability or inability to witness documents electronically – particularly Wills and Powers of Attorney.

This webinar will walk you through the LIV's current position on this issue using the LIV's revised guidance on witnessing documents electronically, while offering you the opportunity to ask questions as this area continues to evolve.

*The LIV will be hosting Live Chats and Information Webinars every Tuesday and Thursday at 12.30pm from 31 March 2020*

**16 Apr - [Resilience Rituals & Routines](#) | Michael Licenblat, Resilience Expert. Webinar**

Resilience Rituals & Routines: establishing habits and patterns to help you stay positive, mentally fit and energised during these tough times

Michael Licenblat is a resilience expert who teaches people how to achieve more in high-pressure environments by bouncing back from pressures and setbacks. Born into a family of entrepreneurial parents, Michael grew up working inside the numerous family businesses and quickly learnt that success often came to those who can ride the bumps, get up and keep going. Drawing on his background in Psychology, Shiatsu therapy and over 25 years of Martial Arts experience, he has helped countless companies become 'pressure proof' and learn how to bounce back from the setbacks and challenges so they can out-achieve their competition

## MISCELLANEOUS

### [LIV March Board Report](#)

The LIV held its regular monthly meeting on Thursday 26 March. This is the first fully digital Board meeting the LIV has held, with all 18 directors, staff and guests being present via video conference.

### [Courts look to remote technology amid virus](#)

As coronavirus clears Victoria's courts, hearings will be held by video link without judges, lawyers or defendants...

### [Complimentary Dark Web Scan - Unified IT](#)

We are excited to announce a new partnership with Unified IT. As a LIV member, you can access a complimentary one-time scan with Unified IT's Dark Web Credential Monitoring. This service will detect if your or your clients' information has been compromised.

### [Three boosts for 'national' legal profession](#)

Hearsay by Michael Pelly: There is good news on three fronts for the national profession project. At times, it has seemed like a quixotic quest to have all the states and territories on the same page when it comes to how the legal profession is regulated.

### [Australians must brace for a 'Big Brother' intrusion on the personal liberty we all take for granted](#)

Extraordinary times call for extraordinary powers. Parliament had this in mind when it enacted the national *Biosecurity Act* in 2015. In a welcome act of foresight, it introduced special powers and measures should Australia experience a pandemic

### [Victorian Government's Economic Survival Package – What it means for you](#)

Last Saturday the Victorian government released high level details of a \$1.7 billion economic stimulus package. Here's what we think it means for you.

### [Vale Stephen Thackray](#)

Stephen Thackray passed away earlier this week after suffering a stroke last Saturday. In his career, he occupied almost every judicial position in Family Law in Australia and had a significant impact on shaping the law as it is now.

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