

# CAN I STOP MY CHILD SEEING THE OTHER PARENT?

8 January 2019

There is an expectation that parties to a court order will do as it says. A person infringes an order by acting illegally by breaching the order intentionally, or the person has made no reasonable attempt to comply.

The court recently considered a case where a mother had refused to sign paperwork for the children to be registered at the Children's Contact Centre so that the father could spend time with them pursuant to an order.

## Contraventions

Contraventions are divided into the following four categories:

1. Contravention alleged but not established. The court may order the person who has brought proceedings, to pay some, or all, of the other person's costs;
2. Contravention established but there is a reasonable excuse for contravention. Then an order can be made to compensate the person for the time that they did not spend with the child, or oblige the party who is in contravention, to pay some or all of the costs of the other party;
3. A less serious contravention is established without any reasonable excuse. A court may issue an order like the following:
  - attend a post-separation parenting program;
  - make a further parenting order that compensates the person for the time that they did not spend with the child;
  - require the person to enter into a bond; or
  - require the person to pay some or all of the other party's costs.
4. A more serious contravention established without any reasonable excuse. If a party displays a serious disregard for their obligations under the order through their behaviour, the court must then order the contravening party to pay all of the other party's costs.

## Reasonable Excuse

The court will consider a person to have a 'reasonable excuse' for not complying with an order if:

- he or she did not at the time of the contravention, understand the obligations imposed by the order on the person who was bound by it; and/or
- if the person had believed on 'reasonable grounds' that the contravening of the order was to protect the health or safety of the child, or someone else and the contravening action did not last longer than considered necessary; and/or
- the court is satisfied that the person ought to be excused in respect of the contravention.

In this case, the father was successful with the judge deciding that the mother had knowingly and willingly contravened the order without reasonable excuse and ordered that she pay the father's costs and enter into a 'good behaviour' bond for a period of 12 months.

## Seek advice

Family law matters like these need to be addressed carefully and professionally, especially when children are involved. To speak with one of our experienced family lawyers, please contact our Brisbane office today.

Call us on (07) 3221 4300 to organise a no-obligation initial appointment at a fixed-fee. We will be happy to assist you in person, over the phone or by Skype.