



Special medical procedures for children

Types of medical procedure

Some medical procedures proposed for children (up to 18 years of age) require the approval of the Family Court of Australia.

These special medical procedures include non therapeutic sterilisation and hysterectomy; gender reassignment, tissue and organ donation.

If a procedure is being considered, information and assistance should be obtained from the Office of the Public Advocate (OPA).

OPA

OPA will advocate on behalf of the child before an application for a special medical procedure is filed with the Court.

OPA will:

- give details about alternative education, counselling and/or treatment options;
- give information about services available, such as Family Planning Victoria and the Department of Human Services;
- explain how to make an application to the Court.

OPA will arrange a meeting to discuss the best interests of the child and the options available. If there are differing views, a referral may be made to the Family Court for primary dispute resolution.

Primary dispute resolution

The dispute resolution process involves:

- identifying the issues and alternatives;
- discussing the issues with relevant people, such as family members, the treating doctor, school teacher, case worker; and
- attempting to reach agreement.

The applicant can take a support person with them to the meeting.

Note: If it is agreed that the special medical procedure is required, the Court must still consider whether this is in the best interests of the child. If it is agreed that another option is more appropriate, the application can be withdrawn.

Making an application to the Family Court

- Contact OPA for information and assistance.
- Contact Victoria Legal Aid for initial free legal advice.
- Apply to Victoria Legal Aid for legal representation or to arrange a solicitor. Victoria Legal Aid will provide separate legal representation for the child if ordered by the Court.
- Attach reports and recommendations from specialists, schools, disability services or other organisations to the application. OPA can help you obtain these reports. OPA may seek additional reports or second opinions in complex matters. The applicant and OPA should provide each other with copies of the reports they have obtained.

The application will be heard within 14 days of lodgment with the Court.

The Hearing

The Family Court judge may:

- appoint a child representative to represent the interests of the child in Court;
- postpone the hearing for further reports to be obtained;
- require the participants to attend primary dispute resolution.

At the final hearing the judge will:

- authorise the special medical procedure be carried out; or
- refuse the application.

If the applicant is unhappy with the judge's order, legal advice about an appeal should be obtained.

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