

Family Law and Forced Marriage in NSW

When can a person get married in Australia?

Anyone over the age of 18 can get married provided they fully and freely consent to the marriage. The only people who can give their consent to be married are the two people getting married. A parent, family or cultural groups cannot decide that a person should be married. Forcing someone to get married, either in Australia or overseas is a crime.

If a person is aged 16 or 17, they need special permission from a Judge and their parents to be legally married. In Australia no one under the age of 16 can get married in any circumstances.

What is an arranged marriage and what is a forced marriage?

Arranged marriages are common in many different cultures and can be valid under Australian law. An arranged marriage occurs when a partner is selected for a person to marry. The parties have an opportunity to meet one another and give their own consent before getting married.

A forced marriage occurs if someone does not want to marry another person but gets married because of external pressure such as family, religious or cultural pressure. In these marriages one or both parties do not freely and fully consent to marry the other person but do so because of force, duress or threats. These types of marriages are illegal in Australia and carry a maximum sentence of seven to nine years in prison.

Forced marriage can occur in both Australia and overseas. In Australia it is a crime for someone to officiate a marriage if they know that one or both parties do not consent, or if someone is underage. This means that priests, religious leaders or celebrants are not allowed to marry someone if they know they do not want to get married.

Sometimes people are taken to other countries to get married where the law may be different. It is still a crime under Australian law for someone to force a person to get married even if the marriage happens overseas.

I know someone who is at risk of a forced marriage. What can I do to help?

If you know someone who may be forced to marry, you should encourage them to get family law advice as soon as possible. There are a number of things that should be considered. Most importantly you need to think about that person's safety, their wishes and if you have any professional obligations. You should also consider issues such as family therapy, housing, financial support, education, and case management. There are organisations in Australia to assist people who have been or who may be victims of forced marriage. A list of organisations who can help are at the end of this factsheet.

Is it safe to stay at home?

There may be many reasons why a person cannot remain living in the family home. It might not be safe for them because they are being exposed to violence, it may be a hostile home environment because of a breakdown in relationships or Department of Communities and Justice (DCJ, previously known as FaCS) may have decided that it isn't safe for a person to stay living at home. If a person cannot stay at home, there are a few factors to consider when looking for alternative accommodation. To cause the least amount of disruption and distress a person might be able to move in with a friend for a short time.

Will the Department of Communities and Justice (DCJ) get involved?

Anyone can make a report to the DCJ if they are concerned for the safety of a person aged under 18. Certain professions (such as doctors and teachers) are mandatory reporters and are required to make a report if they are concerned about a child. This includes if a person is being forced to marry.

If the DCJ are concerned about the safety of a child or young person they may ask the parents to enter into an agreement about that person's future care. If they have serious concerns, they may remove the person from their parent's care.

What if a person is at risk of removal from Australia?

If you are helping someone who is worried that they may be forced to marry you should encourage them to get family law advice as soon as possible. If a person is under the age of 18 an urgent application may be made to a family law court to prevent that person leaving school before they turn 18 and/or getting married until they are an adult.

If a person thinks they may be taken out of Australia to be married overseas and they are under the age of 18, an application may also be made in the family law courts to place the person on the *Family Law Watchlist*. Anyone concerned with the care, welfare or development of a child (such as an adult or a friend) can make this application. A young person can also make this application for themselves. For more information on how to prepare an application please refer to *Factsheet 1 – How do I put my child on the Family Law Watchlist?*

If you are concerned for someone outside court hours, or in an emergency, you can call the National Enquiry Centre on 1300 352 000 and ask to speak with the duty registrar to place the child or young person on the Family Law Watchlist. You can also make a report to the Australian Federal Police (AFP) who have a special team called the Human Trafficking Team.

What if I know someone who is turning 18 soon or who is already an adult?

Anyone over the age of 18 is an adult and no longer falls within the jurisdiction of the family law court. Because of this an application cannot be made to place the person on the Watchlist. The AFP can still assist a person no matter what their age. The person may also make an application for an Apprehended Domestic Violence Orders for their protection.

What if someone is already married?

A person who is already married can still contact the AFP Human Trafficking Team for assistance. The AFP can refer people for casework support through the support for trafficked people program. They can also contact the accommodation services at the end of this factsheet. A person who has been forced to marry should also speak to a family lawyer and get advice about options to end their marriage.

Useful Contacts

Family Law Early Intervention Unit - 1800 551 589

The Early Intervention Unit provides free and confidential family law advice in more than 40 locations across NSW. Lawyers are available to assist with urgent family law watch list applications at the family law courts in Sydney, Parramatta, Newcastle and Wollongong.

National Enquiry Centre - 1300 352 000

For after hours assistance regarding urgent family law watch list applications.

Australian Federal Police Human Trafficking Team - 131 237

To link in with appropriate support such as the Support for Trafficked People's Program funded by the Australian Government.

Forced Marriage Helpline - 02 9514 8115

Provided at My Blue Sky by Anti-Slavery Australia.

Department of Communities and Justice - 132 111

To make a report about a young person at risk of forced marriage.

Salvation Army Trafficking and Slavery Safe House – 1300 473 560

For support and advocacy in relation to forced marriage.

This factsheet is intended as a general guide to the law. It should not be relied on as legal advice and it is recommended that you talk to a lawyer about your particular situation. At the time of writing, the information shown is correct but may be subject to change. If you need more help, contact Law Access NSW on 1300 888 529.