

OFFICE OF THE FAMILY ADVOCATE PROTECTING THE BEST INTERESTS OF CHILDREN

There are thousands of children in the country who are affected everyday by legal custody battles, mediation or child abduction. These circumstances make children vulnerable and affect them in many ways. The Office of the Family Advocate, located in the Department of Justice and Constitutional Development, is driven by the need to protect the rights of children whose parents are in dispute.

A FAMILY RESTORED

Two young siblings from Mabopane in Gauteng now have a chance to live a healthy and happy childhood due to the assistance from the Garankuwa district Office of the Family Advocate (OFA).

Simphiwe Lamola (7)* and his younger sister, Namhla (5) were recently reunited with their father, Ernest Lamola, who sought assistance from the OFA. The children had been in the custody of their mother, Siphokazi, after the couple split in 2013. During this time, Simphiwe and Namhla did not attend school regularly.

Fearing she would lose her children, Siphokazi was assured by the family councilor that the mediation between her and her ex-husband would ensure that the wellbeing of the children would be put first. Both parents agreed to work out a way to best support and meet the best interests of their children together.

A mediation session was held by the Office of the Family Advocate. The matter was resolved by the parents, with the assistance of the councilor, within a few hours. As a result, the children are now living with their father, and visit their mother regularly.

**The names of the family members were changed to protect their identity.*

WHAT IS THE OFFICE OF THE FAMILY ADVOCATE?

A Family Advocate is an unbiased Family Law specialist who assists parental parties to reach an agreement on disputes regarding the care and contact of children through mediation.

YOU MAY CONSULT THE OFFICE OF THE FAMILY ADVOCATE IF:

- There is a dispute regarding contact or care of a child.
- A person wants to draft a parental rights and responsibilities agreement.
- They want to register their parental rights and responsibilities agreements.
- A person wants to amend or terminate parental rights and responsibilities agreements registered with the Family Advocate.

- There is a dispute on whether the unmarried father of the child born out of wedlock has satisfied the requirements which makes him eligible to acquire full parental rights and responsibilities in terms of the law.
- Courts also make orders that the Family Advocate has to conduct an inquiry as to what is in the best interest of the child.

The Family Advocate can amend or terminate parental rights and responsibilities agreements registered by the Family Advocate's office. This means that the parties do not have to go to court if they want to amend the agreement when the need arises.

In the process of consulting, if the parties reach agreement on disputed issues the matter does not proceed to trial, thereby saving legal costs and time.

Courts or Judicial Officers are required by law to consider the report and/or recommendations of the Family Advocate when making a decision as to what is in the best interest of the minor child.

Courts will not readily give a decree of divorce where there is a dispute regarding minor children without the report or recommendations of the Family Advocate.

Parental rights and responsibilities agreements or parenting plans registered with the Family Advocate have the same legal effect as an order of court.

BENEFITS OF CONSULTING WITH THE FAMILY ADVOCATE

QUICK FACTS

- ▶ The Family Advocate cannot become involved in any matter that has already been **finalised by the Court**.
- ▶ The Family Advocate cannot be subpoenaed to Court **as a witness** to give evidence on behalf of any party even if his/her recommendation is in favour of that party.
- ▶ The recommendation of the Family Advocate is intended to **assist the Court** in adjudicating a matter and arriving at a particular order. The recommendation itself is not enforceable unless incorporated in a Court Order.
- ▶ The Family Advocate is a **neutral institution** and cannot act as a legal representative.

CONTACT THE OFFICE OF THE CHIEF FAMILY ADVOCATE ON 012 357 8022



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