FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA

CRITICAL INCIDENT LIST (FAM-CRITICAL)

Family Law Practice Direction

1. INTRODUCTION

1.1 This Practice Direction applies to family law applications made in the Federal Circuit and Family Court of Australia (**the Court**) which are filed in circumstances where no parent is available to care for a child or children and orders are sought for parental responsibility to enable appropriate arrangements to be made for the child or children.

1.2 The key objective of the Critical Incident List is to facilitate faster access to the Court in circumstances where the criteria for the Critical Incident List are met.

1.3 This Practice Direction applies to all proceedings commenced on or after 6 June 2022.

2. CRITERIA FOR THE CRITICAL INCIDENT LIST

2.1 In order to be considered for the Critical Incident List, the application must satisfy the following criteria:

(a) The applicant is a non-parent caring for the child or children;

(b) There is no parent available to care for the child or children as a result of death (including homicide), critical injury or incarceration relating to or resulting from a family violence incident;

(c) The applicant is seeking orders for parental responsibility to enable appropriate arrangements to be made for the child or children (for example, authorities to engage with schools and health care providers, and this may or may not include an order for the child or children to live with the applicant); and

(d) There are no existing final family law or state/territory child welfare orders in place which relate to the child or children's care arrangements with a non-parent or allocating parental responsibility of the child/children to a non-parent.

3. OPERATION OF THE CRITICAL INCIDENT LIST

3.1 The Critical Incident List is administered by the National Assessment Team.

3.2 The National Assessment Team will consider the application and, if the criteria are met:

(a) allocate a first listing date and time for the application before the Judge in charge of the Critical Incident List in Division 1 of the Court within 7 business days, subject to the demand and availability of judicial resources;

(b) make any necessary procedural orders including as to transfer or an order under section 69ZW and/or subsection 60I(9) of the *Family Law Act 1975* (**Family Law Act**).

3.3 If the application does not meet the relevant criteria for inclusion in the Critical Incident List, it will be referred to:

(a) the Registrar on duty for listing;

(b) a directions hearing before a Judicial Registrar, or

(c) the relevant docket Judge, if applicable, for hearing in the ordinary course.

3.4 If the application is part of an existing proceeding that is being case managed by a Judge, the docket Judge will be consulted in the listing process and invited to mention the application within the required time period, where possible.

4. FILING AN APPLICATION IN THE CRITICAL INCIDENT LIST

4.1 An application is commenced in the Critical Incident List by filing the documents listed at paragraph 4.2 below via email to NAT@fcfcoa.gov.au, noting 'Critical Incident List' in the subject line.

4.2 The following documents must be filed for consideration in the Critical Incident List:

(a) an *Initiating Application* if there are no family law proceedings on foot, or an *Application in a Proceeding*, if there are current proceedings on foot;

(b) an affidavit in support of the application of no more than 10 pages. The affidavit must also address details of how the matter meets the criteria for the Critical Incident List; and

(c) a *Notice of child abuse, family violence or risk*.

4.3 Applicants are excused from compliance with pre-action procedures when lodging an application for filing in the Critical Incident List. Applicants do not need to file a Genuine Steps Certificate, or a Parenting Questionnaire.

4.4 Applicants may seek an exemption from providing a Section 60I Certificate on the basis of urgency. An order should be sought for this exemption in the Application and information about the urgency of the matter should be detailed in the supporting affidavit.

4.5 If the applicant seeks an exemption from filing fees, an *Application for exemption of fees - general* or *Application for exemption from fees – financial hardship* must be filed.

5. FURTHER INFORMATION

5.1 For further information about the Critical Incident List, parties should refer to the Court's website at www.fcfcoa.gov.au.

The Honourable Justice William Alstergren
Chief Justice (Division 1) | Chief Judge (Division 2)
Federal Circuit and Family Court of Australia
Issued: 1 June 2022