



family flyer



Introduction

The Family Flyer is a free community service by Michael Lynch Family Lawyers. The publication is designed to be informative and topical and to assist you in understanding the ever-changing field of Family Law.

This edition includes:

- A Wealth of Information
- Queensland - Divorces Increasing
- Change of name for divorce
- Shared Parenting - Required Factors
- Seminar Series
- Property Settlement - Short Marriage
- Child Support - Departure
- Assistance

A WEALTH OF INFORMATION

Welcome to all new readers of the Family Flyer.

The Flyer is produced in an email format each month and in a hard copy every 2 months. With over 36 issues published it provides a wealth of information about family and relationship law, from Family Law Specialists. Some of our recent articles include:

- What age is the right age to listen to a child's wishes? - Issue 36;
- Changes in Family Law - Issue 34;
- Binding Financial Agreements - What are they? - Issue 33;
- Separation - "A to do list" - Issue 31;
- Contact for Grandparents - Issue 29;
- A Guide to Defacto Property Settlements - Issue 19.

To see any of these articles and more, visit us at www.michaelynchfamilylawyers.com.au.

QUEENSLAND - DIVORCES INCREASING

Queensland has recorded a dramatic increase in divorces as the rest of the nation experiences a drop in marriage break ups.

New ABS figures for last year show:

- Queensland had a 24% rise in divorces. The only state to record an increase;
- New South Wales dropped by 7%;
- Victoria dropped by 3%; and
- Western Australia dropped by 24%.

In Queensland the average duration of a marriage (to separation) has extended to 8.7 years, from 7.6 years a decade ago.

In Queensland the average duration of a marriage (to divorce) is now 12.3 years.

CHANGE OF NAME FOR DIVORCE

The Family Law Act was recently amended to replace the term "dissolution of marriage" with "divorce" and reference to a "Decree Nisi" and "Decree Absolute", as a "Divorce Order".

There is no practical change as the Divorce Order takes effect one month after it is made.

SHARED PARENTING - REQUIRED FACTORS

Shared parenting is currently under the media spotlight with the proposed changes to the Family Law Act.

The Family Court recently stated what it will take into account when looking at a potential "shared care" arrangement, i.e:

- The parent's capacity to communicate on matters regarding the child;
- The physical closeness of the two households;
- Are the homes close enough for the child to maintain friendships in both homes;
- Have the parties previously demonstrated that they can implement an equal shared care arrangement;
- Whether the parties agree on the child's day to day care issues such as discipline, homework, health etc;
- The likelihood that the parties can compromise on areas of disagreement;
- Do the parents share similar ambitions for the child, eg religious adherence, cultural identity and extra-curricular activities;
- Do the parties respect each other as parents;
- The child's age; and
- The child's wishes.



SEMINAR SERIES

We present FREE Family Law Seminars.

We have been overwhelmed by the requests we have received from businesses, organisations and community groups, to present these seminars.

If you feel there would be a benefit to your organisation in us presenting one of our FREE Seminars or you would like to discuss with us designing specific content for your particular audience, please contact us.

Our Seminars are usually for one hour and include a presentation, powerpoint and handout material.

Topics include:

- "6 Things you must do when Separating";
- "A Guide to Family Law - Everyday Answers"; and
- "Estate Planning Strategies for changes in personal relationships".

PROPERTY SETTLEMENT - SHORT MARRIAGE

The Full Court of the Family Court recently considered what weight to give to the Husband and Wife contributions, in determining a property division in a large property pool, but short marriage. The facts were:

- The marriage was for 6 years and there were no children;
- The Husband was 18 years older than the Wife;
- The Husband operated an Accountancy practice and had a number of investments at the start of the marriage;
- The joint property pool (at Trial) was approximately \$3 million;
- The Husband made a greater initial contribution and financial contribution during and after cohabitation;

- The Wife undertook homemaker duties although this contribution was minimised because of hired domestic help.

The Trial Judge Ordered the property be divided 82.5% to the Husband and 17.5% to the Wife. The Husband appealed.

The Appeal Court determined that as the Husband's contributions were "overwhelming" the Wife's contributions should be reduced by 5%. Furthermore, the Trial Judge had given insufficient weight to the shortness of the marriage, the parties' age difference and reduced the "future needs" component by 2.5% resulting in the Wife's total entitlement being 10% (a reduction of 7.5%).

CHILD SUPPORT - DEPARTURE

The Family Court recently considered an Application by a high income payer Father to reduce his Child Support assessment to the child of his first relationship because of his obligation to support his 5 children and 2 step children from his second marriage. The facts were:

- The Father was a Medical Registrar earning \$232,000 per year;
- The Father argued that he should be granted a departure from the assessment for various reasons, including that he had an obligation to provide for his second Wife (as she was pregnant and unable to work), as well as an obligation to provide for his 2 step-sons living at home.

The Court held that in spite of the Husband's duty to provide for his second Wife, he still had the capacity (on his salary) to pay for his first child. The Court held, the Father did not have a legal obligation to support his teenage step-sons.

ASSISTANCE

If you need assistance with a Family Law matter call us on (07) 3221 4300.

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