



family flyer

Michael Lynch
Family Lawyers

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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:

- New Seminar Series !
- Child Support - Update
- New Brochure
- Moving to equal time - a Case Study
- Whether a child should know her biological Father?
- Which Court?

NEW SEMINAR SERIES !

The dates for our NEW public seminar series have just been listed.

"7 Secrets to Protecting your Assets and Surviving Separation" will be held at 3 separate locations and on 3 separate dates during October.

The seminar will address how to: protect assets, maximise property settlement entitlements, approach a property settlement, and much more.

The seminar series was only launched last Thursday and we have already been overwhelmed by the response. The attendance fee is \$20, payable at the door. Seating is limited, so book early.

[Click here to download the invitation](#) or

[click here to access our website and reply direct.](#)

CHILD SUPPORT - UPDATE

Overseas countries

The Australian Child Support Agency has reciprocal arrangements with other countries for Child Support collection.

There are more than 80 countries where the Child Support Agency can make and accept a Child Support assessment if one of the parents is resident in a reciprocating country.

NEW BROCHURE

We have recently issued a new firm brochure. The brochure is more than just the usual information but a wealth of practical information about who we are and how we can help you.

If you would like hard copies of the brochure to display at your office, please call Michelle on (07) 3221 4300 or email your request to law@mlynch.com.au or [click here to visit our website to view the brochure](#) and print off a copy.

MOVING TO EQUAL TIME - A CASE STUDY

The Federal Magistrates Court recently determined a case regarding the ongoing care arrangements for two children, aged 4 and 8 years.

The parents had separated when the children were 4 years and 2 months respectively. Since that time they had lived the majority of their time with the Mother.

The parents agreed in principal that the children would eventually spend equal time with both parents. The issue for the parents was "one of timing and appropriateness of any introduction of that regime".

Court Order

With the children aged 8 and 4 3/4 years the Court Ordered that the Father's increasing time with the children should occur as follows:

- For 10 months; each Tuesday from after school until 6.00pm Thursday and each alternate weekend from after school Friday until 6.00pm Sunday and 3 "alternate" week blocks during the Christmas school holidays;
- For the following 6 months; each Tuesday from after school until 6.00pm Thursday and each alternate weekend from after school Friday until start of school Monday;
- Thereafter; after school Wednesday until beginning of school Monday (in week 1) and after school Wednesday to beginning of school Friday (in week 2) and half all holidays.

WHETHER A CHILD SHOULD KNOW HER BIOLOGICAL FATHER?

The Family Court has recently determined that it would not be appropriate for a 12 year old girl to be told who her biological Father is.





The facts were:

- The Wife had 3 children while married to her Husband. The couple separated and following that the Husband had regular contact and a close relationship with all 3 children.
- One year later the Mother informed the Husband that he was not the Father of the eldest child.
- Two years later an Application was filed by the biological Father to have contact with the child. The question then arose as to whether the child should be informed who the biological Father was.
- Expert reports were prepared with the child and the Husband and Wife had specifically focussed counselling.
- The biological Father then filed a further Application seeking Orders that the child be informed that he was the biological Father and that there be detailed Orders for professional assistance for the child to facilitate this.
- The expert evidence showed that the child was not emotionally well, she had attempted self-harm and she suffered from Asperger's syndrome (level 5).
- The consensus of the experts (i.e doctor, social worker and psychologist) was that had it not been for her emotional fragility, the child should be told, however it was essential before the information was provided to her that there be tremendous support from what she considered to have been her biological parents.

The Trial Judge found that:

- The Husband and Wife were caring and devoted parents however due to a dramatic deterioration in the child's emotional health they were not agreeable to her being told at that time.

- It was essential that there be tremendous support for the child from who she considered to be her biological parents and her becoming informed would not be successfully effected unless there was total support and commitment from the Husband and Wife.
- The child should not be told.

The biological Father Appealed and the Full Court dismissed the Appeal and agreed with the Trial Judge's decision.

WHICH COURT?

A question the Court is often confronted with when two parents live in different parts of the country is which Court is the most appropriate to deal with an Application.

These are called "change of venue" Applications.

The Federal Magistrates Court recently considered a request to transfer a matter from Sydney to Canberra. In determining that the move to Canberra was appropriate the Court outlined the relevant considerations, including:

- The competing Court's ability to attend to the matter in a timely way.
- Any potentially additional delays that may occur if the matter is transferred.
- The expense to each of the parties if the matter is, or is not transferred.
- Other matters of convenience to the parties (e.g. their financial circumstances, their current family arrangements and where any relevant witnesses may live).

Contact details

Michael Lynch Family Lawyers

Principal

Michael Lynch*

Senior Associates

Helen Bryden*

Associates

Kirstie Colls

Elizabeth Millar

*Queensland Law Society
Accredited Family Law Specialists

Telephone: 07 3221 4300
Facsimile: 07 3221 9454
Email: law@mlynch.com.au
Web: www.michaelylchfamilylawyers.com.au

Address: Level 6
193 North Quay
Brisbane Qld 4000

Post: PO Box 12027
George St, Brisbane Qld 4003



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