



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:

- Newsflash – Changes for De Facto Relationships
- Divorce
- Child Support – Beware Tough Action!
- Get Legal Advice Before Mediation.
- Child Arrangements: What are “Best Interests”?

NEWSFLASH – CHANGES FOR DE FACTO RELATIONSHIPS

The Federal Government has finally announced that it is proceeding with legislation that will consolidate all State legislation regarding de facto relationship property settlements, into the Family Court.

This legislation is long overdue and will have a profound effect on how de facto relationship property settlements are determined. It is likely to commence towards the end of the year.

We will provide more detail regarding this legislation in due course. Some interesting early news is that the Family Court will only deal with de facto relationships where separation has occurred after the commencement of the legislation. This means that for any de facto relationship where separation occurs before the legislation commences, the relationship will be governed by the law that currently exists in Queensland.

The Queensland law is not only significantly less favourable to a spouse wanting to pursue superannuation and/or spouse maintenance but it is also a more legally complex and expensive process.

DIVORCE

The *Family Law Act* is based on a “no fault” principle, which means the Court does not seek to attribute blame to either spouse.

The requirement for a Divorce is “irreconcilable differences” which is defined as “12 months separation.” There is no time requirement (from separation) for parties wanting to finalise children’s arrangements or financial matters.

A divorce Application has its own Application Form and the filing fee in the Federal Magistrates Court, (from 1 July, 2008) is \$432. Our fixed fee in representing you in a Divorce Application is \$550 (including GST).

To make an appointment contact Chris on ph: (07) 3221 4300.

CHILD SUPPORT – BEWARE TOUGH ACTION!

A new range of tough measures to ensure Child Support payments from separated parents will be received are just around the corner.

The new measures are part of the Child Support Compliance Program and aim to push parents to meet their outstanding Child Support payments to provide their child or children with the support they require.

The measures target parents that are not paying their child support and include:

- More extensive surveillance.
- A tax regulation that will require both parents to lodge a tax return.
- Stop salary sacrifice being used to reduce Child Support obligations
- New procedures to seize a parent’s assets.

GET LEGAL ADVICE BEFORE MEDIATION

In recent years the focus on mediation as a process for resolving matters has increased dramatically.





From the 1 July, 2007 the *Family Law Act* has required that a person must obtain a “Certificate of Mediation” before they can file a Court Application in a parenting case. Therefore, if a Court Application in a children’s matter is going to be filed then that is the only time that mediation is compulsory.

Fortunately, most separated couples don’t go to Court and therefore going to a Family Relationship Centre (FRC) or going to mediation is something that should be considered after someone has obtained legal advice and knows where they stand.

Unfortunately, many people believe they have to go to an FRC for mediation straight after separation and when they attend without knowing their legal position, they create significant problems for themselves.

At Michael Lynch Family Lawyers we provide a “fixed cost” initial consultation. This no obligation, detailed assessment of your legal situation is conducted by one of our experienced Family Law Solicitors.

For further information or to make an appointment to see a Family Lawyer to discuss your circumstances contact Chris on ph: (07) 3221 4300.

CHILD ARRANGEMENTS: WHAT ARE “BEST INTERESTS”?

When making Parenting Orders the Court must consider what is in the child’s “best interests.” The *Family Law Act* defines “best interests” as involving “primary considerations” and “additional considerations.” So what are they?

“Primary considerations,” are:

- The benefits of the child having a meaningful relationship with both parents, and
- The risk of psychological or physical harm to the child (the risk could include the harm a relationship with one of the parents, their friends or family, may have on the child.)

“Additional considerations,” include:

- The views expressed by the child – (the weight to be given to these “wishes” will depend on the child’s maturity).
- A parent facilitating and encouraging a close relationship between the child and the other parent.
- The likely effect of changes in the child’s circumstances.
- Practical difficulty and expense of the child spending time with and communicating with the parents.
- A parent’s capacity to provide for the needs of the child.
- Maturity, lifestyle and background of the child and communicating parents.
- The parent’s attitude to the child and to the parental responsibilities.
- Any family violence involving the child or a member of the family.

Issue #78

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