



family flyer



Issue #118

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:

- “Close-up” Edition
- Seminar Series – on Now!
- Child Support – How are Transport Costs Assessed?
- Who Controls a Child’s Bank Account?
- What is a Mediator?

“CLOSE-UP” EDITION

Until now, Surrogacy arrangements in Queensland have been illegal – that’s now changed. What types of arrangements are now legal? To find out more – read this week’s “Close-up” – [‘Surrogacy in Queensland’](#).

SEMINAR SERIES – ON NOW!

Our Seminar Series is underway! DON’T MISS your chance to get a better understanding of Family Law! Each seminar provides a wealth of information – valued at over \$500 for ONLY \$20! There are two topics in this series – “7 Secrets to Protecting Your Assets” and “Surviving Separation”. Also – a Special offer for all attendees!

For **“Surviving Separation”** attend:

- Tuesday, 2 March – 6-7.30pm at Michael’s Oriental Restaurant & Function Centre, 223 Padstow Rd, Sunnybank
- Wednesday, 3 March, 6-7.30pm at Pathways Community Library, 1 The Corso, North Lakes

For **“7 Secrets to Protecting Your Assets”** attend:

- Tuesday, 9 March, 6-7.30pm at Wantima Country Club, 530 South Pine Rd, Eatons Hill
- Wednesday, 10 March, 6-7.30pm at Runcorn Tavern, 124 Gowan Rd, Runcorn.

To secure your seat – Book Now! – Ph 3221 4300. For more information visit www.mlfl.com.au/seminars

CHILD SUPPORT – HOW ARE TRANSPORT COSTS ASSESSED?

The formula used by the Child Support Agency to assess the amount of Child Support payable takes into account – the cost of raising a child, both parents’ income and the time parents spend with the child. Various factors are not taken into account, e.g. private school fees, special needs (unique to the child) and high contact transport costs.

In a recent Court case, a Father was spending \$46,000 in travel costs each year to see his child. So – how can travel costs and other expenses be taken into account?

The CSA allows a parent to apply for a “departure” from the formula assessment in special circumstances. A parent can apply for a Change of Assessment for 10 (possible) reasons (see www.csa.gov.au). One such reason is if it costs the contact parent more than 5% of their taxable income to see their child.

If a “departure” request is accepted the Child Support assessment amount is reduced.

WHO CONTROLS A CHILD’S BANK ACCOUNT?

Determining a property settlement is difficult enough – but what happens when there is a significant sum of money in a bank account in a child’s name? Who should have control? The Court recently had to determine such a case.



The Facts:

- The couple had been together for 12 years and had 2 children aged, 11 and 9.
- Before the parents separated, they had both been the trustees of the children's bank accounts. The 11 year old child had \$10,089 in her account, while the 9 year old had \$9,247.
- After separation, the Wife closed the children's accounts and transferred the money into new accounts in the children's names, of which she was the sole trustee.
- Since separation, the Wife had also paid additional money into the children's bank accounts, making the new account balances \$16,374 and \$15,517. Some of the additional payments had come from the mortgage, however the Wife did not disclose where the other amounts had come from.
- The Husband argued it was irresponsible for children of that age to have control of such large amounts of money.

Court Findings:

- It was not satisfactory that children of such a young age have sole control of such large accounts.
- Since the parents had equal shared responsibility for the children, it was appropriate that the parents have equal control over the money in the children's bank accounts.

Court Order:

- The money be transferred into accounts with both parents as trustees.

WHAT IS A MEDIATOR?

Mediation is a type of dispute resolution that is often used in Family Law to assist in resolving conflicts between families. A mediator's role is to assist a couple to sort through the issues and to try and come to an agreement.

A Mediation Agreement should be entered into by the parties at the commencement of the Mediation and anything said during the session is confidential.

If a parent is seeking a Parenting Order from the Court, they must attend Mediation and obtain a Section 60I Certificate (to find out more read our article – "[What is a Section 60I Certificate?](#)"). To issue a 60I Certificate, the Mediator must be an 'Accredited Family Dispute Resolution Practitioner' (according to the *Family Law Act*).

If you require a Section 60I Certificate, keep in mind when booking Mediation that not all Mediators can provide these certificates, only Accredited FDR Practitioners registered with the Federal Attorney-General.

Issue #118

Contact details

Michael Lynch Family Lawyers

Principal

Michael Lynch*

Senior Associates

Helen Bryden*

Kirstie Colls*

Associates

Elizabeth Millar

Amelia Trotman

Solicitors

Clare McCormack

*Queensland Law Society
Accredited Family Law Specialists

Telephone: 07 3221 4300

Facsimile: 07 3221 9454

Email:

Web: www.mlfl.com.au

Address: Level 6
193 North Quay
Brisbane QLD 4000

Post: PO Box 12027
George St, Brisbane Qld 4003



Copyright 2008

This document contains general comments only and should not be relied upon as specific legal advice. Readers should contact this Office for a detailed information or advice on any topic in this document. Changes to the law occur regularly, no responsibility for any loss or damage caused to any person acting in reliance on this document shall be accepted by the Principal of this Office. No part of this document may be included on any document, circular or statement without our written approval.