



# 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:

- Seminar Series – Success!
- “Close-up” Edition
- How do I get my Child Back?
- Being the ‘Friendly Parent’
- Parenting and Religious Disputes
- Enjoyed this Flyer? – Forward it to a Friend!

## SEMINAR SERIES – SUCCESS!

Welcome to new readers of the Family Flyer who have joined after attending our recent public Seminar Series. The fortnightly Family e-Flyer is FREE and provides a variety of current and topical Family Law articles and is read by over 5,000 people.

The Seminar Series was well attended and provided a great opportunity for our audiences to ask questions and get a straight-forward understanding of Family Law!

For more information on the seminars we present, visit [www.mlfl.com.au/seminars](http://www.mlfl.com.au/seminars).

## “CLOSE-UP” EDITION

Some children’s cases that come before the Court are complicated. In these situations the Court can decide to appoint a solicitor for the child. In this edition, our “Close-up” article tells you all about the [“Independent Children’s Lawyer”](#).

## HOW DO I GET MY CHILD BACK?

What happens when one parent refuses to return the child to the other parent’s home? Can the Court take action?

Yes! – With a Recovery Order.

A recent case provides an example of what can be done in such a situation. The Mother filed an urgent Interim Application seeking a Recovery Order for the return of the child, from the Father’s home.

### The Facts:

- The Mother and Father were married for 19 years and had two children, boys aged 14 and 8.
- The 14 year old child had behavioural problems and moved in with the Father a year before the hearing.
- The Mother arranged for the 8 year old son to spend a few days with the Father and his brother over Easter.
- When the Mother went to collect the younger child from the Father’s home, the Father told the Mother the child didn’t want to leave. The Father then called the police. The child did not go home with the Mother.
- The Mother called the child a few days later and the child said that the Father wouldn’t let him come home to the Mother.
- The Mother was worried that the child wasn’t safe in the Father’s house due to the aggressive behaviour of the eldest child.
- The Father, however, argued that the child was afraid of the Mother because she had threatened the child with a knife and that was the reason why the child wanted to stay with the Father.
- The Mother sought a Recovery Order for the return of the child to continue living with her and for the child to spend alternate weekends and half of the holidays with the Father.



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- The Father argued that both children should live with him and be independently represented by a lawyer.

#### **Court Order:**

- The Father to return the youngest child to the Mother, within 7 days. The Father to have sole parental responsibility for the eldest child.
- An Independent Children's Lawyer to be appointed.

### **BEING THE 'FRIENDLY PARENT'**

Separation is a difficult time, and often parents may find it hard to communicate with one another. It is important to keep in mind that when the Court makes Children's Orders, it looks at the behaviour and communication between the parents.

When the Court considers the time the children should spend with each parent, the Court will look at the parents' capacity to communicate with each other, to resolve difficulties. The legislation favours the 'friendly parent'. Their behaviour should reflect the following:

- A willingness and ability to facilitate and encourage a close and continuing relationship between the child and the other parent, and
- An attitude that is 'child-focussed' and recognises the responsibilities of parenthood.

If verbal communication is not possible between parents, then in order to provide a conflict-free environment, communication through email and messages may be more appropriate.

### **PARENTING AND RELIGIOUS DISPUTES**

The Court recently granted a Father an injunction preventing the Mother from having the children take part in the Jewish 'Bar Mitzvah'.

The Father was of Catholic religion and the Mother practiced the Jewish religion. The Father emphasised that it was not an issue of preference of one religion over the other, but rather that he wanted the children, aged 8 and 10, to be free to decide their own religion. The Father wanted the 'Bar Mitzvah' to be deferred until the children were 12, or 13 years of age.

The Court Ordered that the children were restrained from partaking in a 'Bar Mitzvah' and entering the Jewish religion without the Father's consent.

The Court allowed the Mother to take the children to a Jewish youth group and participate in Jewish events. The Father was also allowed to take the children to Catholic events.

### **ENJOYED THIS FLYER? – FORWARD IT TO A FRIEND!**

Sharing up-to-date information in Family Law has never been easier! You can select an edition of the Family Flyer online and forward it instantly to a friend.

If you have comments regarding the Family Flyer, we'd love to hear from you. Please email us by visiting [www.mfl.com.au/contact](http://www.mfl.com.au/contact).

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