

FAMILY Flyer



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WEALTH OF INFORMATION

Our FREE fortnightly flyer provides a wealth of information on the constant changes in Family Law.

Below are some of our recent articles:

- Short distance relocations (Edition 231)
- Parenting plan v. Consent orders (Edition 235)
- Are you in a defacto relationship? (Edition 237)
- Tips on surviving separation (Edition 250)
- Child support and contact – beware! (Edition 253)
- Do grandparents have rights? (Edition 255)
- Who should supervise contact? (Edition 256)

For any of these articles and more, visit our website at www.mlfl.com.au

COPING WITH CHRISTMAS

Over the last few years one of our most popular articles has addressed the challenges faced by separated families over the Christmas holiday period, but more particularly, Christmas Day. To avoid Christmas being a time of disappointment and disagreement and in the lead-up to the Christmas holiday period, we again share with you our article entitled "Coping with Christmas – Timely Tips for separated Mums and Dads". Onforward the article to anyone you feel would benefit from it!

COURT SAYS "NO!" TO "NO CONTACT"

A court order that prevents contact time between a child and a parent is rare and requires compelling circumstances.

In a recent case the trial judge was satisfied that a father should have "no contact" to his 6 year old daughter, however on appeal, the Full Court disagreed.

The father had not seen the 6 year old daughter, since she was 11 months old. The mother alleged that "Her (the mother's) fear of the father, based upon... history of violence was so profound that she would not even be able to cope with the child only spending supervised time...with the father". The father argued that the mother's fear "was either not real, or not rationale, or both".

The trial judge accepted the evidence of the mother and that of a psychiatrist "that if the child had anything to do with the father... the mother may decompensate to the point where her parenting capacity would be seriously impacted".

On appeal, the Full Court stated that "a No Contact Order needs to be arrived at only after a careful evaluation of all of the other options which might work to enable the child to have the benefit of some kind of relationship with the contact parent, for what is at stake is the potential for a child to never know their parent". The father identified a number of contact proposals and the Judge should have considered these and made an informed determination as to the magnitude of any risk to the mother's psychological health and hence parental functioning, which attended each of these, to enable him to then consider whether the risk of harm to the child still remained unacceptable.

The Full Court set aside the court order and remitted the case for re-hearing before another judge.



INTERIM GOVERNMENT REPORT

The Federal Attorney-General has released the interim report of the Family Law Council on "Families with Complex Needs and the intersection of the Family Law and Child Protection Systems".

The report was commissioned a year ago to respond to concerns about the Federal Family Law systems interaction with State Child Protection and family violence systems. The report addresses the need for a more streamlined and integrated approach to the two areas to ensure the safety of children and families.

The full report will be available in June 2016.

PROPERTY SETTLEMENT – CONSEQUENCES OF BAD BEHAVIOUR

In a recent court case, the wife and her 3 adult children made extensive allegations of family violence perpetrated by the father (applicant) during the course of the parties 30 year marriage. The wife alleged that this violent conduct by her husband made her "contributions" to the property settlement as 'homemaker and parent' significantly more arduous.

The husband had also dissipated his entire superannuation benefit of over \$120,000 on himself over a fairly short space of time. The wife alleged that the majority of his superannuation funds which would have otherwise been available for distribution between the parties were spent on the husband's extensive gambling habit. The wife was able to provide evidence of the husband's gambling.

The husband denied the extensiveness of the abuse, saying it was limited to a few "unfortunate incidences" and that there should be no adjustment. He also argued that because the wife could not produce independent medical evidence which recorded the impact of the violence, it prevented her from satisfying the court that her contributions were more arduous.

The court rejected that argument and found the evidence of the wife and the 3 adult children 'compelling' giving the wife a 7% adjustment for that factor. It was found the husband had dissipated his superannuation and a further adjustment was made in favour of the wife of 8%. As a result, the wife received a 15% adjustment in her favour in the property division, due to the husband's bad behaviour.

DV CHANGES – POLICE BODY-WORN CAMERAS

In response to the Special DV Taskforce Report, "Not Now, Not Ever" delivered in February this year, the Queensland Government has accepted the recommendations and is progressively implementing them.

One of the changes currently before Parliament relates to the use of body-worn cameras by Police Officers. The Taskforce recommendation was that the Queensland Police "*develop and implement a strategy for increasing criminal prosecution of perpetrators of domestic violence through enhanced evidence-gathering methodologies*".

To date the Queensland Government has funded the rollout of 300 body-worn cameras for Police Officers at the Gold Coast to assist in gathering evidence.

The current (Police Powers) legislation does not expressly authorise the use of body-worn cameras by Police Officers. Although the absence of such an express provision does not make their use unlawful. The proposed amendment is intended to remove any doubt about the lawfulness of their use.

We will advise in due course when these proposed changes commence.

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