



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 Child Support Agreements
- What is Shared Parental Responsibility?
- Tips for Child Support
- Contact – Visiting a Parent in Prison?
- Relocation Case: Same-sex Couple
- Superannuation Options for Married Couples

NEW CHILD SUPPORT AGREEMENTS

From 1st July the current form of Child Support Agreement will cease and (2) new types of Child Support Agreements will be introduced.

The new agreements will be:

- **Binding Agreement:** Similar formalities to a Financial Agreement, it will require independent legal advice. The agreement can only be terminated by a further written agreement, or by a Court Order.
- **Limited Agreement:** This does not need to be certified by a legal practitioner, however the amount payable must be equal or greater than the child support formula assessment.

WHAT IS SHARED PARENTAL RESPONSIBILITY?

The Shared Parenting amendments made to the *Family Law Act* in July 2006 introduced a presumption of shared parental responsibility.

Shared parental responsibility is the parents' equal input into the major long-term issues for the child, including:

- Education (both current and future);
- Religion and cultural upbringing;
- Health;
- Name; and
- Changes to the child's living arrangements that make it significantly more difficult for the child to spend time with each parent.

TIPS FOR CHILD SUPPORT!

- **Communication:** Don't forget, if you are paying child support you have online access to your case and can correspond with the CSA online, all you need is a password.
- **Changes:** From 1st July there will be more choices with Non-Agency Payments (NAP). Both parties can now elect to either credit 100% or nominate a percentage (both parties need to agree on it).

CONTACT – VISITING A PARENT IN PRISON?

The Court recently considered a case that concerned a Father who wanted contact with his two sons while serving a prison sentence.

In deciding whether to allow a contact order in these circumstances the Judge took into account the best interests of the children and the emotional and psychological effect it would have on the children and their Mother.

The Father was serving a 9 ½ year term of imprisonment and wished to have in person contact and telephone contact with his children aged 12 and 11 years. The Mother opposed this due to his violent nature and a previous phone conversation in which he swore at the children.

The Father proposed that one of his co-offenders drive the children to and from the prison for visits.





The Judge found the Father lacked understanding of the stress he would cause to the children and the Mother.

It was found by the Court that it was not in the best interests of the children to have visits to the prison or phone conversations for the reason that the children's psychological and emotional wellbeing would be at risk.

The Court Ordered it would be appropriate, according to the Mother's proposal, for the Father to send letters and cards in order to rekindle a relationship with the children.

RELOCATION CASE: SAME-SEX COUPLE

The Court recently had to decide whether a child of a same-sex couple should be returned from the place the biological Mother had relocated the child, to her previous home where her Mother's partner, (the child's other parent) resided.

Facts:

- The Mother and partner were together for 5 years before separating.
- The child was 6 years of age and had been raised by her biological Mother and her Mother's partner (both were considered to be her parents).
- The Mother relocated with the child 1 ½ to 2 hours away.
- The Mother claimed she relocated as she could not afford the mortgage payments and could stay with her Mother rent free.

- The Mother's partner opposed the relocation and also disputed the Mother's claim about her financial position.
- It was agreed in the shared parenting responsibility that the Mother's partner had the right to communicate and spend time with the child on a regular basis.

Court Order:

- It was in the child's best interests to relocate back to the previous home. The Court was satisfied the Mother could afford rental accommodation once the sale of the house was received.
- The routine of the child before the Mother relocated with the child should continue.

SUPERANNUATION OPTIONS FOR MARRIED COUPLES

The law that applies to superannuation in property settlements provides a Husband or Wife with options, including:

- Being able to write to the other spouse's superannuation fund to get information about the value of the superannuation.
- To split the superannuation funds between the spouses and roll-over an amount, as part of a property settlement.
- To inform a particular superannuation fund that the spouses intend to split the fund in the future (a 'flag' Order).

In some cases it may disadvantage one or both of the parties, so it must be remembered that it is not compulsory to split superannuation.

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