



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:

- Feedback on Family Law Amendments
- "Specific Issues" Orders
- New Family Violence Provisions
- Domestic Violence a Factor in Property Settlement
- Separate Representation becomes "Child Representation"
- Appointment as an Accredited Child Representative

FEEDBACK ON FAMILY LAW AMENDMENTS

As indicated in the last Family Flyer, significant amendments occurred to the *Family Law Act* on 11 June, 1996. One of the new concepts introduced is that of "Parenting Plans".

"Parenting Plans" are designed to assist parties in reaching a workable arrangement, that does not have to be registered in the Family Court as an Order, if the parties do not wish to.

It would seem from the action that has been taken to date that Parenting Plans have not received the public reception it was hoped and that parties are preferring to reflect agreements through Family Law Consent Orders.

"SPECIFIC ISSUES" ORDERS

A "Specific Issues Order" is an Order which deals with any aspect of parental responsibility other than "residence, contact or child maintenance".

It would seem that since the introduction of the amendments, the standard "Specific Issues Order" is one that refers to "responsibility for the day-to-day care, welfare and development of a child".

A "Specific Issues Order" can confer any particular duty or responsibility that by law parents have in relation to their children, e.g.:

- (i) The education a child is to receive;
- (ii) The religion in which a child is to be brought up;
- (iii) Medical treatment a child is to receive;

- (iv) The surname a child is to bear;
- (v) The diet a child is to have;
- (vi) The forms of discipline a child is to receive;
- (vii) The administration of a child's property.

NEW FAMILY VIOLENCE PROVISIONS

The *Family Law Act* amendments, now include a new division regarding the Family Court's jurisdiction, to ensure "the need for safety from family violence".

One of the new factors for the Court to address, is if the Family Court makes a Contact Order (previously known as "Access") which is inconsistent with a Family Violence Order (otherwise known as a Domestic Violence Order).

In cases such as these the Family Court must explain or arrange for someone else to explain, the inconsistent order. The explanation must be provided to both parties in the Protection Order and must be in a language which is readily understood by all. It must also explain the purpose of the Contact Order, the obligations it creates and the consequences for failing to comply with it.

DOMESTIC VIOLENCE A FACTOR IN PROPERTY SETTLEMENT

In a recent Full Court Case, the Court has said that it was open for a trial judge to determine that, due to a husband's violent and abusive conduct, the wife's contribution to the marriage was increased and the husband's was decreased.





Several cases of this nature have begun to come before the Family Court. Potential Applicants should be aware that Applications of this kind must be in the appropriate format and must also be clearly particularised, as if a claim for damages for personal injuries.

SEPARATE REPRESENTATION BECOMES "CHILD REPRESENTATION"

The *Family Law Act* has always had provision for a separate Solicitor to be appointed by the Court in Child Welfare matters. This occurs where the facts of the case are of such a nature that the Court believes that a separate Solicitor is required to represent the child so as to fairly reflect the child's circumstances.

Since the case of *Re K* a decision of the Full Court of the Family Court in 1994, the Family Court has been far more willing (and has) appointed more Separate Representatives.

Faollowing the *Family Law Act* amendments on 11 June, 1996, "Separate Representatives" are now called "Child Representatives".

For a Child Representative to be appointed, it is necessary for one or both of the parties to seek an Order that the Court appoint one and this is heavily dependent upon the factors set out in *Re K*.

The actual appointment of a Solicitor as a Child Representative is coordinated by and funded by the Legal Aid Office (Qld).

APPOINTMENT AS AN ACCREDITED CHILD REPRESENTATIVE

We are pleased to advise that following a lengthy training course and having satisfied the criteria imposed for eligibility, Mr Michael Lynch of this office has recently been accredited as an approved Child Representative.

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