

FAMILY Flyer



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HAPPY NEW YEAR! DATE CLAIMER.

Welcome to a New Year and a NEW seminar series. Our next public seminar series starts on 22 February! These popular seminars are presented by Accredited Family Law Specialist, Michael Lynch and offer invaluable information on children, property and separation. There are 2 topics to choose from, "[Separation and Children](#)" or "[Separation and Property](#)".

Upcoming dates are:

- [Monday 22 February](#) – Holland Park (children).
- [Wednesday 24 February](#) – Grange (property).

Full details in our next flyer, or watch our website.

GETTING READY FOR SCHOOL

With the start of the new school year, parents are often faced with many decisions. For separated parents, there is even more to consider – completion of enrolment forms, getting information from schools, attending school events, etc. To assist you with the start of the new school year – read "[Getting Ready for School](#)".

SPLITTING SUPERANNUATION

Under the *Family Law Act* superannuation is treated as property and is able to be divided in a property settlement.

Superannuation can either be retained by the member spouse or split between both spouses.

A request for information on a member spouse's superannuation interest can be made by either spouse. The person requesting the information must declare the information is needed following a relationship separation and is needed to help with superannuation agreement negotiations. This request is made by way of a "Family Law Declaration and Request for Information Form".

On receipt of a Court Order or superannuation agreement the Superannuation Fund Trustee will proceed to split the "member spouse's" account. This split does not result in a "cashing out" of the member entitlement but "rolling it over" into the other spouse's member fund.

It is essential that superannuation is considered in a property settlement and that you obtain Specialist Family Law advice. For a fixed cost (\$330 incl. GST) initial appointment contact us on (07) 3221 4300.

LOCATING A PARENT

If a parent (or child) can't be located and a court application has been filed the Family Court has the power to make orders which direct government departments (i.e. Centrelink and the Child Support Agency) to provide the court with location information. This is called a '[location order](#)'. Naturally, in a world of domestic violence the court has to be cautious in when and how to make these orders.



In a recent case a father, asked the court for a location order (amongst other orders) in relation to his 2 children and their mother.

Facts:

The father had not seen nor spoken to the children for approximately 4 months prior to the hearing. The children lived with the mother although no parenting orders were in place.

A domestic violence order had been made against the father in favour of the mother approximately 3 months before the hearing date, and the order had been extended to include the children.

The father sought a court order that the children 'live with' him, 'spend time' with the mother on alternate weekends and half school holidays, that the children's names be placed on the 'airport watchlist' and that location and information orders (disclosing their whereabouts) be made.

Court order:

The court was concerned that the DV order had been extended to include the children and as the court needed to protect children from harm, no parenting orders were made in favour of the father.

Similarly, although 'location' orders were made directing Centrelink and the CSA to furnish information in their records about the location of the children and the mother to the court, an order was made that the children's whereabouts not be disclosed to the father.

The court did however make an order requiring the children be listed on the 'Airport Watchlist' to prevent their removal from Australia.

WHAT IS AN INTERIM HEARING?

If someone has separated and an urgent dispute arises that requires a quick short term solution until the court can conduct a final hearing, an application to the court for an Interim Hearing can be made.

An Interim Hearing will not be allocated for more than a maximum of (2) hours of court time. It is therefore an abbreviated form of a court hearing. An interim hearing can occur in many types of situations, but most commonly it is for:

- Occupation of the matrimonial home;
- Children's living arrangements; or
- Injunctions to protect property.

An interim hearing is based on affidavits and does not usually involve direct oral evidence from the parties.

An affidavit is a document used in court proceedings, which provides written evidence setting out the facts of a person's situation.

NEW CIVIL PARTNERSHIP LAWS - QLD

In 2011 a law was passed by the Queensland Parliament which allowed couples, including same gender couples to enter into a civil partnership and hold a civil ceremony. The legislation was amended by the Newman government in 2012 to remove the ability for a couple to hold a civil ceremony only allowing the parties to formally register their relationship.

On 3 December 2015, the Queensland government passed a Bill amending the Act, which included restoring the ability to hold a legal ceremony and to enter into a civil partnership, regardless of gender.

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