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Issue #73

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:

- Tips for child support!
- Save on stamp duty!
- Is it all about happiness?
- Can a parent's health interfere with their contact?
- Contravention - How sick is sick?
- Relationship Register - Victoria
- Child Support Agency - update

TIPS FOR CHILD SUPPORT!

- **Income details:** It is important that **both** parents lodge their Tax Returns as after 1st July this year there will be no 'disregarded income', as both parents income will be used in the assessment.
- **Levels of care:** Keep a care diary! From the 1st July care levels will change. Anyone who cares for a child for 52 nights or more (rather than the old cut off of 109 nights) has a care level which will change the amount of Child Support payable.

For more information see Flyer Edition 71:

www.mlfl.com.au

SAVE ON STAMP DUTY!

Transfers of property between separated couples whether it is real estate, shares or motor vehicles are exempt from stamp duty if properly documented in a property settlement.

The stamp duty exemption in Queensland applies to married couples and de facto couples, provided the property settlement is documented in the correct form. For married couples that must either be a Family Court Consent Order or a Binding Financial Agreement. For de facto couples it must be in a Recognised Agreement.

This exemption can result in significant cost savings and highlights the need to ensure a property settlement is documented properly.

For Specialist Family Law advice, contact us on (07) 3221 4300.

IS IT ALL ABOUT HAPPINESS?

In a recent Appeal the Family Court had to

The parties had one child aged 10 and had been living in Canberra since 3 years prior to the birth of the child.

The Mother had a second child to a new partner and wanted to relocate with the two children from Canberra to be together as a family with her new partner in North Queensland.

At the trial, the Federal Magistrate allowed the Mother to relocate. The Father appealed arguing that the Mother should not be allowed to relocate as the Court had given disproportionate weight to the Mother's reasons for relocation.

The Appeal Court decided that despite the Father and his parents living in Canberra, the Federal Magistrate was not wrong in determining the decisive factor, in allowing the Mother to relocate, was her happiness and contentment.

CAN A PARENT'S HEALTH INTERFERE WITH THEIR CONTACT?

The Federal Magistrate's Court recently considered whether a Mother's contact with her son could be effected by her having Hepatitis C.

Facts:

The Father -

- Lacked trust in the Mother. His primary concern was the possible risk the Mother's long-standing Hepatitis C condition posed to the child.
- Was concerned for the child's safety, in regards to the Mother's possible drug taking.
- Argued against the child spending time with the Mother.

The Court Found:

consider the weight that should be given to a Mother's happiness and contentment when deciding if she could relocate from Canberra to North Queensland.

- The Father's mistrust stemmed from the Mother's concealment of past drug taking.



- The Mother no longer took drugs and confirmed this by submitting to random drug tests (on 2 hours notice).
- The family doctor said Hepatitis C was not transmitted through ordinary everyday contact and could only be transmitted through blood.
- Hepatitis C posed minimal risk to the Mother's care of her son and nothing had occurred in regards to the Mother's disease that would put the child at risk.

Held:

- The Mother was allowed contact with her son, supervised by the maternal grandparents.

CONTRAVENTION - HOW SICK IS SICK?

The Court recently determined that a child was not too sick to spend time with the Father according to the Contact Order.

The Mother was responding to a Contravention Application brought by the Father alleging that she had breached the Court Order by not sending the child on contact.

The Mother said that she had a "reasonable excuse", as the child was too sick. The Father said that as the Mother had placed the child in other peoples' care that the child was therefore well enough to be cared for by him.

The Court found that the Mother's behaviour did not constitute a "reasonable excuse" and therefore she was in contravention of the Court Order.

RELATIONSHIP REGISTER - VICTORIA

Victoria will be the second State (after Tasmania) to legislate the ability for same-sex and heterosexual de facto couples to register their relationship and financial agreements.

Couples wishing to register their relationship are required to be 18 years of age or over, reside in Victoria and not be married or in another relationship already registered.

Couples that register their relationship will then be able to evidence their relationship by obtaining a certificate.

The register, which will enable committed domestic couples easier access to entitlements, will be operated by the Register of Births, Deaths and Marriages and is expected to commence by the end of this year.

CHILD SUPPORT AGENCY - UPDATE

The Child Support Agency (CSA) has advised that half of the separated parents in Australia affected by the 1st July, Child Support changes have received their new assessment and the balance half will receive theirs by mid-May.

Parents should carefully check the details of their new assessment and inform the CSA of any errors so it can be re-issued before 1st July.

Those parents wanting to calculate an estimate of how much Child Support they may receive or pay can access the online Child Support estimator on the CSA website.

Parents need to make sure their personal details are up to date with the CSA by calling: 1300 855 437.

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