

Phillips | Family Law Bulletin



EVOLVING ISSUES IN FAMILY LAW – COMMERCIAL SURROGACY

Our Senior Associates, Fiona Caulley and Sophia Bookallil, recently attended the National Family Law Conference. The theme of the Conference was “Family Law – Evolution or Revolution” and the program covered the most up-to-date developments in the law.

Assisted fertility treatment, such as surrogacy, is an area where there has been significant technological development resulting in a need for significant law reform. Commercial surrogacy is illegal in Australia and many Australians who are having difficulty conceiving are looking at the options available abroad.

An example which received worldwide news coverage recently was when “Baby Gammy”, the Thai baby with Down syndrome, was unwanted and left behind in Thailand by his Australian parents. The Australian couple returned to Australia with Gammy’s healthy twin sister and it was later revealed his father had been convicted of sexually abusing children.

During the National Family Law Conference two senior Australian judges spoke about surrogacy and called for a national inquiry into commercial surrogacy after details emerged in the media involving a twin in India being abandoned because it was the “wrong” gender and was unwanted by its intended parents.

The most recent case to be exposed by the Australian media involved a set of twins born in India via a surrogate to Australians who had gone through a surrogacy agency. Chief Justice Bryant indicated consular officials had revealed to her there was pressure from Australia to provide a visa to allow them to return one baby to Australia, as the commissioning parents did not want both babies.

The Chief Justice of the Family Court, Diana Bryant, and the Chief Judge of the Federal Circuit Court, John Pascoe both expressed their concern with the situation as it currently stands with the fundamental human rights of both the children and the mother being at risk.

The Chief Judge of the Federal Circuit Court, John Pascoe has since called for a national inquiry, saying the Federal and Family Courts have been left with dealing with a process that did not have appropriate legislation governing the practice.

It has been reported that interest in finding a resolution to the problems raised by commercial surrogacy extends far beyond Australia. The Council of Europe are petitioning for an inquiry to resolve the issues relating to the human rights of the women and children that are raised by commercial surrogacy arrangements. The motion put forward outlines that the “unregulated nature of surrogacy poses additional concerns regarding the exploitation of women in disadvantaged positions and fertility tourism resulting in a black market of ‘baby selling’. The motion called upon the Parliamentary Assembly to “examine the issues arising from the practice of surrogacy, especially its links with the reproductive health of women, human trafficking and the rights of children”.

Written by Fiona Caulley - Associate



16th NATIONAL FAMILY LAW CONFERENCE

From 7 to 10 October 2014 our Senior Associates, Fiona Caulley and Sophia Bookallil, had the privilege of travelling to Sydney and attend the National Family Law Conference.

The National Family Law Conference is the leading and largest regular legal event held in Australia. The event was organised by the Family Law Section of the Law Council of Australia (FLS). All the solicitors at Phillips Family Law are members of FLS which is the pre-eminent association of family law professionals in the country.

The theme of the Conference was "Family Law – Evolution or Revolution" and the program covered the most up to date developments in law, such as the need for significant law reform as to surrogacy, impact of societal trends such as our ageing society, practical issues. There was significant input from other disciplines as well as examining how our system can be improved.

Fiona and Sophia enjoyed the opportunity to hone their knowledge in many facets of family law practice and network with members of the judiciary and their professional colleagues, from around Australia and New Zealand, including lawyers, mediators, accountants and social scientists, with whom we regularly work with to promote our client's interests.



LIGHT THE NIGHT

The Leukaemia Foundation Light the night charity walk fills the night with yellow, white and blue lanterns. This beautiful events shows support for those lost, survived or supporting the battlers of those effected by Leukaemia.

Our practice manager participated in this event which is close to her heart. Did you know that 42 people a week are diagnosed with blood cancer in Queensland alone – therefore a very important event to support.



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