

Phillips | Family Law Bulletin



STATISTICS ON MARRIAGE AND DIVORCE

In late November 2014 the Australian Bureau of Statistics (ABS) released the 2013 statistics on marriage and divorce revealing some key trends.

The statistics revealed that the key trends were:

1. There were 47,638 divorces in 2013, which was a drop of 4.6% from 2012.
2. The median duration from the time of marriage to divorce was approximately 12 years. This number has been decreasing from a peak of 12.6 years in 2005.
3. Parties were most likely to divorce in their early forties.
4. There were 118,962 marriages registered in 2013, which was a drop of 3.5% from 2012.
5. The majority of marriage ceremonies are conducted by civil celebrants.
6. The median age to get married in 2013 was 31.5 years for males and 29.5 years for females.

As family law specialists it was interesting to see whether some of the key trends collated with our observations in our daily practice.

Made famous by the 1955 movie starring Marilyn Monroe, the 'seven year itch' refers to the perceived tendency for couples to become disenchanted with their relationships after seven years. From the statistics it appears the seven year itch is now the 12 year itch, with the median time from marriage to divorce just over 12 years.

Similarly, statistics recently reported in the Huffington Post indicated that in 2010 a study undertaken by Grant Thornton accountancy group, utilised information from a survey of 90 law firms and concluded that marriages are most likely to fail after about twelve years.

Further details of the Australian Bureau of Statistics study are available on the Australia Bureau of Statistics Website: <http://www.abs.gov.au/ausstats/abs@.nsf/mf/3310.0>

By Fiona Caulley - Senior Associate

YEAR IN REVIEW



We welcomed two additional lawyers, Fiona Caulley, Accredited Family Law Specialist and member of the Executive of the Family Law Practitioners Association was appointed as a Senior Associate and Olivia Phillips was newly admitted to the profession this year following her role as an Associate in the District Court.

Our relocation to expansive designer premises at 145 Ann Street.

I have been honoured to be named as one of only three pre-eminent family lawyers in Queensland by Doyle's Guide to the Australian Legal Profession.

We have maintained a strong and consistent team in our existing lawyers with Senior Associates Sophia Bookallil and Sarah Bastian-Jordan, and Associate Rebecca O'Brien who have achieved outstanding results for our clients.

On behalf of our firm, I thank you for your support in 2014 and wish you and your families a safe and happy Christmas.

Tony Phillips and the Phillips Family Law team

CHARITY NOTE

The 2014 year was a year of many successes for Phillips Family Law. It was with great generosity that Phillips Family Law had the opportunity to share its successes with various charities which are close to our hearts.

This year Phillips Family Law made generous donations to a selection of charities which were chosen by our team. These charities all work towards supporting important causes and supporting all of those affected.

It was with our greatest pleasure to be in a position to donate towards the following causes:



Cure Brain Cancer

Cure Brain Cancer Foundation is dedicated to accelerating the development of new treatments to increase 5-year to survival to 50% within ten years.



Parkinson's Australia

All contributions continue to raise the profile of Parkinson's in the wider community and to lobby all Australian governments for better and more access to services, more treatment options and support for people with Parkinson's, their families and carers.



Alzheimer's Australia

At present there is no prevention or cure for most forms of dementia. However, some medications have been found to reduce some symptoms. Support is vital for people with dementia and the help of families, friends

Case in Point...

Child psychologist required to produce confidential notes under Family Court subpoena – *Crawford & Sisinis & Anor* [2014] FamCA 912



In Family Court and Federal Circuit Court proceedings (whether in relation to property, parenting or other issues) parties are able to file a subpoena to be issued from the Court to a third party to require that third party to produce certain documents when the other parties in the proceedings will not or cannot provide such documents.

There are certain circumstances in which a third party may object to producing documents pursuant to a subpoena and the Court may then consider setting aside the subpoena. Such matters include^[1]:

1. If the subpoena is used for an improper purpose – e.g. to obtain disclosure against a third party;
2. Where it might be oppressive to comply with a subpoena – e.g. the documents sought are voluminous or the production of the documents ;
3. Where the party that files the subpoena embarks upon a "fishing expedition";
4. That the documents sought are not relevant to the Court proceedings.

There are also occasions where a third party may object to produce documents pursuant to a subpoena because the production of such documents would be against the interest of the public and the documents should be protected by reason of 'public interest immunity'.

In the recent case of *Crawford & Sisinis & Anor* [2014] FamCA 912, Justice Berman determined that there was no public interest immunity between a child and a psychologist and required that the psychologist produce to the Court all records of her file relating to the parties' 12 year old child who had between attending with the psychologist for treatment.

In that case:

- the psychologist had obtained the parent's agreement that the counselling to be provided in so far as it involved the child would not be used in respect of any future Family Court proceedings;
- the psychologist argued that to require the production of documents between a psychologist and client would be against the public interest as it would discourage others from seeking counselling for their children and/or compromise therapeutic outcomes;
- the Court noted that the interaction between the child and the psychologist in this case did not endure beyond three appointments and thus it could not be said that the psychologist and the child were in a therapeutic relationship;

and carers can make a positive difference to managing the condition.



YoungCare

All young people deserve to live young lives. Youngcare is committed to raising awareness of the issue across the nation so that we can drive change and create real choices for young Australians requiring care and their families.



The Butterfly Foundation

The Butterfly Foundation represents all people affected by eating disorders and negative body image – a person with the illness, their family and their friends.

Jennifer Spink

- the Court commented that the consideration of a subpoena is not to be determined by reference to the best interest of the child as the paramount consideration but the Court should consider the needs of the child concerned and the impact the conduct of the proceedings may have on the child;
- The Court determined that the involvement of the psychologist with the child was not a relationship to be protected by public interest immunity as the relationship was personal and whilst potentially important to the child, in the circumstances of the case, did not have a wider application.

[1] *Hatton v Attorney-General of the Commonwealth of Australia* (2000) FLC 93-038

To see the full article [click here](#)

Written by Rebecca O'Brien - Associate



Merry Christmas from all of us at Phillips Family Law.

Our office will be closed for the Christmas period from 5pm Friday, 19 December 2014 and will re-open at 8:30am Monday, 5 January 2015. We wish you all the joy of this season and look forward to continuing to work with you in the New Year.

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