Section 60I Certificates: What is it and can it be bypassed?

Date : January 20, 2021

Under the Family Law Act, parents are required to make a genuine effort to resolve any parenting disputes in relation to their child or children through family law mediation before they are eligible to commence Court proceedings.

How to obtain a Section 60I Certificate?

To obtain a Section 60I Certificate, a parent is required to attend family law mediation with an Accredited Family Dispute Resolution Practitioner ("the mediator"). The mediator can issue a Section 60I Certificate in the following circumstances:-

1. If a party does not participate mediation because the other parent refused or failed to attend;
2. If a party did not attend mediation because the mediator did not consider the matter to be appropriate for mediation (for example, due to allegations of family violence);
3. Both parents attended mediation and both made a genuine effort to resolve the matter;
4. Both parents attended mediation, however one of the parents did not make a genuine effort to resolve the matter; or
5. Both parents attended mediation, however the mediator part-way through decided to terminate the mediation due to considering it not be appropriate continuing.

What to do after receipt of the Section 60I Certificate?

When a Section 60I Certificate, is issued it is filed that with the Court together with the Initiating Application for Parenting Orders.

Is there an exemption from attending mediation?

Section 60I(9) lists a number of exemptions. In summary, those exemptions are as follows:-

1. Whether the application is urgent;
2. When one or more of the parties are unable to participate in mediation effectively (such as incapacity, remoteness or other reason);
3. Where the Court is satisfied on reasonable grounds that there has been family violence or child abuse, or that there would be a risk of either occurring; or
4. Where the application relates to an existing and recent order within 12 months.

The onus rests upon the parent who wishes to commence proceedings without a section 60I certificate to satisfy one of the aforementioned exemptions. If you are not able to satisfy the Court that an exemption exists, the Court may refuse your application and direct you to attend family law mediation.

For more information, visit our page on Family Law Mediation.

For advice about family law mediation and whether it is applicable for you, please contact us on 1800 300 170 or email us at famlaw@matthewsfolbigg.com.au

Disclaimer

Family law situations can be complex and sometimes they can involve serious issues. Information outlined is proposed to provide general guidance only. Due to the seriousness of legal matters as well as the uniqueness of your individual situation, professional advice should be sought. For advice, please contact one of our Family Lawyers.