The dangers of the self-litigant accused of domestic violence in custody law

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This month, the Law Society of NSW Journal discussed a hot topic issue with the aid of the Women's Legal Services Australia (WLSA): what happens when your abuser has the right to cross-examine you when seeking their child custody rights?

Unlike other jurisdictions, the *Family Law Act 1975* that governs family law holds no provision to protect victims or vulnerable persons from direct cross-examination by a perpetrator. Direct cross-examination is having the person alleged to be an abuser of domestic or family violence communicate questions and demand answers directly from you in the witness box.

This is not a fanciful fear; the WSLA conducted a survey in 2015 in respect of the impact of direct cross-examination and family violence. Of the 330 women surveyed, 45% reported that their decision to settle their matter was due to the significant fear of being directly cross-examined by their abuser.

It is extremely important when meeting with a domestic violence lawyer to identify these fears and ensure they have all the information before them when giving you custody advice. Under the *Family Law Act*, a domestic violence lawyer may be able to best protect your child custody rights by using the safeguards found in the Act. This could mean ensuring that you are given access to the safe room at Court, given a support person at Court or being able to give evidence via audio-visual link up rather than in person at the Court.

Often when a person that has been a victim of family violence talks to a domestic violence lawyer, the want to avoid any further contact with their abuser can mean they miss out on a just and equitable property settlement. It is best to identify, as much as is comfortable to you, the violence that may have occurred.

Our specialist family law team has experience in dealing with the delicate nature of separation that may involve domestic or family violence. With their experience they can assist and advise on how to divorce. Our Accredited Family Law Specialists are able to look at the best outcome for you and give you advice as to your legal rights and entitlements.

If you or someone you know is in a domestic violence situation, it is crucial to know that you can reach out for assistance. For 24 hour a day advice and support contact the National Counselling Helpline on 1800 RESPECT (1800 737 732). For emergency service, contact 000.

Click here to read more about domestic violence.

For advice about domestic violence contact us on 1800 300 170 or email us

at familylaw@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.