FAMILY LAW REVIEW

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ARTICLES

Inconsistencies in and the inadequacies of the family counselling and FDR confidentiality and admissibility provisions: The need for reform – *Donna Cooper*

In this article the author discusses issues arising from counselling and family dispute resolution (FDR) in relation to confidentiality and admissibility, such as whether an admission of abuse to a child, or a threat to harm the other parent, can be disclosed by the counsellor or family dispute resolution practitioner (FDRP) and used in court proceedings. It is found that the admissibility provisions in the *Family Law Act 1975* (Cth) are far more narrowly defined than the confidentiality requirements and have been interpreted strictly by the courts. There are competing policy considerations: the strict "traditionalist" approach, that people can have absolute faith in the integrity of counsellors and mediators and in the confidential nature of the process, must be balanced against a more "protectionist" stance, being the individual rights of victims to have all relevant information placed before the court and to be protected from violence and abuse. It is suggested that legislative reform is required to ensure that courts balance these considerations appropriately and don't compromise the safety of victims of abuse and family violence. 213

Let me be me: Parental responsibility, Gillick competence, and transgender minors' access to hormone treatments – *Katherine France*

Australia is the only country to require parents or guardians to seek court authorisation in order to consent to cross-sex hormone treatments for their transgender children. This article contends that such approval should not be required and that the position in Australia should be brought into line with the rest of the world. First, a child's capacity to consent is capable of being determined by health practitioners, without the need for judicial intervention. Second, the proper application of the relevant legal principles leads to the conclusion that cross-sex hormone treatments are not "special medical procedures" for which court authorisation is necessary. Finally, the financial and emotional costs of the application to the court are harmful for both the child and their family. 227

PROFESSIONAL INSIGHTS

When can a party to contested proceedings have leave to adduce evidence from an adversarial expert when a single expert has already been appointed? – *Richard Ingleby* and *Anne-Marie Rice*

This note discusses some practical implications of the requirements which must be satisfied in order to have permission to adduce evidence from an alternate expert witness in circumstances where a single expert has already been appointed. In particular, consideration is given to the way that the decided cases relating to leave have interpreted: (i) the word "special" as a descriptor of the reason for such alternate evidence; and (ii) the requirement to exhaust the remedies within the *Family Court Rules 2004* (Cth) to clarify the evidence of single experts before going to the next step of an alternate expert witness. 249

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