

27 April 2011

Committee Secretary
Senate Legal and Constitutional Committees
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Dear Committee Secretary,

Family Law Legislation Amendment (Family Violence and Other Measures) Bill

I am writing to express my support for the changes to the *Family Law Act* proposed in the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011, and to appeal for further changes to the Bill to ensure that the family law system ceases to jeopardise the safety of children and parents who are victims of violence. Young children, (generally those under 7 years of age) are the most vulnerable, in family law the expectation seems to be that the best interests of the child are managed by the Independent Children's Lawyer. Their role decides according to shared parental responsibility, it does not represent the child in a lawyer/client relationship. In the current family law system children are not represented, protective parents (in DV cases the only party attempting to protect the child) find themselves in situations where their own lawyers don't represent their concerns.

I strongly support the measures proposed in the Bill to provide better protections for people who have experienced family violence within the family law system and believe that the proposed amendments are essential to placing the safety and protection of children and family members at the forefront of the *Family Law Act*.

Support for key changes

In particular, I strongly support:

- Broadening the definition of 'family violence' to include elements of coercion and control, a wider range of behaviour and removing the objective test of 'reasonableness' so that family violence can be properly considered whenever the victim actually fears for their safety
- A broader definition and understanding of child abuse that includes exposure to violence
- Prioritising family violence when considering what is in the best interests of the child
- Removing the 'facilitation' aspects of the 'friendly parent provision'
- Repealing section 117AB about costs orders relating to false allegations or denials of Violence

Further changes that are needed

I believe that a number of further changes are necessary to better protect the safety of children and their family in the family law system. In particular, I recommend that:

- The safety and protection of children should be prioritised above all else. Its priority should not be subject to proving an inconsistency with other considerations.
- The Act should make it clear that exposure to family violence is a form of family violence and that it applies to behaviour by the person perpetrating violence, and not the victim of the violence.
- There should be no presumptions in family law – every family should be treated as unique.

This means that there should be no presumption of equal shared parental responsibility and

the courts should not be required to start from any particular care arrangement.

- The Act should protect the safety of the primary carer as this increases children's safety.

Conclusion

Based on my own experiences and the evidence presented in numerous research reports over the last few years, I strongly recommend you support the amendments suggested in this letter and the expeditious passage the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011.

Yours sincerely,