

Senate Inquiry - Family Law Amendment Bill 2023 Public Hearing 11 August 2023 Question on Notice

Question (Hansard, p52.)

Senator WATERS: Last questions from me. What are the gaps in the current data collection around family law proceedings? How should we be better collecting data and analysing it so we can assess the impact of the changes proposed by this bill and future changes?

Mrs Brady: We might have to take that one on notice in terms of the gaps. I think the point we were making was that with any changes to the legislation we should be evaluating whether they are making a difference. In particular we were speaking about where there was recurrence of systems abuse or where there are measures in the bill that are intending to reduce the systems abuse that's going on and that we should certainly be evaluating, if the bill goes through as it is in its current form, that what is intended is indeed happening.

Response

As noted in our submission and in Mrs Brady's response above, FRSA would like to see the legislative amendments closely monitored to ensure that:

- the understanding and application of the law is in keeping with the intent of the amendments
- if unintended consequences occur, a timely mitigating response can be enacted.

We make note, in particular, of the need to ensure that measures aimed at reducing systems abuse by perpetrators of family violence a) are successful and b) do not shift the burden of systems abuse in the courts, elsewhere in the family law system.

A range of data is currently collected across the family law system. For example, government funded Family Dispute Resolution providers report into the Data Exchange – the Australian Government's administrative data collection system. This reporting includes deidentified demographic data and some, relatively limited, outcomes data. The court also collects administrative data such as case load data (no. of applications for interim orders, no. of applications for final orders, for example). Empirical data collection – for example the excellent studies on family law undertaken by the Australian Institute of Family Studies – provide critical evidence on the experiences of, and outcomes for, children, young people and adults navigating the family law system. However, currently, there is no dedicated way to collect data as reforms are implemented or to evaluate their success. Given the high stakes objective of the amendments – that is to make the family law system “safer and simpler for separating families to navigate, and ensure the best interests of children are placed at its centre” - FRSA's view is that it is imperative this objective is kept in check.

Our colleagues at Relationships Australia have provided a comprehensive list of the factors that data collection should seek to understand in their submission to this inquiry (Submission 8, pp10–11). We support and reproduce Relationships Australia's list here:

- “whether children and young people are safer because of the reforms



- whether children and young people feel that they have sufficient opportunity to be heard, both in their own matters and in systemic advocacy
- whether the amendments have supported, or detracted from, children's capacity to have meaningful relationships with significant people
- whether the amendments have supported, or detracted from, children's access to their culture, community and language
- the impact on service provider resources of the obligation imposed by proposed subsection 70NBD
- how often, and in what circumstances, ICLs are not appointed (i.e. what has been found to constitute 'exceptional circumstances' and how often)
- how often, and in what circumstances, the court has made harmful proceedings orders and how often, and in what circumstances, the court has granted leave pursuant to proposed section 102QAG
- the impact of proposed section 65DAAA
- community perceptions of the effectiveness of harmful proceedings orders
- ongoing and emerging patterns of systems abuse, to evaluate the impact of the harmful proceedings provisions (including the courts, tribunals and other bodies used to perpetrate systems abuse)
- user satisfaction with regulatory arrangements for professionals
- nature and prevalence of non-compliance with orders made under Part VII, and
- perceptions of the cultural responsiveness of processes and structures that comprise the system."