

7 August 2009

Mr. Peter Hallanhan
Committee Secretary
Senate Committee on Legal and Constitutional Affairs
P.O. BOX 6100
Parliament House
CANBERRA ACT 2600

Dear Sir,

Inquiry into Personal Property Securities Bill 2009

We would like to take this opportunity to thank you for your invitation to make a submission to a Parliamentary inquiry into the Personal Property Securities Bill 2009. Women's Legal Service Victoria (WLSV) has been providing free legal advice, information, representation and legal education to women for over 25 years. We specialise in issues arising from relationship breakdown and violence against women. Our principal areas of work are crimes compensation, family violence (principally intervention orders) and family law.

A significant proportion of WLSV's clients who have experienced family violence have had to relocate and hide from former partners or family members in a bid to protect themselves and their children from further abuse. The safety implications of the availability of personal information on a publicly accessible register can not be underestimated.

WLSV does not seek to comment on the *Personal Property Securities Bill 2009* ("the Bill") in its entirety, we do ask the Committee to consider how survivors of family violence and stalking may be affected by the Bill. In particular, should a Personal Property Securities Register ("the Register") be established, we urge that the primary legislation contain provisions that protect the personal information of those women who have greater than usual privacy needs due to their ongoing risk of family violence or stalking.

In particular, WLSV seeks to raise the issues and complexity of family violence to the Committee when considering the Bill. Should the Register be developed then, WLSV recommends that:

1. The primary legislation set out what details of the grantor are to be contained on the Register.

2. Residential addresses of grantors should not be retained, displayed (in any form even as an attachment), or be provided in a search result (written or as a screen result) by the Register.
3. Names or dates of birth should not be used to search the Register. Where possible serial numbers should be used to search the Register. The potential risk to women and children escaping from family violence and stalking outweighs any public interest that may be gained by allowing searches by names and dates of births.
4. Grantors be notified prior to a registration and change of personal information. This notification should be sufficient and timely. An opportunity must then be provided to women survivors of family violence to request that the Registrar withhold their family's personal information and that of their family.
5. As recommended by the Privacy Impact Assessment Report ('PIAR'), the Registrar should alert individuals whose details are to be migrated from existing registers to the Register¹. These individuals and particularly women survivors of family violence should be provided with an opportunity to amend or withhold their personal information.
6. The primary legislation provide for specific procedures for survivors of family violence and stalking to apply to have their personal information withheld. Such procedures must be sensitive and responsive to such women. It is imperative that applications by survivors of family violence and stalking to have their information withheld, be responded to quickly and in a manner that minimises the stress and potential harm to such women.
7. The PIAR recommends that the Registrar develop policy which sets out the process by which an individual could seek to have their name and DOB suppressed, and the circumstances or criteria that would apply.² Such policy should be developed in consultation with community organisations that act on behalf of women escaping from violence to ensure that processes address their specific concerns.
8. The Registrar has the power to deny access to the Register from the outset not just after an unauthorised search has occurred. The Registrar when considering whether to deny access must take into account whether a search would place women or a member of their family at risk.
9. The primary legislation set out exactly what information will be shown on the search result (written and electronic). The information provided in the result should be limited and should not contain the address or date of birth of the grantor. Free text

¹ Recommendations 6, 8 and 10, Information Integrity Solutions, *Privacy Impact Assessment Report*, July 2009.

² Recommendation 11, Information Integrity Solutions, *Privacy Impact Assessment Report*, July 2009.

and attachments should not inadvertently or advertently place women and children survivors of family violence at risk.

10. Grantors should be able to request amendments to their personal information directly from the Registrar instead of asking the secured party, including on grounds of safety in situations of stalking and family violence.
11. Grantors have the power to amend a greater range of information including their details and the description of property.
12. The primary legislation provide for a quick, sensitive and appropriate response to applications made by women survivors of family violence to amend their information.

Nationally, at least 40 per cent of all homicides involved intimate partners or ex-partners.³ It would be a great tragedy if legislation designed to protect consumers lead to women and children being tracked down and killed by her former partner or a stalker. In fact, the National Plan to Reduce Violence Against Women and Children recommends that government policies, and laws need to work together effectively to better protect women and children. Accordingly, WLSV asks that in considering the Bill and legislating for a Personal Property Securities Register, the protection of women and children from family violence be taken into account.

If you would like to discuss any aspect of this submission, please contact Eila Pourasgheri on 03 9642 0877 or Eila_Pourasgheri@clc.net.au.

Yours faithfully,



Eila Pourasgheri
Law Reform and Policy Lawyer
Women's Legal Service Victoria

³ Women were most likely to be killed by an intimate partner (48%) or a family member (23%); Homicide in Australia: 2005-06 National Homicide Monitoring Program Annual Report by Megan Davies and Jenny Mouzos.