

**The Women's Legal Services of the
Northern Territory's submission to the
inquiry into the *Family Law
Amendment (Family Violence and
Cross-examination of Parties) Bill 2018*
(Cth)**



Katherine Womens Information & Legal Service Inc.

A community legal service initiative of Wurli Wurlinjang Aboriginal Corporation and Katherine Regional Aboriginal Legal Aid Service funded by the Commonwealth Attorney General's department.



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13 July 2018

Inquiry: *Family Law Amendment (Family Violence and Cross-examination of Parties) Bill 2018* (Cth)

Senate Standing Committees on Legal and Constitutional Affairs

PO Box 6100

Parliament House

Canberra ACT 2600

By email to: legcon.sen@aph.gov.au

Dear Sir or Madam,

Submission to the inquiry into the *Family Law Amendment (Family Violence and Cross-examination of Parties) Bill 2018* (Cth) – Women’s Legal Services of the Northern Territory¹

Thank-you for your email dated 29 June 2018 inviting submissions to the inquiry into the *Family Law Amendment (Family Violence and Cross-examination of Parties) Bill 2018* (Cth) (the ‘Bill’). Please find attached Women’s Legal Services of the Northern Territory’s (WLSNT) submission.

About WLSNT

WLSNT is constituted by 3 community legal centres focused on the advancement of women’s rights and funded by the Commonwealth Attorney General’s Department and Department of Prime Minister and Cabinet. We provide legal advice, casework, referrals, community legal education and advocacy to women in the Northern Territory. Each service works in areas of civil law, including domestic and family violence, family law, compensation for victims of crime, sexual assault, housing, and consumer credit debts. A majority of clients at each service have experienced family violence.

About our submission

Our submission was originally written in response to the Public Consultation Paper and Exposure Draft of the *Family Law Amendment (Family Violence and Cross-Examination of Parties) Bill 2017* (Cth).

You will note that we strongly advocate that at a minimum, an alleged victim of family violence must have legal representation in family law proceedings where the allegations include coercive or controlling behaviours, sexual offending or physical assault causing harm. This is still our position.

Section B of our submission deals with the consent elements of the 2017 Bill. We note that the concept of consent does not appear in the current 2018 draft of the Bill.

¹ Central Australian Women’s Legal Service Inc; Katherine Women’s Information & Legal Service Inc; Top End Women’s Legal Service Inc.

Additional submissions

WLSNT opposes the exclusion of persons protected in interim family violence orders from the protections offered under s 102NA of the Bill.

Interim family violence orders are made to protect women and children, only where evidence and facts before the Court support and necessitate restraints upon a defendant. WLSNT understands that there are heavy demands placed on the court system which can result in a hearing not be listed for a long period of time after an interim order is made. In addition, where there are related criminal offences a family violence order is often adjourned until the criminal charges are finalised.

A person who has experienced family violence should not be subjected to cross-examination by their perpetrator simply because an interim family violence order is in place as the matter awaits hearing. WLSNT believes the distinction to be artificial, contrary to the experiences of victims of family violence, and with capacity to undermine the legislative intention to afford appropriate protections to family violence victims whilst facilitating evidence on crucial matters.

As a consequence of the above, WLSNT submits that '*other than an interim order*' should be deleted from s 102NA(1)(c)(ii) so that protected persons under interim and final family violence orders are offered the same protections.

WLSNT advocates for culturally safe and appropriate responses in law reform. Aboriginal and Torres Strait Islander people, and those who are culturally and linguistically diverse, may have different experiences in the context of cross-examination and family violence in family law proceedings. In our experience those who identify as part of these communities often face negative repercussions such as shunning or retribution where they come forward as victims of family violence. We strongly submit that further research, and implementation of measures, in this area is needed to ensure that family law proceedings are culturally safe and appropriate.

Yours faithfully,

WLSNT

Vanessa Lethlean
Managing Solicitor
Top End Women's Legal Service Inc.