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Committee Secretary
Senate Legal and Constitutional Affairs Committee

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

Family Law Amendment (Information Sharing) Bill 2023

Relationships Australia welcomes the Family Law Amendment (Information Sharing) Bill 2023 as a critical measure to make the family law, family violence and child protection systems safer for children and their families by operationalising 'key aspects of the *National Strategic Framework for Information Sharing between the Family Law, Family Violence and Child Protection Systems*' (Explanatory Memorandum, p 2). Across multiple submissions over multiple inquiries, Relationships Australia has advocated for improved information sharing architecture and, more generally, for minimisation of the burden that systems fragmentation imposes on families, as well as a holistic approach to safety across these systems.

This Bill is of vital concern to our clients, a very large proportion of whom are affected by domestic and family violence and the risk factors that commonly accompany DFV. For example, Relationships Australia recently undertook a national study involving approximately 1700 participants who had received FDR services from us. Of those participating in the study:

- nearly a quarter (23%) presented with high levels of psychological distress
- 68% reported experiencing at least one form of abuse, with verbal abuse being the most common (64%), and
- 72% reported significant children's exposure to verbal conflict between parents, including yelling, insulting and swearing.

Significant numbers of clients across our other programmes report experiencing or engaging in DFV including, for example, couples counselling, children's contact services, child protection and out of home care services, people with disability who seek our assistance in engaging with the Royal Commission or addressing abuse and neglect of older people, and gambling services. DFV, therefore, is very much core business for us. Accordingly, we welcome the Information Sharing Bill, which will mitigate systems fragmentation and enhance the capacity of the Federal Circuit and Family Court of Australia to make safety-informed, timely decisions based on current and comprehensive information. Relationships Australia particularly welcomes:

- the use of child-focused language (ie 'child-related proceedings')
- the acknowledgement that the 'safety and protection of any party to proceedings, or any child[ren] or other persons connected to the proceedings' can affect the safety (and best interests) of a child to whom Part VII proceedings relate (Explanatory Memorandum, page 18, paragraph 32)
- the acknowledgement that the capacity to engage, interact or support a child to whom Part VII proceedings relate can be adversely affected by violence and abuse (Explanatory Memorandum page 9, paragraphs 37-38)
- the explicit inclusion of firearms agencies as information sharing agencies for the purposes of the Bill

- the empowerment of information sharing agencies to provide particulars, documents or information on their own initiative
- the explicit inclusion of neglect risks and concerns
- the ability of the Court to use the powers to support safe, timely and effective case management, as well as making interim and final orders under Part VII
- the possibility that the Bill will ease burdens on Independent Children's Lawyers
- the 'shift away from party-driven information sharing towards a system of court-led information sharing in relation to family violence, abuse and neglect risk', which will potentially mitigate risks of systems abuse, and
- the requirement that the report on the 12 month statutory review will be tabled in both Houses of Parliament, which is an important step in improving the transparency of the family law, family violence and child protection systems.

We would like to raise the following issues for consideration by the Committee.

First, most families do not approach the Court, but make their own arrangements or enter into consent orders. It appears that these families will be 'out of scope' of the Bill. However, such informal arrangements and consent orders can result in highly unsafe situations for people affected by DFV (including, of course, coercive controlling behaviours which may lead to consent orders in highly dangerous circumstances). Relationships Australia is not seeking access to the information sharing arrangements established by the Bill. Nor are we suggesting that the Bill be expanded to enable or require the Court, when asked to make a consent order, to look behind the proposed order and activate the proposed arrangements. Rather, we are raising the limitations of the Bill with a view to encouraging Government to continue to explore and implement reforms that make the entire family law system safer, more transparent and more accessible.

Second, Relationships Australia considers that achievement of the objects of the Information Sharing Bill could be enhanced by a mechanism that allowed for imposition of a continuing obligation on information sharing agencies to disclose, once an order has been made, particulars, documents or information that falls within the ambit of the original order. We acknowledge that the Bill provides the Court with flexibility in timing of orders, enabling early identification of risks and concerns as well as empowering the Court to update itself in the event of protracted proceedings (proposed clause 67ZBJ). However, we consider that it would be desirable to confer on the Court a power to activate an obligation of ongoing disclosure once the Court has made an order pursuant to the provisions of this Bill. For example, if a person involved in child-related proceedings in respect of which an order has been made applies for a firearms licence while the proceedings are on foot, a flag should be raised, prompting proactive notification to the Court and providing an opportunity for the Court and other agencies to intervene to prevent escalation of violence. Flagging technology of this kind is already used across a range of jurisdictions (eg systems that raise alerts when purchases are made of certain kinds of goods).

Third, Relationships Australia welcomes the review of the amending provisions no later than 12 months after the commencement of clause 67ZBL. This will allow for timely identification (and potentially rectification) of any problems with the operation of Subdivision DA. However, to ensure that the Subdivision continues to meet its objectives, we recommend that the Bill be

amended to provide for the conduct of an additional review, to be arranged for three years after the 12 month review. The report of that review should also be tabled in Parliament, to ensure ongoing transparency.

Kind regards

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