

Senate Legal and Constitutional Affairs Legislation Committee
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25 October 2024

RE: Family Law Amendment Bill 2024

Dear Committee Members,

Thank you for the opportunity to respond to questions on notice from the Senate Committee in relation to the *Family Law Amendment Bill 2024*.

In response to Senator Scarr's request to respond to the recommendations and concerns raised by the Law Council of Australia, we note that their submission states that "we do not oppose the proposed provisions relating to companion animals".

Perpetrators of domestic and family violence will often use economic and financial abuse to exert power and control over victim-survivors. For this reason, Lucy's Project shares the concerns raised by the Law Council of Australia about proposed paragraph 79(7)(g) that would require family law courts to consider "the demonstrated ability of each party to care for and maintain the companion animal in the future, without support or involvement from the other party" and proposed paragraph 79(7)(c) which refers to "the extent to which each party cared for, and paid for the maintenance of, the companion animal".

Lucy's Project agrees with the point raised by the Law Council of Australia that:

"paragraph 79(7)(g) may also have the unintended consequence of adversely affecting victim-survivors of family violence, who are often in a weaker financial position than the perpetrator, and whom these provisions are intended to support. That is, the financially weaker party may be unable to maintain the companion animal to the financial extent of the other party, and this may work against them as a result of proposed paragraph 79(7)(g), which is contrary to the intention of these provisions."

Following consideration of the Law Council of Australia's submission, Lucy's Project makes these recommendations in relation to the proposed provisions about companion animals:

1. Limit the considerations to the following by amending proposed subsection 79(7):
 - any family violence to which one party has subjected or exposed the other party **and any child of a party or any other child in the household;**
 - any history of actual or threatened cruelty or abuse by a party towards the companion animal **or any other animal;**
 - any attachment by a party, **or a child of a party, or any other child in the household,** to the companion animal;
 - any other fact or circumstance which, in the opinion of the court, the justice of the case requires to be taken into account.

2. Remove the following considerations by amending proposed subsection 79(7):
- the circumstances in which the companion animal was acquired;
 - who has ownership or possession of the companion animal;
 - the extent to which each party cared for, and paid for the maintenance of, the companion animal;
 - the demonstrated ability of each party to care for and maintain the companion animal in the future, without support or involvement from the other party;

Lucy's Project supports the recommendations of Women's Legal Services Australia that "provisions concerning companion animals in the Family Law Act and family violence legislation should be consistent in allowing victim-survivors to address the care and safety of their pets in either jurisdiction without precluding their ability to have related issues addressed in the other", and that "the court should be empowered to make interim orders in relation to the ownership and/or care of a companion animal". These recommendations could address some of concerns raised by the Law Council of Australia in relation to the complexity and duration of family law matters.

In response to Senator Scarr's request for case studies, Lucy's Project can share the following excerpts of correspondence we have received from victim-survivors of domestic and family violence, and a worker, which highlight the relationship that people have with their animals:

'I am about to flee domestic violence... I need somewhere for my beautiful dog and cat to go for a short period while I escape as I am scared of what might happen if I leave them behind.'

'I am desperately trying to get my dog minded so I can stay in a women's shelter with my son. My dog is beautiful and so friendly. I've been living in my van to keep her, but my ex-partner keeps finding me.'

'I recently left my ex-partner due to domestic violence. I have had to relocate with my children and our beloved fur baby... We are trying very hard not to rehome or surrender him as we feel we have already lost enough to keep us safe and can't bear the thought of losing him as well.'

'I left a domestic violence relationship last year and had to move in with family... The person looking after my dogs has now said they can't look after them anymore. I have contacted a lot of organisations... I can only get help if I choose to surrender them, and I do not want to do that as they are like family to me.'

'I work for a refuge here... they have to leave their dog with the perpetrator and he does not treat the dog well... The daughter is very distressed and they miss their dog'

Lucy's Project would like to draw the Senate Committee's attention to Women's Legal Services Australia's submission to the 2024 [Inquiry into family violence orders](#) which states:

"Clients of Women's Legal Services frequently report intentional animal abuse as a form of sexual, domestic and family violence, whereby abusers exploit the close emotional bond shared by them, their children, and their animals, to inflict significant harm upon our clients. Clients have disclosed various abuse, torture, and death of their animals at the hands of abusers."

"Victim-survivors are limited in their ability to recover their animals through current family violence order processes. For example, currently in NSW victim-survivors can seek an ancillary property recovery order (APRO) to recover their animals in Apprehended Domestic Violence Order (ADVO) proceedings. However, this is only possible if the ADVO has not been finalised and there is no dispute over the animal's ownership. Given that many family violence order proceedings involve family law issues, disputes over animal ownership often limit the effectiveness of this mechanism in ensuring the protection and safety of both the victim-survivor and the animal".

Women's Legal Services Australia included the following case study in their submission to the 2024 [Inquiry into family violence orders](#):

Case Study – Animal abuse in NSW

Alison and Greg* were together for █ years, during which Greg subjected Alison to significant physical violence and threats to kill her. Greg was also violent to Alison's dog, █*

Following a particularly violent assault by Greg against Alison, Greg left the home and took █ with him as a deliberate tactic to further intimidate and control Alison. █, NSW Police charged Greg with criminal offences and applied for an Apprehended Domestic Violence Order to protect Alison from Greg.

During the ADVO proceedings, Alison lodged an application for an Ancillary Property Recovery Order seeking the return of █ to her. At the time of the proceedings, █ was registered in Alison's name, and she had paid all vet bills and expenses for █

While the Local Court ultimately made the APRO sought, it could not be enforced by police due to a dispute over █ ownership, and the court lacked the power to determine the ownership of "property."

Alison had no option but to seek resolution in a second jurisdiction, the Federal Circuit and Family Court of Australia, to have █ returned. With no other assets needing a property settlement in the FCFCoA, Alison chose not to pursue further court action. She agreed to share █ care with Greg, resulting in ongoing contact with him.

** This case has been de-identified, including by not using their real names.*

We greatly appreciate your consideration of our recommendations to ensure that family law courts prioritise the safety of people and animals experiencing domestic and family violence.

We would be happy to provide any further information to assist the Committee and can be contacted via the details below.

Yours sincerely,

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