

## **SENATE ESTIMATES - OPENING STATEMENT**

On behalf of the Family Court of Australia & Federal Circuit Court of Australia. Witness: David Pringle, 3 March 2020.

### **INTRODUCTION**

These are both challenging and exciting times for the Family Court and Federal Circuit Court. We are forging ahead with a number of critical reforms. With the Hon. William Alstergren as the head of jurisdiction of both courts, and with his clear vision for reform; together with a committed group of hard working judges, registrars, family consultants and staff, we are better placed than before to meet the challenges facing the Courts.

The Courts' focus in the family law area is two-fold:

1. First, ensuring that family violence considerations, and the best interests of children, are at the forefront of everything we do; and
2. Secondly, reforming the way in which we work to fundamentally transform what it will mean for Australians to engage with the courts.

In doing so, we will ensure that all resources are utilised in the most effective and efficient way possible.

### **BACKGROUND**

I should briefly provide some background as to the work of the Courts, which involves a unique blend of complexity and volume.

As to the challenging nature of the work, family law, which makes up the majority of our filings, is by its nature difficult. It can involve intricate family trusts and commercial considerations, right through to safety and risk issues and international considerations, all in an emotionally charged environment. It often involves allegations of family violence, substance abuse, mental health issues and other risk factors; and at all times, we must ensure that everything we do is done in the best interests of the child. For the Federal Circuit Court, the work also extends across an expansive jurisdiction, to areas as diverse as migration, workplace law, consumer law, bankruptcy and intellectual property law.

As to the volume of work, in family law alone, over both courts, there are approximately 100,000 new applications filed each year across 40 locations, many of them regional. About 20,000 of those filings are final order judicial filings. Federal Circuit Court judges, who deal with nearly 90% of the family law volume, have to bear average docket sizes of between 400 to 500 cases. This is unparalleled for Chapter III Courts.

Then add approximately 60,000 divorces and consent order applications filed each year for registrars to manage, and a further 10,000 or so filings in all other areas of general federal law in the Federal Circuit Court. This includes migration applications, which have grown by more than 60% over the last four financial years, growth which is likely to continue unabated.

Therefore, by the end of June, it is expected that the collective pending caseload for the Courts, in family law and migration alone, will be approximately 30,000 cases, almost 12,000 of which will be migration.

The need, therefore, for the Courts to reform the way they operate is clear; as is the need for additional resources.

## **REFORM**

Before I briefly outline the Courts' key projects and areas of reform, it is important to stress the Courts' key drivers, which are to ensure:

1. a complete focus on the impact of family violence and safeguarding children and families;
2. the coherent operation of both Courts in family law; and
3. case management reform to ensure the timely resolution of disputes.

The following are the Courts' key reform initiatives:

### **Family Violence & Risk**

Firstly, in regard to family violence and risk, the Courts have already taken a number of active steps, including:

- the establishment and ongoing work of a Joint-Court Family Violence Committee;
- the production of an updated Family Violence Plan;
- the development of Family Violence Best Practice Principles;
- training, for all judges, through the National Judicial College, on family violence;
- training for all staff through the Courts' e-Learning platform.

In addition, we are fully committed to the following reforms:

1. A three-year government funded risk screening and triage pilot known as DOORS, to take place across the Brisbane, Adelaide and Parramatta registries. The pilot will involve identifying risk to children and families as early as possible through the development of an App, and the triage of cases that prioritise the highest risk cases into a specialist list. It will screen for family violence, suicidality, alcohol and substance abuse, and the risk of child abuse, and provide safety planning and service referral for at-risk litigants.
2. Secondly, both Courts have come together through the Joint Rules Harmonisation Working Group to harmonise their respective Notices of Risk into one notice. It is anticipated that by the middle of this year, a new harmonised form will be ready for consideration by all judges for implementation as soon as possible.
3. Thirdly, The Courts are supporting two Government-led information sharing initiatives:

- The first being the co-location of State and Territory Child Welfare officials and police in the majority of the Courts' family law registries.
- The second being the National Strategic Framework for Information Sharing between the Family Law, and Family Violence and Child Protection Systems in all States and Territories, to share information between relevant courts and agencies to better protect families and children.

### **Court Practices**

The second main area of reform is in the area of Court practices. In brief, this involves the following ground-breaking initiatives:

1. The harmonisation, into a single set of rules, of family law-related rules across both Courts. This is the first time in nearly 20 years that this project has looked to be achievable, and is guided by a joint-committee of judges and an independent Chair. Considerable progress has been made, and the aim is to finalise the harmonised rules in the second half of this year.
2. Secondly, is the move towards a common case management approach for all family law cases to ensure a consistency of approach across both courts for similar types of cases. The Courts have already moved towards this goal, with the Chief Justice recently issuing the first Joint-Court practice direction, of 10 Core Principles that underpin the exercise of both Courts' family law jurisdiction (such principles having already received international commendation).
3. Additionally, the Chief Justice has initiated a number of projects that are designed to reduce backlogs and support litigants to resolve their disputes, so as to mitigate against the emotional and financial toll caused by protracted litigation. These include:
  - Reframing the important roles of registrars and family consultants. The aim is to more directly involve those crucial resources in helping families to resolve their disputes and to better support judges, primarily through mediated outcomes, in property and parenting cases. Senior Registrars will also support judges by dealing with higher volume and less complex hearings. Registrars are already providing significant assistance through the Discrete Property List, and Small Claims List ("PPP 500"), by case managing and resolving 50-70% of new property filings without the need for judicial intervention.
  - The Chief Justice has also designed an enhanced callover model which now includes trained registrars and family consultants with experience in family law mediation, undertaking conferences for cases that have been in the system for more than 2 years, to assist parties to progress or resolve their case. Past callover campaigns have resulted in the resolution of approximately 50% of these older cases and the new campaign is showing equally promising signs.

4. Outside family law, the Federal Circuit Court is also working hard to manage the ever-growing volume of migration cases, which come in at approximately 6,000 new filings each year, or 500 per month. The Court is implementing new case management arrangements and is planning to use more technology and gather more data to better manage variable workloads across registries.
5. In the area of access to justice for indigenous Court users, arising from the Court's Reconciliation Action Plan, the Court is expanding on its existing Indigenous Lists in Sydney, Cairns, Adelaide, Darwin and Alice Springs, and will shortly launch its Indigenous List in Melbourne.
6. Finally, in this digital age, the Courts remain committed to the effective use of technology and I am pleased to note that the Courts expect to commence rolling out the Digital Court File from the middle of the year.

In summary, under the stewardship of the Chief Justice, the Courts have made terrific progress towards reforming and improving our practices to minimise the impact of the litigation process on litigants and families. However, despite an absolute commitment to making these improvements, the ability for the Courts to achieve the necessary transformation will depend, in part, on the Courts obtaining sufficient resources to assist in managing complex issues, including family violence, and large workloads, including in migration.

Regardless, we will continue to work tirelessly to improve the operations and the effectiveness of the Courts, in the interests of all Court users.