

To the Committee Secretary
Senate Legal and Constitutional Committees
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Canberra ACT 2600
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Dear Committee Secretary

Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011

The YWCA of Canberra thanks the Committee for the opportunity to make a submission on changes to the Family Law Act proposed in the draft Family Law Amendment (Family Violence) Bill 2010.

The YWCA of Canberra is values led, non-profit, community based organisation working and advocating for social justice within a feminist framework. The YWCA of Canberra has been providing community services and representing women's issues in the Canberra community since its establishment in 1929. We currently work with approximately 4,500 Canberrans through the delivery of 28 quality programs, across 20 physical locations, in the areas of children's services, community development, housing, youth services, personal and professional training, and women's leadership.

The YWCA of Canberra strongly supports the Federal Government's moves to provide better protections for people who have experienced family violence within the family law system. The proposed amendments are an essential first step to place safety and protection of children and family members at the forefront of the Family Law Act.

Since the changes to the Family Law Legislation in 2006 the workers in the programs of the YWCA of Canberra have observed some very difficult issues arise for families who are separating where violence and abuse has been a factor in the relationships.

The current laws have the unintended outcome of silencing people who are subjected to or witness violence and abuse. People are discouraged from talking about the family violence or abuse to the family law counselors for fear that they will be seen as unfriendly witnesses in the family law process.

People disclosing family violence has led to their losing time with their children and the person they had been trying to protect their children from gaining more time or even total custody of the children. This seems to be an extreme disservice to children and young people and their non offending parent or carer.

The amendments to the current Family Law Legislation will begin to prioritise the safety of children with separating parents. It is important that the Federal Government incorporates the Convention of the Rights of the Child into the Objects of the Act and that children's safety and their best interests are prioritised. The Family Court needs to return to being a place where difficult issues like family violence and abuse can be discussed rather than hidden.

The rest of this submission provides reflections on the types of situations that our workers have witnessed and provides case studies of the unintended consequences of the laws.



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Housing and Social Inclusion

The YWCA of Canberra's Housing and Social Inclusion Unit strives to create a socially inclusive society where all people feel valued, their differences are respected, and their basic needs are met so they can live in dignity with opportunities to participate in, contribute to and share in the benefits of the wider community and economy.

In the Housing and Social Inclusion Unit of the YWCA of Canberra we support a number of families every year who have family violence issues that go through the Family Court. We have tried to assist in a number of situations where the children were given no choice in spending time with a parent who had assaulted or abused them or their primary parent. All the situations we have been involved in have had a very unsettling and damaging affect on the children.

This is illustrated through sharing the experience of a family we are currently supporting:

The children have asked, in fact begged, not to go to visit their father because he is violent and abusive to them currently and to their mother and older siblings in the past. They have professional reports that the children are stressed by their contact with their father and there are behavioural symptoms which suggest the contact is detrimental to them. The woman and her children left their husband/father after a history of domestic violence. The older children were traumatized by his actions and reflect disturbing stories of his abuse and violence towards them. The mother has tried to give the father access to the children but their reports of their time at his house have given her no choice but to act protectively of them and refuse him access. In refusing him access she has become subject to his and lawyers threats and intimidation.

YWCA of Canberra Children's Services

YWCA of Canberra Children's Services portfolio cares for over 500 children per week throughout the ACT. Some of the services include:

- Long Day Care which provides full day care, part time care and occasional care for children aged from birth to 8 years at 3 centres in the ACT.
- Family Day Care which offers professional care for children aged 0 to 12 years in the private homes of FDC workers.
- Before and After School and Pre school Care at 13 school sites.

In all of these programs, YWCA of Canberra staff deal with situations with family law involvement. In addition, staff experience issues with families where no orders are in place. Parents report that the process of applying is too complex and as such, do not attempt to get help. A result of this means that children are exposed to ongoing difficulties. Others report that they fear the outcome of a Family Court hearing will leave them with less time with their children and so do not apply. Again the result of this is that the children and the parents end up facing the difficulties without the support they need. A final barrier that some families report is the cost of attending court. As such, some families decided that it is easier and cheaper to try and work the issues out themselves.

The following situations illustrate some of the issues that families in our Children's Services programs are dealing with, and how our workers observe and try to assist with these issues.



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The YWCA of Canberra Children Services are mandatory reporting services and the workers liaise closely with Child Protection Services (CPS) where they see children are at risk. However it is often difficult for the CPS workers to make clearly defined decisions in the cases we have described.

Conclusion

The issues YWCA of Canberra's workers witness in the families we support concerns us greatly. We urge the Senate Committee to pass the proposed amendments and continue to try and improve the Family Law so that separating families where there has been violence and abuse are spared the hardship and pain we see they are now enduring.

Rebecca Vassarotti
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YWCA of Canberra

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