

Dear Committee Secretary,

I am writing to express my support for the changes to the Family Law Act proposed in the Family Law Legislation Amendment (Family Violence and other measures) Bill 2011, and to recommend that further changes be made to the Bill to ensure the family law system does not jeopardise the Safety of women and children.

I strongly support the measures proposed in the Bill to provide better protections for people who have experienced family violence within the family law system and believe that the proposed amendments are essential to placing the safety and protection of children and family members at the forefront of the Family Law Act.

Based on my own experiences and the evidence presented in numerous research reports over the last few years, I strongly recommend you support the amendments.

But one thing I don't agree on is Repealing section 117AB about costs orders relating to false allegations or denials of violence, as I think there should be strong evidence to prove that violence has occurred (...)

Yours,
MICHELLE O'HAIR

P.S I here is a speech of Kate Ellis.....

THE HON KATE ELLIS MP
MINISTER FOR THE STATUS OF WOMEN

SPEECH IN SUPPORT OF THE
FAMILY LAW LEGISLATION AMENDMENT
(FAMILY VIOLENCE AND OTHER MEASURES) BILL 2011

26 MAY 2011
E and OE only.

It is with great pleasure that I speak in support of the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011 today.

Earlier this year, the Attorney-General and I launched the national plan to reduce violence against women and their children—a groundbreaking 12-year plan to end the unacceptable levels of domestic and family violence being perpetrated in Australia each and every day.

I am pleased to say that this Family Law Legislation Amendment (Family Violence and Other Measures) Bill is further evidence of this Government's ongoing commitment in this area.

Today, I take the opportunity to address not only what this important bill will do but also why it is needed.

It is important to dispel some of the myths that have grown up around the issue of family and domestic violence in this country and to place the facts firmly on the record.

Firstly, I acknowledge the significant work of the Australian Institute of Family Studies, the Family Law Council and Professor the Hon. Richard Chisholm in providing the strong evidentiary basis for these amendments. I especially acknowledge the numerous women, men and children who have shared their painful experiences to help inform the development of these important changes to the law.

The reforms will allow Australia's family law system to respond more effectively to family violence and child abuse. Importantly, the reforms we are introducing through this legislation will ensure the safety of children during the process of separation.

This Bill will prioritise the safety of children in parenting matters. It will strengthen the obligations of family consultants, family counsellors, family dispute resolution practitioners, and lawyers to prioritise the safety of children.

Under the proposed reforms these advisers must encourage families to focus on the best interests of the child and, in doing so, to put the wellbeing of their children front and centre when reaching parenting arrangements. Importantly, we are actively removing the provisions that had the perverse effect of discouraging the reporting of family violence.

To this end, there will be a new duty on the courts to ask each party about the existence or risk of family violence and child abuse. Parties will have to report their concerns about family violence and child abuse to the courts, and the courts will have to deal promptly with these concerns. Other people interested in the proceedings will be able to make similar reports to the courts. Courts will no longer consider the extent to which a parent is friendly to the other parent, and individuals will no longer need to fear being saddled with a costs order if they report family violence to the courts.

The Bill will also make it easier for state and territory child protection authorities to participate in family law proceedings where appropriate. These are all vital reforms in our goal to secure safer parenting arrangements for children.

This Bill will continue to support shared care and a child's right to a meaningful relationship with both parents. However, where family violence or abuse is a concern the courts will be required to prioritise the safety of the child over the child's maintaining a meaningful relationship with each parent.

The Bill will also give effect to the United Nations Convention on the Rights of the Child, allowing decision-makers, in the event of any ambiguity

We have made sure that these cost orders are no longer mandatory.

The amendments in this bill will make it easier for the court and other decision makers to inform themselves about family violence when determining matters under the Family Law Act. Through these amendments we hope to see increased reporting of family violence in Family Court matters.

We know that this violence does exist. We need to make sure that the court is in a position to receive and weigh evidence on it.

This leads me to the final myth that I would like to dispel today.

There has been some opposition to this Bill from individuals and groups who say that separated mothers routinely make false accusations of family violence and child abuse. They say that vindictive parents commonly pressure their children to make false claims for the purposes of revenge or to gain

tactical advantage in child custody disputes.

It is concerning that these groups are gaining increasing prominence and respectability in this country, that we are hearing their arguments repeated across the nation and indeed in the parliament and that they are distorting domestic family violence figures, spreading misinformation and propagating the view that family violence and child abuse claims are fabricated during custody proceedings.

But what is more concerning is that this spurious view seems to have gotten some traction in our community. Surveys undertaken a few years ago by VicHealth found that 46 per cent of respondents agreed with the statement that: & women going through custody battles often make up claims of domestic violence to improve their case.

Forty-six per cent of respondents agreed with this.

I would like to be very clear about this. This reasoning has been entirely debunked by research in Australia and overseas.

A report in 2007 by the Australian Institute of Family Studies found that the family violence allegation rates in custody proceedings in the Family Court of Australia or in the Federal Magistrates Court are similar to the reported rates of spousal violence profiles in the general divorcing population. In short, claims that abuse allegations are manufactured are bogus and unsupported by any respectable form of evidence.

Violence and abuse claims are not being made up to support some perceived advantage in Family Court cases. In fact, Australian research tells us that the concerns about child and family violence are real, especially during divorce proceedings. Women and children are at their most vulnerable to family violence when parents are separating, and we have seen some pretty high-profile examples of this in recent weeks.

These amendments before the House ensure that our family law system can never again be described as failing to adequately protect children and other family members from family violence and child abuse. These amendments make sure that the Family Court asks the question about family violence. These amendments make sure that the court has the facts that it needs to make child safety a priority.

Some people have said that the reforms in this bill will be bad for men or that they will be good for women, but this is not a debate about that. This is a debate about the rights and safety of children and the responsibilities of parents. It is not a contest about who will be better or worse off. All family members have the right to be free from harm and to live without fear of violence or abuse.

I am pleased to note that this Bill has been strongly supported by the community, by those professionals who work in the family law system and by those who have worked so long and so hard to bring about change. In fact, an overwhelming majority of the 400 submissions received during the exposure draft process supported these changes.

The Government recognises and upholds the right of each child to have love and support from both parents, but that comes unequivocally with the responsibility to protect them from harm.

I congratulate the Attorney-General and his department for their work in achieving a significant law reform package. This is something that our government is committed to, both in legislation and through support programs and the new national plan.

We will work in solidarity with every state and territory government of all political persuasions to turn around what are staggering, disturbing and very real statistics in our community.

I would hope that this is something we could work on in a bipartisan fashion in this House because Australia has a shameful record. It is a record that we need to bring out of the darkness.

We need to confront it head on.

We need to make sure that we are saving more children, women, men and family members from this sort of abuse.