

# Council of Single Mothers and their Children

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## Legal and Constitutional Affairs Legislation Committee

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

Public Hearing, Friday 8<sup>th</sup> July 2011

#### Question on Notice:

**Senator SIEWERT:** I do not know whether you have had a chance to read Professor Chisholm's submission—

**Ms Davies:** I have had a very brief look at it.

**Senator SIEWERT:** He originally suggested taking out proposed section 60CC(3K), which deals with family violence orders and he has now put in a supplementary submission where he suggests amending that. You will not have seen it yet, because we only saw it this morning. I wonder whether you could perhaps take it on notice, have a look at it and see what you think about his suggested amendment, in particular?

**Ms Davies:** Yes. Can you give me the reference to that.

**Senator SIEWERT:** Yes, it is proposed section 60CC(3K).

**Ms Davies:** I have his submission in front of me but, as I said, I was not able to look at it too closely. But I will send you something further shortly.

**Senator SIEWERT:** That would be appreciated.

CSMC supports the amendment of s 60CC(3)(k) as proposed in the *Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011*.

Family Violence is notoriously difficult to prove, occurring within the privacy of the home, and in a context where fear can hamper disclosure. Hence there can be a lack of recorded history and cases can rely on the word of one party against the other. Family Violence Orders are an important link in the evidentiary chain to substantiate assertions of family violence. As such they need to be considered by the Family Court when giving regard to family violence and how it impacts on the best interests of children.

Family Violence Orders in and of themselves do not have an impact on the best interests of children; rather it is the violence which led to the orders being made and the implementation of those orders which has the impact. Professor Richard Chisholm's Supplementary Submission of 8 July 2011 proposes that s 60CC(3)(k) be reworded to:

- (k) any relevant inferences that can be drawn from any family violence order that applies, or has applied, to the child or a member of the child's family, taking into account the nature of the order, the circumstances in which it was made, any evidence admitted and any findings made by the court that made the order, and any other relevant matter.

This proposed wording would enable the evidence of violence demonstrated in family violence orders to be examined by the Family Court. If the original amendment proposed in the Bill is not included, CSMC would support Professor Chisholm's suggested amendment to s 60CC(3)(k) of the Family Law Legislation.

**Support Line (03) 9654 0622**

**Rural Callers 1800 077 374**



**Administration (03) 9654 0327**

**Administration fax (03) 9654 0328**

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**Council of Single Mothers & their Children (CSMC) Victoria**

**54 Victoria Street, Carlton South 3053**