
5 July 2011

Committee Secretary
Senate Legal and Constitutional Committees
PO Box 6100
Parliament House
Canberra ACT 2600

By Email: legcon.sen@aph.gov.au

Dear Committee Secretary,

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

The Murray Mallee Community Legal Service is a community legal centre providing legal information, legal advice, advocacy, law reform and community legal education across the Northern and Southern Mallee regions of Victoria and the South West of New South Wales. The catchment area is a large one, approximately 80,000 square kilometres, and encompasses the local government areas of Wentworth, Mildura Rural City Council, Balranald and Swan Hill.

The Service provides face to face appointments in our Mildura office and regular outreach appointments in Swan Hill, Robinvale and Dareton. We provide a freecall telephone advice line for the entire catchment area and a catchment wide community legal education program. We have been providing these services to our community since 1996.

The majority of clients seen by our service are seeking our assistance with a range of family law matters. We also deal with administrative law, credit and debt law, consumer law, criminal law and a wide variety of other civil law matters.

We are writing to express our 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 that the family law system does not jeopardise the safety of women and children.

We have seen a number of family law clients who have experienced family violence against themselves and their children. After the breakdown of her violent marriage, one client's children resided with her. The husband successfully applied for orders to spend unsupervised time with the children and requiring the young children to travel significant distances to spend time with their father.

We 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*.

In particular, we support:

- Broadening the definition of ‘family violence’ to include elements of coercion and control, a wider range of behaviour and removing the objective test of ‘reasonableness’ so that family violence can be properly considered whenever the victim actually fears for their safety
- A broader definition and understanding of child abuse that includes exposure to violence
- Prioritising family violence when considering what is in the best interests of the child
- Removing the ‘facilitation’ aspects of the ‘friendly parent provision’
- Repealing section 117AB about costs orders relating to false allegations or denials of violence

We also strongly believe that a number of further changes are necessary to better protect the safety of children and their family in the family law system. In particular, we recommend that:

- The safety and protection of children should be prioritised above all else. Its priority should not be subject to proving an inconsistency with other considerations.
- The Act should make it clear that exposure to family violence is a form of family violence and that it applies to behaviour by the person perpetrating violence, and not the victim of the violence.
- There should be no presumptions in family law – every family should be treated as unique. This means that there should be no presumption of equal shared parental responsibility and the courts should not be required to start from any particular care arrangement.
- The Act should protect the safety of the primary carer as this increases children’s safety.

Based on our experiences and the evidence presented in numerous research reports over the last few years, we strongly recommend you support the amendments suggested in this letter and the expeditious passage of the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011.

Yours faithfully,
Murray Mallee Community Legal Service
per:

Amanda Morrison

Amanda Morrison BA (Jur) LLB
Community Lawyer