

5th July 2011

RE: Family Law Legislation Amendment (Family Violence and Other Measures) Bill.

I am writing to express my strong 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 urgently to the Bill to ensure that the family law system does not jeopardise the safety and wellbeing 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.

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The politicians need to take notice of the alarming statistics in regard to what single women go through, domestic violence and also the current state of the family laws/process. The Single Women and their Children Association is a great start to gain information. I read somewhere for instance that 85% of single parents are women and their children are one of the worst affected groups in Australia in regard to violence and poverty. Our children are our future. If we don't get this right, then the violence of the next generation escalates and our community/society deteriorates even more.

I continually hear of cases worse than mine and am appalled at the way our society, community and politicians fail to act to protect and support children and their carers from violence. There is no doubt that our society has more violence and less emphasis on family values today than with previous generations. I can't emphasise enough, how vital it is for a complete change in how our society regards and values family, children and the sanctity of a secure, safe, happy childhood and home environment. Respect, love, accountability and discipline with children (eg as per psychologist Kathy Walker in the way of 'logical consequences' non-physical) is so vital in childhood and every effort should be made to encourage and preserve this.

I am sickened when I hear of violence to children especially physical and sexual. Prevention of this MUST be made a priority.

There is so much to tell and I have so many recommendations because as a mother, primary carer, woman and (...), my experience has highlighted many inadequacies or flaws not just in this very male dominated Family Law Process, but in the whole system. This includes Child Support Agency, Legal Aid and other legal services, local community and the various support services available for women in crisis.

I recommend the following changes (a good start) and would be eager to speak with you in person, if you have the time, to further discuss my experience and recommendations.

Key Changes:

1. Conflict of Interest: Prevent legal practitioners from crossing professional boundaries ie being personally involved with their clients.
2. Risk assessment, prevention and management of ANY form of domestic/family violence before or after separation and support and counselling for both parties.
3. 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 and wellbeing.
4. Broader definition and understanding of child abuse that includes exposure to any form of violence.
5. Prioritising family violence when considering what is in the best interests of the child
6. Removing the 'facilitation' aspects of the 'friendly parent provision'
7. Repealing section 117AB about costs orders relating to false allegations or denials of violence.
8. . Improve the criteria for allowing legal aid ((...)

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11. Change the laws to remove 'step parents' from having legal rights if and when a non-primary parent becomes deceased (...)

12. Establish risk assessment and better ways to identify, manage and prevent system abuse and unfair advantage especially for a mother/women/primary carers.

13. Prevent the self represented parties or perpetrators of domestic violence from cross examining when there have been claims of family violence or a history of high conflict.

Further changes recommended:

1. During the family court process, protect, value and empower women, particularly functional primary carers and their children.
2. Increased funding to The Women's Legal Services Australia and establishment of more of these centres in other areas.
3. Cap or limit the amount of fees charged by lawyers and barristers to families going through separation and going through the court process.
4. Greater emphasis on mediation to limit the adverse costs and effects of litigation before and after separation.
5. Comprehensive re-education of legal practitioners and others who work in the court system, on WHAT domestic violence/family violence is in all of its forms, risk assessment, minimisation, management of this violence as well as effective management (including respect, sensitivity, empathy, validation, empowerment of victims) of this the affected clients and the effects or damages that they suffer.
6. Allow validation and compensation to victims of all forms of family violence
7. Ensure appropriate counselling not only of the victims of this violence but also of the perpetrator, for the benefit of both parties and especially the children.
8. Make the quality of life, stability, routine, normality and security of the children a priority.
9. Allow functional primary carers and their children (particularly victims of violence) the option of relocation in instances where the primary carer's family live in another state of Australia.

I believe that a number of further changes are necessary to better protect the safety and wellbeing of children

and their family in the family law system. In particular, I recommend that:

1. 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.
2. The Act should make it clear that exposure to family violence (before or after separation) is a form of family violence and that it applies to behaviour by the person perpetrating violence, and not the victim of the violence.
3. There should be no presumptions in family law – every family should be treated as unique. This means No 'black and white rule for everyone' and 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.
4. The Act should protect the safety and wellbeing of the primary carer as this increases children's safety.
5. Increased child support amount and access to spousal maintenance from the non-primary carer.
6. Greater value and respect for maternal bond and attachment to children (especially young children) and especially in circumstances of family violence, power imbalance (ie financial or legal advantage) and where the mother is primary carer.

7. Greater support and counselling to parents, especially mothers and primary carers who suffer from financial hardship as a consequence of domestic violence.
8. Better acknowledgement to the victim ie when a claim of violence is made by a primary carer, greater care and assessment needs to be made in and out of the court. Disbelieving the victim by various legal practitioners exacerbates the trauma experienced. Assistance needs to be given to the victim on how to collect and present evidence to the court when necessary.

(...)

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

Yours sincerely,

(...)