

MACQUARIE LAW SCHOOL

Faculty of Arts

26 May 2023



Committee Secretary

Senate Legal and Constitutional Affairs Committee

Family Law Amendment (Information Sharing) Bill 2023

To whom it may concern,

I am a family law academic at Macquarie University.

I strongly support the enactment of the Family Law Amendment (Information Sharing) Bill 2023. The proposed law would give effect to recommendations 2 and 3 of the 2019 Australian Law Reform Commission report *Family Law for the Future – An Inquiry into the Family Law System*.

Recommendation 2 states:

“The Australian Government should work with state and territory governments to develop and implement a national information sharing framework to guide the sharing of information about the safety, welfare, and wellbeing of families and children between the family law, family violence, and child protection systems. The framework should include:

- the legal framework for sharing information;
- relevant federal, state, and territory court documents;
- child protection records;
- police records;
- experts’ reports; and
- other relevant information.”

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Recommendation 3 states:

“The Australian Government, together with state and territory governments, should consider the information sharing platform as part of the National Domestic Violence Order Scheme to include family court orders and orders made under state and territory child protection legislation.”

The Federal Circuit and Family Court of Australia (FCFCOA) do not have inquisitorial powers to investigate allegations of family violence. Moreover, the FCFCOA does not have the power to order a state or territory based child protection department to intervene in a family law case. Although these issues will not be addressed by the proposed law, the Bill will create a national framework for information sharing by allowing the FCFCOA to order state or territory based child protection departments (i.e. information sharing agencies) to provide relevant information about family violence and child abuse for family law cases. This will give the FCFCOA the necessary information to make decisions about the best interests of the child and thereby helps promote Australia’s international obligations under the United Nations Convention on the Rights of the Child.

I agree with the position of the Commonwealth Attorney-General, the Hon. Mark Dreyfus KC MP that the Bill strikes an appropriate balance between providing important information to the FCFCOA and the protection of sensitive information, as outlined in his second reading speech on 29 March 2023.

If you would like further information, please email me.

Yours sincerely,

Dr Henry Kha
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Macquarie University