



Committee Secretary
Senate Legal Constitutional Committees
P O Box 6100
Canberra ACT 2600

27th April 2011.

Dear Committee Secretary,

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

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 that 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 the children and family members at the forefront of the *Family Law Act*.

My experience of the Family Law system has indicated to me that the current Family Law system is not working well to protect children from family violence. It seems that the current legislation provides for 'substantial and significant time' spent with parents whether the child suffers as a result of family violence or not. It has been my experience that that the violence experienced by children most frequently is 'psychological' violence and in some cases is extreme. The perpetrators of such violence often portray to others a façade and often the victim is not believed. I refer you to an article published in *The Australian* written by Adele Horn on 9th April 2011. The article portrays a very common experience for women and children who are subjected to this particular heinous family violence.

Support for key changes

I strongly support the key changes proposed to the current legislation particularly:

- 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
- Remove the 'facilitation' aspects of the 'friendly parent provision'.
- Repealing section 117AB about the costs orders relating to false allegations or denials of violence.

Further changes that are needed.

I 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 I recommend that:

- The safety and protection of children should be prioritised above all else. Its priority should not be subject to proving any 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 the 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.

Conclusion

Based on my own experiences and the evidence presented in numerous research reports over the last few years, I strongly recommend that 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,
North and North West Community Legal Service Inc.

Deborah Clarke
Principal Solicitor