

Labor Senators' Interim Dissenting Report

3.1 For more than forty years the family court system has been endeavouring to repair broken families. The complexity of the challenges facing families has increased substantially over that time. There is no doubt that the family law system is struggling to meet the increasing demand for its services.

3.2 The Federal Circuit and Family Court of Australia Bill 2018 (FCFC bill) and the Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Bill 2018 (Consequential Amendments bill) propose to radically change the structure of the courts that deal with family law.

3.3 The majority report refers to evidence from many well respected stakeholders including the Law Council, Law Society of New South Wales, Law Institute of Victoria, Queensland Law Society, Women's Legal Services Australia, Family Court of Western Australia, Attorney-General of Western Australia and other Western Australian lawyers groups, all of whom are critical of the reforms proposed in the FCFC bill and the Consequential Amendments bill.

3.4 The process that Government Senators on this Committee have pursued in their determination to push these bills through the Committee process has been irresponsible.

3.5 On 23 August 2018 the Senate referred the provisions of the Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Bill 2018, Federal Circuit and Family Court of Australia Bill 2018 to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 15 April 2019.

3.6 Government Senators changed the date for this Committee to report from the original reporting date of 15th April 2019 to 26th November 2018, with submissions on the more than 1000 pages that comprised the Bills and Explanatory Memorandum due in September, just one month after referral to this Committee. Sensibly, and extraordinarily, the Senate voted to extend the deadline for submissions to 23rd November.

3.7 Government Senators on this Committee refused to adhere to the reporting date set by the Senate, leaving just three days after submissions were due to have hearings and produce this report. The Senate then voted again to instruct the Committee that it could not hold hearings for this inquiry until after submissions were due, forcing the Committee to hold hearings in December.

3.8 The Australian Law Reform Commission (ALRC) is currently undertaking a landmark inquiry into the family law system. The Commission is due to report on 15th April 2019. As the majority report notes, a number of stakeholders, including the President of the Law Council, Mr Arthur Moses SC, argued that consideration of the bills should occur after the ALRC review.

3.9 Reform should be undertaken with great care. It should be well considered and it should not be rushed. It is wrong that this report is tabled now, and again shows the disdain with which this government is treating key stakeholders in the family law system.

3.10 Labor Senators dissent from the majority report tabled.

3.11 A full dissenting report from Labor Senators will be tabled as soon as possible.

Recommendation 1

3.12 Labor Senators recommend that the Bills not be passed.

Senator Louise Pratt

Deputy Chair