

Additional Comments by Senator Rex Patrick

The work of the Committee

I thank the Committee and secretariat for its time and effort in relation to these bills. It is noted that Committee members and participating members held five contiguous days of hearings in Perth, Adelaide, Sydney, Brisbane and Townsville.

A Bad Starting Point

I have never observed or sat on an inquiry where there has been such an overwhelming view amongst the majority of submitters and witnesses that the proposed legislation will not achieve the legislation's stated objectives.

Key issues raised:

- (a) The dangers of relying so heavily on a statistically focused report ('Review of efficiency of the operation of the federal courts' Final Report April 2018' by PwC) in the consideration of the operation of courts that deal with extremely complex personal issues.
- (b) The lack of proper consultation with both judicial officers and the broader legal profession. Wide-ranging consultation should have occurred prior to the Bills introduction into Parliament, not after the fact.
- (c) Perhaps most importantly, the de-specialisation of the family law courts system that would result from the legislation.
- (d) The 'breaking' of things not broken – the Western Australian appeals arrangements.

It is acknowledged that the bill had good intentions in seeking a common entry point and common rules between a new lower tier court and superior court, although legislative changes were not really needed for either and the idea of handing sole rule making power to the Chief Justices in perpetuity is fundamentally flawed.

A Committee Working at its Best

Almost all of the concerns raised by the profession have been addressed by the Committee in this report, at least to some degree.

Centre Alliance awaits the tabling of amendments, anticipating that it will take into consideration the views of the Committee.

Resourcing

The Family Court system is severely under resourced, and while I appreciate that the Government is seeking to find efficiencies, it seems to be ignoring a basic reality that more resources are needed as part of the solution mix.

It is disgraceful that the Government is seeing to lay blame on hard-working judicial officers of the Family Court for the backlog, when the Government has refused to allocate the necessary resources to fix the system. It's not, as the Chair suggested during the hearing, a case of the Government needing to find the money.

Billions have been wasted by Government in IT and Defence projects (to just scratch the surface) and Ministers/Cabinet having no appetite to stand up to the unjustifiable demands of star ranked Defence officers in their quest to spend taxpayer's money on bespoke equipment procurements that ultimately end up blowing out by billions of dollars and delivering capabilities late that fall short of the off-the-shelf capabilities originally rejected by them. Significant resources (but insignificant by Defence's opulent standards) need to be directed at fixing the Family Law system.

Recommendation 1

The Federal Circuit and Family Court of Australia Bill 2018, Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Bill 2018 should not be passed in their current form.

Recommendation 2

A significant increase in resourcing is required as part of any Family Court reform.

Senator Rex Patrick

Centre Alliance