

Australian Greens–Dissenting Report

1.1 The family law system is facing a crisis and urgent action must be taken to remedy it. However, the Australian Greens consider that the Family Law Amendment (Parenting Management Hearings) Bill 2017 (the bill) is rushed and flawed.

1.2 The bill received many submissions from groups and organisations which promote the safety of women, children and other disadvantaged groups and work to prevent domestic and sexual violence and abuse. Submitters shared a concern that the model for Parent Management Hearings (PMH) as outlined in the bill endangered victim-survivors of child abuse, family violence and domestic violence.

1.3 The Australian Women Against Violence Alliance noted that 'the format and approach of the PMH is not conducive to managing the risks arising from family violence for victim/ survivors and their children'.¹

1.4 Women's Legal Services Australia noted that:

Innovative practice, new ideas and a culture of continuous improvement should be encouraged in any court system. However, when the outcomes of untried and untested processes can have enormous ramifications on the safety of women and children, such as the introduction of PMHs, we advocate any new model should be based on research and evidence and informed at every step by domestic and family violence experts.²

1.5 The Australian Greens agree with Women's Legal Service Australia's argument that:

On 27 September 2017, the Commonwealth Attorney-General commissioned the Australian Law Reform Commission (ALRC) to undertake the most comprehensive review of the family law system in Australia that has ever been undertaken. In our view, it makes sense that the PMH model be delayed and its implementation be specifically considered by the ALRC in their review before piloting such an untested model.³

1.6 The Australian Human Rights Commission raised a concern that the bill does not comply with Article 12 of the United Nations Convention on the Rights of the Child (CRC). Article 12 'sets out a child's right to express their views on all matters affecting the child, and to have those views given due weight in accordance with the age and maturity of the child'.⁴

1.7 The Australian Greens share the Australian Human Rights Commission's view that 'the proposed amendments do not give children who are affected by a parenting

1 *Submission 9*, p. 1.

2 *Submission 17*, p. 5.

3 *Submission 17*, p. 5.

4 *Submission 7*, p. 3. For article 12, see Attorney-General's Department, *Submission 26*, p. 15.

matter before the Panel sufficient opportunity to express their views in accordance with article 12'.⁵

Recommendation 1

1.8 The Australian Greens recommend that the bill not be passed.

Senator Nick McKim

Australian Greens