

Tell Parliament what you think about family law and family violence

A how-to guide for individuals and community workers

What is currently happening on this issue?

Parliament is considering whether it should pass (ie approve) the Family Law Legislation Amendment (Family Violence and Other Measures) Bill. This Bill has been introduced into Parliament by the Attorney-General following the consultations his department undertook on a draft Bill in January.

The Senate Committee on Legal and Constitutional Affairs will be considering the Bill in detail and reporting back to the Senate. Submissions are due to the Senate Committee are due on **29 April 2011**.

Why should I tell Parliament what I think?

It is important that the Parliament hears your experiences and opinions on how the family law system is or isn't working to protect women and children from family violence. The Parliament can still make changes to the Bill before it is made into law. If you think the Bill should be made into law or if you think more changes should be made to better protect women and children, then you should tell the Senate Committee to make it happen.

Do I need to make another submission if I made one in January?

Yes, even if you made a submission on the draft Bill, it is very important that you also provide a submission to the Senate Committee because Parliament can still change the Bill before it becomes law. Also, the previous submissions were made to the Attorney-General's Department but these submissions will go directly to the politicians that make up the Committee. The Committee will make recommendations about passing or changing the Bill to the Senate before the Senate votes on the Bill.

You can send the Committee the same submission or an updated version of as the one that you sent to the Attorney-General's Department.

What should I tell them?

You can tell them about your experiences of the family law system and family violence, and whether you think the family law system is working well to protect women and children from violence in your own case or in your clients' cases.

You can also tell them what you think about the changes that are in the Bill. You can tell them whether you think they are needed, whether you think they will make a difference to you or your clients, and whether you think more changes are needed.

The updated position paper by Women's Legal Services Australia will tell you what they think and may give you some ideas about what to write. An example letter is also included with this guide.

How should I tell them?

You can send a letter or an email. Your letter can be short – it can be just a few lines or half a page.

You can also write a longer letter if you have more to say. If your letter is longer than a couple of pages you might want to use headings to set out the information. You should also put your main points at the very top of the letter so it is clear what you are saying.

If you don't want your letter to be made public you should say that it is confidential.

Where do I send my comments?

You can email the government at legcon.sen@aph.gov.au or post a letter to:

Committee Secretary
Senate Legal and Constitutional Committees
PO Box 6100
Parliament House
Canberra ACT 2600

What else can I do?

You can also call or write to your federal local Member of Parliament to let them know what you think. You can send them the same letter that you send to the Senate Committee.



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Example letter supporting the Family Violence Bill and calling for further changes

This example letter has been prepared to assist you in making a submission to the Senate Committee inquiry into the Family Law Legislation Amendment (Family Violence and Other Measures) Bill.

When making a submission or writing to politicians, it is generally more effective to write your own email or letter rather than using a template. This sample letter may give you an idea of some of the things you might include, but try to adapt the letter to include your own stories and ideas.

[Insert your address]

[Insert Date]

Committee Secretary
Senate Legal and Constitutional Committees
PO Box 6100
Parliament House
Canberra ACT 2600

Delete if not emailing Email: legcon.sen@aph.gov.au

Delete if not faxing Facsimile: (02) 6277 5794

Dear Committee Secretary,

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

Option: *Insert your experiences of the family law system and family violence, and whether you think the family law system is working well to protect women and children from violence in your own case or in your clients' cases.*

Support for key changes

We have included some suggestions of things you could write about in the bullet points below. You may also wish to refer to your own experiences and/or things you agree with from Women's Legal Services Australia's position paper.

Option: *Write about how you think these amendments might make a difference to you or your clients. (You could pick one amendment or talk about a few of them.)*

In particular, I strongly support:

- 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
- Removing the ‘facilitation’ aspects of the ‘friendly parent provision’
- Repealing section 117AB about costs orders relating to false allegations or denials of violence

Further changes that are needed

Option: *Write about other things you think are needed to protect women and children from violence. The Women’s Legal Services Australia position paper raises some points we think are important, or you can make suggestions from your own experiences.*

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 an 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 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 you support the amendments suggested in this letter and the expeditious passage the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011.

Yours sincerely,

[Insert your name]