



ATTORNEY-GENERAL

HON ROBERT MCCLELLAND MP

**SPEECH ON FAMILY VIOLENCE AND FAMILY LAW TO
COINCIDE WITH INTRODUCTION OF FAMILY VIOLENCE
BILL INTO PARLIAMENT**

PARLIAMENT HOUSE, CANBERRA

THURSDAY 24 MARCH 2011

CHECK AGAINST DELIVERY

First, may I acknowledge the traditional owners of the land we meet on – and pay my respects to their elders, both past and present.

The Hon Kate Ellis, Minister for Employment Participation and Childcare;
Minister for the Status of Women.

The Hon Justice John Faulks, Deputy Chief Justice, Family Court of Australia
Federal Magistrate Kevin Laphorne

Associate Professor Helen Rhoades, Chairperson, Family Law Council

The Hon Professor Richard Chisholm AM, Visiting Fellow, Australian National
University

Anne Hollonds, Chairperson, Family Relationship Services Australia

Libby Lloyd AM, Chair, National Council to Reduce Violence Against Women

Clive Price, Director, Uniting Care UniFam

Roger Wilkins, Secretary , Attorney-General's Department

Introduction

I would like to welcome you all here today, and thank you all for taking time out of your busy schedules to attend.

I have invited you here to talk about some very important reforms in the area of family law.

Since becoming Attorney-General, I have said many times that family violence and child abuse are completely unacceptable in our community, and the Gillard Government takes addressing and responding to these issues very seriously.

That is why I have committed to improving the way the family law system responds to family violence and child abuse and to ensure the safety of children when parents separate.

Family Violence Bill

The family law system must be one that families can trust to prioritise the needs of their children, and protect them from harm.

That's why I am very pleased to announce that I will introduce the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011 into Parliament on this very morning.

With the introduction of this Bill we take an important step in ensuring that the Family Law Act appropriately addresses safety concerns and that families accessing the family law system are able to protect their children from harm.

Evidence Base

The Family Violence Bill responds to key reports received by the Government from the Australian Institute of Family Studies (AIFS), the Honourable Professor Richard Chisholm AM, and the Family Law Council. And I am very pleased to see members of AIFS, Professor Chisholm and Helen Rhoades from the Family Law Council here today. Welcome and thank you!

Other reports on family violence, shared care and infant development have helped consolidate the strong evidence base for these reforms.

I thank the authors for their significant contribution improving the family law system.

The reports make it clear: more needs to be done to protect and support families within the family law system who have experienced, or are at risk of, abuse or violence.

The reports show the Family Law Act as it currently stands imposes barriers to adequately protecting children and other family members from child abuse and family violence. We need changes because the best research shows what we intuitively believe: that exposure to family violence and child abuse leads to poor developmental outcomes for children.

Clearly our laws need to change. That is why we are here.

Key features of the Bill

The Bill provides a clear statement that children have a right to be safe from family violence and child abuse.

To this end the Bill will:

- remove disincentives to the disclosure of family violence and child abuse;
- improve the understanding of what family violence and abuse is by clearly setting out what type of behaviour is unacceptable; and
- ensure appropriate action is taken to prioritise the safety of children.

The reforms will not repeal the shared care laws introduced in 2006.

The Family Violence Bill retains the substance of the shared parenting laws introduced in 2006 and continues to promote a child's right to a meaningful relationship with both parents, but the best interests of the child must come first.

The Australian Institute of Family Studies has found that shared care generally works well where the parents have little conflict, can cooperate and live close together.

This Government strongly supports a child's right to a meaningful relationship with both parents where this is safe.

Public Consultation

The Australian community, from families who have come into contact with the family law system, to hard-working professionals who work in the system, have spoken overwhelmingly in support of this Bill.

Over 400 submissions were received during the public consultation on the exposure draft of the Bill, conducted between November 2010 and January 2011.

An overwhelming 73 per cent of all submissions supported the Bill, with a further 10 per cent offering information about their very difficult personal experiences.

I would like to thank each and every individual for taking the time to make a submission and share their stories. These have helped us to get the law right.

The revised Bill includes a definition of 'family violence' that is more in line with that recommended by the Australian and New South Wales Law Reform Commissions.

It will also ensure the positive aspects of the family friendly provisions are retained.

These aspects relate to the extent to which a parent has participated in their child's life and provided financial support.

Finally, I have streamlined the provisions relating to the reporting of family violence and child abuse to make reporting more simple and remove duplication.

The level of interest and support from the community around these changes indicate two things – that the Government is responding to a clear need to improve and strengthen aspects of Family Law, and that the overwhelming majority of the community supports the Bill.

Launch of Coordinated Family Dispute Resolution Pilots

But the Government recognises that actions to respond to family violence need more than legislation.

It is also vital that we consider and improve the operation of the family law system for those who prefer not to access the courts.

Family dispute resolution is a key aspect of the system.

We know that family dispute resolution helps many families to resolve their disputes and agree on a parenting plan without costly and protracted court action.

It helps parents to focus on the best interests of their children while making arrangements for their separation.

However, for families dealing with violence issues often the only option is to go to court.

As you know, violence is an exception to the requirement to attend family dispute resolution prior to going to court.

And statistics indicate that more than half of the parenting cases that come to courts involve allegations by one or both parties that the other has been violent^[1]; and that children were present at 44 per cent of family violence incidents.^[2]

So to explore ways to provide families dealing with violence issues with an alternative to court action, I am very pleased to launch today the Coordinated Family Dispute Resolution pilot.

This pilot is an innovative way to improve the way services manage cases where there is family violence – by using professional collaboration to better meet their needs.

The CFDR Pilot

This pilot is about providing families facing violence with safe and supported options to allow them to try to resolve their disputes outside court.

The Women's Legal Service in Brisbane has worked closely with my Department to develop a distinct, new model of family dispute resolution that provides these safeguards by involving a range of professionals working collaboratively using a case management approach.

CFDR is a case managed process that involves four phases with continuing risk assessment and case management meetings throughout.

Briefly, it involves an initial risk assessment by a specialist and a safety plan; and participation in a special model of family dispute resolution involving advocates for each client and follow up with the parties involved.

^[1] Richard Chisholm, *Family Courts Violence Review*, 27 November 2009, p.5.

^[2] Australian Institute of Criminology, *Emerging issues in domestic/family violence research*, Report No 10 April 2010, p.7.

It is flexible and adaptable, and involves a range of professionals with defined roles and responsibilities working together collaboratively.

The purpose of the pilot is to test this model and evaluate whether it provides families with a safe, supported option of family dispute resolution.

In families where there is past or current family violence and the family is assessed as suitable to participate, CFDR aims to achieve safe and sustainable post-separation parenting outcomes.

To ensure we collect the best possible information about how the pilots work, the Australian Institute of Family Studies has been engaged to evaluate the pilots.

CFDR is being piloted in five locations: Newcastle, by Interrelate Family Centres; Hobart, by Relationships Australia Tasmania; Western Sydney, by UnitingCare Unifam Counselling and Mediation; Perth, by Legal Aid Western Australia, and in Brisbane by Relationships Australia Queensland.

These organisations have partnered with other professional organisations such as community legal centres, domestic violence services and men's services to achieve the objectives of the CFDR model.

I would like to take this opportunity to congratulate the Women's Legal Service for their fantastic work on this project.

I would also like to thank all the organisations involved in the roll-out of the pilots, including the lead organisations I've already mentioned and the Institute of Family Practice whose trainers have been travelling to each location to ensure participants are well-trained to participate in the pilots.

These pilots are part of a number of significant initiatives that arose as part of the Government's response to the Time for Action report by the National Council to Reduce Violence against Women and their Children.

National Plan

It is appalling and staggering to see that one in three Australian women have experienced physical violence.

The recent endorsement of the National Plan to Reduce Violence Against Women and their Children by the Council of Australian Governments, on 14 February 2011, marked a significant milestone in the level of collaboration and commitment of Commonwealth and State and Territory Governments to work together to reduce violence against women and their children in Australia.

I congratulate my colleague, the Hon Kate Ellis, Minister for Employment Participation and Childcare; Minister for the Status of Women, for her work in this regard.

I greatly look forward to the changes that the implementation of this plan will achieve over the next 12 years. All of us here today would agree they are greatly needed.

Screening and Assessment Framework

We are progressing a common risk identification framework for family violence across the broader family law system to help address domestic and family violence early on.

In the first instance, it is envisaged that all clients entering the family law system will be screened consistently, and at a general level, to identify risk of harm at the earliest stage.

Further, more comprehensive risk assessment may follow depending on the path taken in the resolution of the client's dispute.

The common screening and risk identification framework will ensure that, regardless of the point at which they enter the system, clients will receive access to the range of information and referral options that are best suited to meet their needs.

It is anticipated that all practitioners will be trained in the consistent use of the framework.

My Department has recently registered the request for tender for development of the framework on AusTender, and I am eager for this to be implemented as soon as possible.

AVERT Training Package

Last week, I launched the AVERT Family Violence Training Package in South Australia. This is another initiative to help professionals working in family law to ensure they are appropriately equipped to address these issues.

The purpose of the training package, which is available online, is to provide professionals, including: legal practitioners, judicial officers, counsellors, psychologists and social workers with the necessary skills to identify signs of abuse, be aware of its dynamics and be able to connect families with appropriate support.

The package is a truly valuable resource. It has been distributed to key stakeholders in the family law system and the interactive website is now accessible online at www.avertfamilyviolence.com.au.

I would encourage those of you who work in the system to utilise it to help you, as you work to help victims of family violence.

ALRC Inquiry into Family Law and Family Violence

To assist in improving the legal framework to protect the safety of women and their children, I asked the Australian Law Reform Commission to conduct an inquiry into Family Law and Family Violence, in the context of the interaction of State and Territory family and domestic violence laws and the Commonwealth Family Law Act.

The ALRC have completed the inquiry and in November last year provided a comprehensive report with a suite of recommendations.

The Government is currently considering those recommendations, and the report provides us with a large body of work going forward.

Conclusion

The introduction of this Bill today marks a very important step forward for the family law system in addressing family violence and ensuring that our children are kept safe.

But rest assured our work to address family violence will not end with the introduction of the Bill today and the other measures that I have outlined.

Again, I would like to express my thanks to all those who have contributed to the development of this Bill.

Some of you here today contributed to, or authored the reports that provide the evidence base for these reforms.

To all those who made submissions to the public consultation process, from the perspective of professionals working in the system to those who shared their own personal stories, you have made a significant contribution towards changing the system for the better.

And the team of very dedicated officers in my Department who have worked to get this Bill ready to be introduced to the Parliament have done an outstanding job.

Thank you all for being here today.