

Friday, 20 November 2020

Put families over politics, abandon flawed family court merger

A report today by Government Senators into the Attorney-General's flawed merger bill regrettably fails to prioritise the wellbeing of families and children, ignores credible expert input, and instead doubles down in promulgating the Government's proposed merger, according to the Law Council of Australia.

Law Council President, Ms Wright said, "The report on the merger by Government Senators is entirely unsatisfactory because it does not engage in any meaningful way with concerns raised by more than 110 stakeholders who work in the family law system and witness daily, the impacts on children."

"The Federal Circuit and Family Court of Australia Bill 2019 (Cth) would give effect to a proposal announced by Attorney-General Porter in May 2018 to collapse the stand-alone, specialist Family Court into one of Australia's busiest courts, the lower level generalist Federal Circuit Court, to the detriment of vulnerable families.

"The merger bill was developed without consultation with court users, most judges or key stakeholders. By collapsing the present world-acclaimed stand-alone specialist Family Court into a generalist court, the merger will in effect abolish the Family Court as we know it and harm vulnerable children and families in need of specialist family law assistance.

"Despite this, the merger has been pursued by Attorney-General Porter with flagrant disregard for the concerns raised by Women's Legal Services Australia, Community Legal Centres Australia, NATSILS, family violence service providers, the legal profession and others about the merger's risks to families. Those concerns have once again been ignored by the Government in this inquiry.

"The merger proposal was not passed by the 45th Parliament, and it should not be passed now when the Australian community is still in the grips of the COVID-19 pandemic and a devastating shadow pandemic of family violence.

"When the merger proposal was reintroduced to the 46th Parliament late last year, with a few amendments, it was met with fierce opposition from [more than 110 individuals and organisations](#), on the front line of Australia's family law system. These included the former Chief Justice of the Family Court, Elizabeth Evatt AC, whose leadership is so well-respected that a recent family violence pilot was named by the courts in her honour.

"No amendment to the bill can cure what remains a flawed and dangerous proposal without evidentiary or credible economic foundation. Claims the merger will allow up to 8,000 cases to be resolved each year cannot be substantiated, as these are based on the widely discredited six-week desktop review by PWC – which again involved no consultation with key stakeholders.

Media Release



“In putting this proposal to the Parliament, the Attorney-General is asking Members, Senators and Australian families to simply trust his word alone that the merger will deliver what it claims, despite its lack of any credible economic foundation, and opposition from experts,” Ms Wright said.

“This is an unacceptable gamble with the lives of Australian children and families. Reform of the family law system must be based on sound policy and proof, not partisan politics.

“Concerns raised by the legal profession that the merger will only hurt those it seeks to help have been dismissed by Government Senators as venal. Ironically, the legal profession is the only stakeholder that stands to gain from the merger, with the further delay, costs and confusion it will create – yet we remain vehemently opposed to this bill because it will put families and children at risk.

“The Law Council acknowledges two separate dissenting reports by Opposition and Greens Senators. Both recommend that the merger bill not be passed and that the Government instead engage with stakeholders on alternatives to increase specialisation. These include the *Family Court 2.0 Proposal* to maintain a specialist, stand-alone family court ecosystem.

“The Prime Minister acknowledged in 2011 that in family law “no-one can claim any perfect solution because there is not one” but “I am open to the discussion and to listening to the points that are raised”. It is disappointing that on the merger the Government has not adopted the same approach.

“The Law Council urges the Parliament to do what this inquiry has not: listen to stakeholders and abandon the flawed merger bill,” Ms Wright said.

ENDS

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