

Full Stop Australia's Summary Position Paper on Family Law Reform: "Safety, Justice, Now".



We acknowledge the Traditional Custodians of Country throughout Australia, and their continuing connection to land, sea and community. We pay our respects to them and their cultures, and to Elders past, present and emerging.

About Full Stop Australia

Full Stop Australia ([Homepage | Full Stop Australia](#)) ("Full Stop") is an accredited, nationally focused, not-for-profit organisation which has been working in the field of sexual, domestic, and family violence since 1971. We offer expert, confidential telephone, online and face-to-face counselling to people of all genders who have been impacted by sexual, domestic, or family violence, and their friends, colleagues and family members supporting them.

To assist the development of this Position Paper, Full Stop sought the views of victim-survivors in our victim-survivor advocate program and the organisation's trauma informed counsellors through a survey in December 2022 and January 2023.

We have developed this Position Paper to support victim-survivors and domestic, family and sexual violence agencies to make their own submission to the exposure draft at the government portal at [Family Law Amendment Bill 2023 - Attorney-General's Department - Citizen Space \(ag.gov.au\)](#)

Submissions are due by Monday 27th February 2023, and responses via the portal are accepted or by emailing FamilyLawReform@ag.gov.au Please feel free to refer to the Full Stop Position Paper (or parts of it) to support your submission.

Full Stop's Summary Position on the Government's Exposure Draft Bill:

1. We strongly support the landmark decision to remove the presumption of equal shared parental responsibility and its links to equal or substantial and significant time in Schedule 1 Part 2.
2. We support (Schedule 3), and the definition of family being broadened to include a more expansive understanding of 'family' reflecting Aboriginal and Torres Strait Islander culture.
3. We support (Schedule 4 Part 1) and the requirement for Independent Child Lawyers to meet with child/ren.
4. We support (Schedule 4 Part 2) and the changes to make it easier for the Court to appoint an Independent Children's Lawyer in international child abduction matters.
5. We support the government intent to improve responses to litigation/ system's abuse. However, we suggest the following changes including:
 - That Section 102QAC be amended to explicitly state that 'harm' is not required to be proved by the other party to satisfy the section.
 - That the definition of system's abuse in section 102QAC (3) be broadened to include other systems, not just court/ tribunal applications. E.g. vindictive reports to child protection authorities, and multiple unwarranted reviews of child support payment assessments.
 - In circumstances where a harmful/vexatious order has been made and a further court application is then made by the other party, that the victim-survivor be notified of the application and notified of its dismissal. If, however, the Court adopts a position that the application has merit, the matter should be adjourned to allow opportunity for the victim-survivor to be heard on the application.

6. We propose the following changes to section 95, the overarching purpose of the family law practice and procedure provisions.
 - That section 95 (1) be amended to include safety so that it reads 'the overarching purpose of the family law practice and procedure provision should be to facilitate the safe and just resolution of disputes.
 - That the consideration in section 95 (1)(c) be moved to made the first consideration in that section (section 95 (1)(a)) to make safety the first overarching purpose.
 - That section 95(2) – (4) be removed to decrease the emphasis on efficiency, as these provisions could be used unreasonably to pressure victim-survivors to settle cases, where it may not be safe or in the best interests of children. In particular, the proposed section 95 (4) regarding costs is dangerous and will be used against victim-survivors to pressure them to unreasonably settle in circumstances where it may not be safe or in the best interests of children.
 - That safety be defined to include physical, sexual, emotional, and psychological safety.
7. We propose that Section 60B(a) be amended to ensure the safety of children and other family members are prioritised, as follows:
 - "to ensure that the **safety and** best interests of children are met"
8. In relation to Schedule 6, the admissibility of evidence of protected confidence, we suggest a similar approach be adopted to sexual violence counselling privilege legislation in NSW and Queensland. E.g., Include a broader definition of 'counsellor' and procedural provisions where the Court decides if certain information is inadmissible, without the other party or their lawyer viewing the material.
9. That section 60CC (2) (d) be amended by removing the phrase "*having regard to the carer's ability and willingness to seek support to assist them with caring*" as the policy intent is unclear and will result in unintended consequences and replace it with "*including, having regard to their demonstrated history of providing parental care and responsibility to the child and the nature of the parent-child relationship.*"
10. That section 60 (3) (a) be amended to ensure that the consideration of cultural connection is specifically subject to safety.
11. We support further amendments to section 121 to achieve the right balance between both protecting the privacy of children and family law litigants, whilst allowing victim-survivors to speak out about systemic issues and concerns to improve oversight and accountability.

Full Stop Australia seeks the following additional legislative changes, including but not limited to:

1. Building the system from the perspective of family violence safety and an understanding of family violence dynamics, including perpetrator tactics, rather than an assumed position that family breakdown is the result of two parties in 'mutual conflict' which will resolve once the parties separate.

2. Developing specialised best interests' principles for cases involving family violence and abuse that incorporate a greater focus on risk and safety and give greater weight to the history of parenting in the relationship.
3. Introducing legislative guidance to assist the court to identify the "*person in most need of protection*" when there are competing claims of violence and abuse.
4. Develop innovative responses to extremely high risk and potentially lethal family violence cases, including immediate no contact and move away orders.
5. Developing better and more robust interventions to stop litigation and system's abuse at an early stage.
6. Improving the definition, identification, and responses to coercive control and ensuring the definition specifically excludes '*any reasonable action to protect a child from harm*'.
7. Increasing opportunities for children's involvement in decision making, including a recognition of the complexity of hearing children's voices in circumstances where there is a history of trauma, violence, and abuse.
8. Investigating whether an inquisitorial approach to family law matters which includes trauma informed case management court approaches, is more suitable for resolving parenting matters under the *Family Law Act 1975* (Cth).
9. Alleviating child poverty through improved responses to child support collection and non-payment.
10. Assisting victim-survivors to achieve economic justice post separation by better recognising the impacts of family violence in Part VIII—Property, spousal maintenance, and maintenance agreements.

Full Stop furthermore seeks the following systemic changes:

1. Instituting a national, wide-ranging, and independent inquiry into responses to child sexual abuse in the family law system, led by recognised experts in child sexual abuse and family violence and with recognised skills and experience working from a victim-survivor's perspective.
2. Reviewing the national standards for family disputes resolution (inclusive of private and court mediation) in matters involving substantive allegations of family violence and abuse to ensure risk and safety is prioritised and assessments regarding suitability to proceed, are monitored and reviewed.
3. Developing in collaboration with family violence experts, a specialised approach to family dispute resolution that prioritises safety but specifically considers the dynamics of family violence, to allow some families access to non-court options, when it is safe to do so.
4. We acknowledge the significant work by the FCFCOA in this area but support the continued work to improve the quality of all social science experts in family law (especially those employed outside the Court) by ensuring they are subject to high level clinical governance to protect against pathologising women and children's trauma and to promote better decision-making, accountability, and oversight.