



MEDIA RELEASE – Thursday 28 June, 2018

WOMEN'S LEGAL SERVICE AUSTRALIA WELCOMES CROSS-EXAMINATION BILL BUT SAYS FUNDING AND REFORMS TO BETTER IDENTIFY AND RESPOND TO FAMILY VIOLENCE ARE NEEDED IF REFORMS ARE TO WORK

Women's Legal Services Australia (WLSA) congratulates the Turnbull Government for introducing long overdue legislation to ban the direct cross-examination of family violence victim-survivors by their abusers in the family court system.

These reforms are an important step towards making the family law system more trauma informed and bringing it into line with measures already available to protect women who have experienced violence in the family violence jurisdictions in some states.

However, WLSA is concerned about what implementation of the reforms will look like in practice. These changes can only make a real difference with proper funding to ensure that both the victim and the perpetrator have a legal representative to act on their behalf and conduct the cross-examination properly for them.

Sarah Bright, National Policy Coordinator for WLSA said "the bill prevents a party directly cross-examining the other in cases where there has been family violence. It applies to both victims and perpetrators. Cross-examination can still take place but must be conducted by a legal representative acting on behalf of that party. This reform is strongly welcomed"

"As you could imagine, the act of personal cross-examination by a perpetrator of violence of their victim, causes significant harm, re-traumatizes victims, and can produce questionable and unreliable evidence."

"If implemented well, this is a win for family violence victims. WLSA, along with other services and survivors have been campaigning for these changes for many years,"

"The success of the new bill is predicated on adequate funding for legal services, to ensure that both the victim and the perpetrator can have a legal representative to act on their behalf, and the ability of the courts to identify and respond in a trauma informed way to family violence in any given case."

Angela Lynch, CEO of Women's Legal Service Queensland and spokesperson for WLSA stated issues of the bill's implementation require clarification.

"We need to ask will there be funding for community legal centres or legal aid to represent perpetrators? It's unclear what will happen if these individuals aren't able



Women's Legal Services Australia

to gain legal representation as the wording precludes personal cross-examination. It could result in the “haves” and “have nots”.

“Many people are not eligible for legal aid, can’t afford, or choose not to have a lawyer. We need to think through what happens in these circumstances. This is a serious access to justice issue that needs to be properly addressed.”

“The bill relies heavily on judicial discretion. For the reforms to improve safety for victims, we also need to ensure that the judiciary can use the discretion they have been granted under the bill to properly identify domestic violence victims to protect them from being directly cross examined by their perpetrator and to conduct the proceedings in a trauma informed way.

WLSA has identified a number of reforms in its submission to the ALRC review into family law to improve the early identification of family violence in the system”.

[ENDS]

About WLSA

Women’s Legal Services Australia is a national network of community legal centres specialising in women’s legal issues. We are part of the National Association of Community Legal Centres (NACLC).

The National Network was established to be actively involved in law reform activities to ensure that, particularly women and children, are not disadvantaged by laws and to lobby for improved access to justice.

The individual Member Centres regularly provide advice, information, casework and legal education to women on particularly family law and family violence matters but can also provide advice on more general legal issues.

More information about WLSA can be found here: http://www.wlsa.org.au/about_us

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