

Thursday, 29 November 2018

## Senate urged to reject courts merger

The Law Council is urging the Senate to reject the Federal Government's attempt to push a merger of the Federal Circuit Court and the Family Court through Parliament, arguing it will not alleviate the court system crisis affecting so many Australian families.

The peak legal body's concerns are outlined in its [submission to the Senate inquiry](#) into the Federal Circuit Court and Family Court of Australia Bill 2018 and the Federal Circuit Court and Family Court of Australia (Consequential Amendments and Transitional Provisions) Bill 2018.

Law Council of Australia President, Morry Bailes, said while the court system was in need of improvement, the proposed merger would achieve little.

"There are significant shortcomings in the dual family law courts structure and the management of the family law system," Mr Bailes said.

"But the court structural changes as proposed by the Bills, will not produce efficiencies, reduce delays, or deliver anything of real value to the community. Nor will they reduce complexity or legal costs in the family law system. In fact, it could make the system worse.

"The PwC analysis the Government is relying upon is arguably flawed. It does not make a business case or policy foundation supportive of the changes proposed by the Bills.

"There is no escaping the fundamental issue here: governments have failed to provide proper funding and resourcing to the existing family law courts system and to Legal Aid Commissions. That is overwhelmingly the source of the delays and inefficiencies and only additional funding can fix it. This is what is needed to truly help Australian families caught up in the system.

"Furthermore, some of the administrative efficiencies sought by the merger can be achieved far more easily. Moving to a single point of entry, harmonising rules and forms, unifying of procedures – all can be implemented without further delay by the relevant Heads of Jurisdiction.

"They have near universal acceptance and can be implemented by reference to the rules of Court with no legislative amendments required," Mr Bailes said.

Mr Bailes added that the Government has been attempting to push ahead with the merger ahead of its own Australian Law Reform Commission [Review of the family law system](#) is completed. The Report is due on 31 March 2019.

"When the Government commissioned the ALRC to undertake a far-reaching review of the Australian family law system we welcomed the move as timely," Mr Bailes said.

"That review should be able to complete its work. It is appropriate that the government defer further consideration of the Bills until proper time has been given for consideration of the final ALRC Report," Mr Bailes said.

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