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Federal Family Violence Orders scheme doesn't have all the answers

While the Law Council of Australia is pleased the Legal and Constitutional Affairs Legislation Committee's report into the Family Law Amendment (Federal Family Violence Orders) Bill 2021 acknowledges some of the concerns voiced by the profession, the proposed scheme still fails to address what victims of family violence need – that is, the capacity to make immediate orders at the time protections are most needed.

President of the Law Council, Dr Jacoba Brasch QC, said “when the proposed scheme does not contemplate a system for interim orders, it will fail to meet the key underlying purpose of assisting victims of family violence to obtain assistance and protections, when they need it.

“Unless the courts build a separate list so FFVO applications can be heard urgently, on a final basis, victims of family violence will continue to need to turn to the state and territory courts for urgent protection. That also means victims will be telling their story more than once, which defeats an aim of the draft Bill.”

“A stated purpose and objective of this Bill will not be realised, if the courts are not supported to offer FFVOs to victims of family violence sooner than the time the rest of their family law case is heard; often two or more years after the case starts.

“Whether FFVOs are heard separately, or part of the wider case, either way the committee acknowledged our concern about the additional workload that the proposed scheme will impose on the federal family law system and the exacerbation of resourcing constraints, including in relation to legal aid funding.

“The committee acknowledged the Law Council's call on government to commit to additional resourcing of the family law system to address any funding shortfalls caused by the implementation of the FFVO scheme.

“The report has also adopted recommendations from the Law Council, that government consider the implementation of explicit safeguards to constrain people from playing one court off against another for strategic gain.

“This follows concerns voiced by the Law Council and other stakeholders that the proposed new scheme may provide perpetrators of family violence an avenue to delay the determination of family violence issues.

“We welcome the committee's recommendation that careful further consideration be given to the accessibility of FFVOs for applicants located in regional and remote areas.”

ENDS

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