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Parliament should reject flawed family court merger Bill

Legislation merging the specialist Family Court into a single generalist court will not alleviate the fundamental problems plaguing the family law system, including the risk of victims of family violence falling through the cracks.

Responding to the re-introduction this week of the flawed Bill to merge the Family Court and Federal Circuit Court, a broad coalition of groups has again called on the Federal Parliament to reject the legislation and consider holistic structural reform of the family law system.

This should include a response to this year's report by the Australian Law Reform Commission that clearly recommended the retainment and enhancement of specialisation and consideration of an alternative model for a specialised, stand-alone family law court system.

To allow this to occur the Joint Select Committee on Australia's family law system should consider the Bill. Its terms of reference are clearly inclusive of this as they require consideration of *"reform that may be needed to the Family Law and the current structure of the Family Court and the Federal Circuit Court."*

In an [Open Letter](#) 117 organisations and individuals have called on the Attorney-General to abandon the government's proposed family law courts merger and instead strengthen specialisation in family law and family violence.

The merger will result in the loss of a stand-alone dedicated Family Court as it now exists, to the detriment of those in need of specialist family law assistance:

- By reducing from three to one the number of Family Court judges that hear appeals from the Federal Circuit Court;
- Failing to guarantee in the future a minimum number of judges in the Family Court; and
- Failing to broadly guarantee expertise in the appointment of judges.

"This misstep will harm families. For more than 40 years, the Family Court has been a premier legal institution, a specialist superior court admired by other family law jurisdictions around the world for its innovative management of the most complex and difficult family law matters. The Bill, will not produce efficiencies, reduce delays, or deliver anything of real value. Nor will they reduce complexity or legal costs in the family law system. In fact, it could make the system worse," says Law Council President, Arthur Moses SC.

"Community legal centres are approached by people every day seeking help with family law and domestic violence; parenting arrangements are the number one legal issue where community legal centres provide legal advice and other assistance with more than 30 per cent of people who seek help from community legal centres

experience family violence. Based on our experience, we share the concerns being raised about moving away from a specialist family court model," says Mr Nassim Arrage, CEO of Community Legal Centres Australia.

"Family violence best practice responses both nationally and internationally recommend an enhancement of family violence specialisation in courts not moves away from it. With up to 85 per cent of matters in the family courts involving family violence, any reforms must prioritise child and victim safety. We have concerns the proposed model does not achieve this," says Ms Angela Lynch AM, Women's Legal Services Australia spokesperson.

"These reforms will disproportionately impact the most vulnerable including Aboriginal and Torres Strait Islander children and families who need the most support. Based on the experience of Aboriginal Legal Services across the country, these reforms will lead to a range of unintended consequences including a reduced number of specialist family law judges, poorer decisions and increased costs for litigants," says Ms Nerita Waight, Co-Chair, National Aboriginal and Torres Strait Islander Legal Services.

"The family law court system is under pressure and reform is required, but not like this. It is very risky to make major structural changes in a system that is so chronically under-funded that it struggles to meet its basic functions. We should be adding resources so that we can improve safety, not looking for efficiencies," says Dr Merrindahl Andrew, Program Manager, Australian Women Against Violence Alliance.

The joint Open Letter to the Attorney General is available [here](#).

Signatories to the Open Letter include Aboriginal and Torres Strait Islander community-controlled organisations, sexual and family violence peak bodies and services, health peak bodies and services, disability peak bodies and services, community organisations and legal experts. Signatories are also calling on the government to consult on alternative models of structural, holistic reform to benefit children, families and victims-survivors of family violence.

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