

Tuesday, 19 February 2019

Report highlights why ‘catastrophic’ Family Court merger must be rejected by Senate

A Senate report into the proposed merger of the Family Court of Australia and Federal Circuit Court has exposed deep flaws and overwhelming opposition with the plan, says the Law Council of Australia.

The split report from the [Legal and Constitutional Affairs Legislation Committee](#) includes an interim dissenting report from the Federal Opposition, who said the proposed merger treated key stakeholders in the family law system with ‘disdain’.

The dissenting report also recommended no reform take place until results from an Australian Law Reform Commission (ALRC) inquiry are released in April – a position strongly advocated by the Law Council.

Law Council President, Arthur Moses SC, said the Family Court’s work was highly specialised, with its problems rooted in chronic underfunding by successive governments. He also noted the overwhelming majority of those who provided submissions to the inquiry were against the merger.

“Without doubt Australia’s family law system is in need of reform, but the proposed restructure would compound the court’s problems, not solve them,” Mr Moses said.

“Years of underfunding and a lack of resourcing of the family law system teamed with a failure to make timely appointments of judicial officers has resulted in a backlog of cases and long delays. Proper resourcing and prompt appointments is what is desperately needed.”

Mr Moses said that the recommendations in the majority report, which acknowledged some of the failings of the government’s plan and rightly abandoned them, did not properly address the chronic underfunding of the system and will still herald the end of a dedicated, stand-alone Family Court as we know it.

“The Family Court deals with most difficult and complex family law matters that come before our courts, which directly impact families and children,” Mr Moses said.

“Maintaining a properly resourced family law system is critical to the administration of justice and to promote the best outcomes for Australian families.

“The Law Council remains strongly opposed to the proposed merger and we urge the Senate to reject this potentially catastrophic bill. The welfare of Australian families depends on it.”

The Law Council calls on the Australian Parliament to:

- oppose the passage of the Bills;
- consult with the ALRC and the community;
- work towards meaningful reform and a comprehensive policy response that will offer an effective family law system for Australian children and families; and
- provide an immediate funding and resourcing commitment and use existing rule-making powers to progress a consistent single set of court rules.

The Law Council’s earlier submission to the committee inquiry can be [found here](#).

Patrick Pantano
P 02 6246 3715
E Patrick.Pantano@lawcouncil.asn.au

Anne-Louise Brown
P 0406 987 050
E Anne-Louise.Brown@lawcouncil.asn.au

The Law Council of Australia is the national voice of the legal profession, promoting justice and the rule of law.