

AUSTRALIAN LAW REFORM COMMISSION

FAMILY LAW REVIEW

FAMILY LAW PRACTITIONERS ASSOCIATION TASMANIA – RESPONSE

The Family Law Practitioner Association of Tasmania (FLPAT) largely adopts the submissions made by the Family Law Section of the Law Council.

FLPAT makes the following further submissions:

Proposal 6-12 (Regional Courts)

- FLPAT agrees and points out that in Tasmania, the Launceston Registry is a prime example where there are inadequate court facilities impacting on litigants and lawyers.
- There is a single point of entry to the court making it extremely unsafe for victims of family violence travelling to the court. Registry staff, judges, lawyers and clients all travel up to the Court area in a very slow lift.
- There are two client interview rooms at the Registry. One is used by the FASS lawyer so not always available. On a busy duty day the conference room is used as a safe room for numerous litigants who then lose any right to privacy and confidential discussions. There is no electronic communication between the Court and this room forcing victims to come face to face with their alleged attackers in Court.
- There needs to be sufficient funding available to improve the facilities not just in Launceston but across Australia.

Question 5-1 (Time Limits)

- FLPAT would like to see a more uniform approach for married couples and de facto couples in relation to the specific time limit to institute property proceedings.
- Currently, de facto parties have two year limit whereas married couples who do not divorce within the one year of separation have a longer period.
- There needs to be a proper balance between the severance of the financial relationship and getting on with one's life.

- The two year time frame for de facto couples is appropriate
- Section 44 should be revised so that there is uniformity for married and de facto couples to begin proceedings within 2 years of separating.

Proposals 3-11 and 3-19 (including family violence as a relevant factor in property and spousal maintenance matters)

- FLPAT agrees that the impact of family violence ought to be a relevant consideration in property and spousal maintenance proceedings.
- Such an amendment probably fits more neatly at S.75(2).
- The “floodgates” argument has no modern day validity. If there is a “flood” it is domestic violence occurring in Australia. At least one woman is killed each week. Domestic violence directly effects a person’s financial circumstances, sometimes for years. It must be a relevant factor. Changes as outlined may assist to change behaviours.
- There also ought to be a clearly stated legislative right to accrue a claim for damages in the Family Court in appropriate cases. Victims should not have to run cases in separate Courts at considerable cost.
- The Family Court should adopt a more liberal approach to accruing jurisdiction generally in the same way as the Federal Court. This should be legislated. Litigants should not have to prosecute matters in separate Courts where there is a connection between proceedings. There is usually such a connection in property proceedings. As an aside Family Courts should be able to make orders under State family violence legislation. Injunctions have little enforceability by Police.

The Family Law Practitioners Association of Tasmania thanks the ALRC for the opportunity to once again submit to this Review.

MARCUS TURNBULL – Chair

FAMILY LAW PRACTITIONERS ASSOCIATION OF TASMANIA