



Family Law Amendment Bill

2024

**Family Law Pathways Network Webinar
Series – September 2024**



Development and introduction into Parliament

- Family Law Amendment Bill 2024 - **introduced 22 August 2024**
 - Referred to Senate Legal and Constitutional Affairs Committee
- **Significant changes** for all family law system users
- Changes **respond to multiple inquiries** into the family law system
- **Six months lead-in time** for most measures to commence
 - Some changes commence immediately when the Bill becomes law, including changes to divorce proceedings, commonwealth information orders, and new rule and regulation making powers
- **Responds to feedback-** Family Law Amendment Bill 2023 (No. 2) Exposure Draft



Overview of Bill





Property reforms: Part 1, Schedule 1

Codify

decision-making steps

Simplify

Parts VIIIA and VIIIAB
of the Family Law Act

New and amended
factors

*wastage, liabilities, housing
needs of children*

Account for economic
consequences of
family violence

**Expressly recognise
economic or financial
abuse as family
violence**

Ownership of
companion animals



Property reforms: Part 1, Schedule 1

Codify

decision-making steps

- Identify legal and equitable interests rights and interests in property, and existing liabilities
- Take into account considerations relating to contributions
- Take into account considerations relating to current and future circumstances
- The court must not make an order unless it is satisfied that, in all the circumstances, it is just and equitable to make the order



Property reforms: Part 1, Schedule 1

Simplify

Parts VIIIA and VIIIAB of
the Family Law Act

- Co-locate all factors relevant to determining a property settlement
- Relocate matters ancillary to making a property order
- Minor changes to increase accessibility of legislation



Property reforms: Part 1, Schedule 1

New and amended factors

Wastage

- the effect of any **material wastage**, caused **intentionally or recklessly** by a party, of property or financial resources of either of the parties to the relationship or both of them

Liabilities

- Any **liabilities incurred** by either of the parties to the relationship or both of them, including the **nature of the liabilities and the circumstances** relating to them

Housing needs of children

- the extent to which either party to the relationship has the care of a child of the relationship who has not attained the age of 18 years, **including the need of either party to provide appropriate housing for such a child**



Property reforms: Part 1, Schedule 1

Account for economic
consequences of **family
violence**

the ***effect*** of any family violence, to which one party has ***subjected or exposed*** the other party

- New factors do not permit orders for punishment or compensation
- Clear signal to the family law courts, and the broader community, that the **economic consequences of family violence** are relevant to resolving the property and financial aspects of relationship breakdown



Property reforms: Part 1, Schedule 1

Expressly recognise
**economic or financial
abuse** as family violence

- **Definition of family violence** expressly refers to **economic or financial abuse**. This includes the following behaviours:
- **Unreasonably denying financial autonomy**
 - Controlling money or assets
 - Sabotaging employment or income
 - Forcing a family member to take on a financial or legal liability
 - Accumulating debt without consent
- **Unreasonably denying financial support**
- **Dowry abuse**
 - Coercing a family member to give money, assets or other items as dowry, or do things in connection with a practice of dowry
 - Hiding or denying things done or agreed in connection with a practice of dowry



Property reforms: Part 1, Schedule 1

Ownership of **companion animals**

- **New definition** of companion animal
- **Specific factors** for the court to consider, when making orders about companion animals in property proceedings, including:
 - any family violence, any history of animal cruelty or abuse
- **Court can only order sole ownership (not shared ownership)**



Part 2, Schedule 1: Less Adversarial Approach

- **Less adversarial approach** – a less formal approach in family law litigation, currently used in children's proceedings
- Bill will **extend** this approach to all proceedings under the Family Law Act.
- **Key change from Exposure Draft Bill**
 - **Relocate** existing provisions in Part VII and co-locate with other provisions relating to procedure and evidence in Part XI of the Family Law Act
 - Allow the provisions to apply to matters that do not involve children only if the parties consent or the court decides to apply them.



Disclosure and Arbitration: Part 3, Schedule 1

Disclosure

Inserted into the Family Law Act

*New obligations for legal practitioners and
family dispute resolution practitioners*

Arbitration

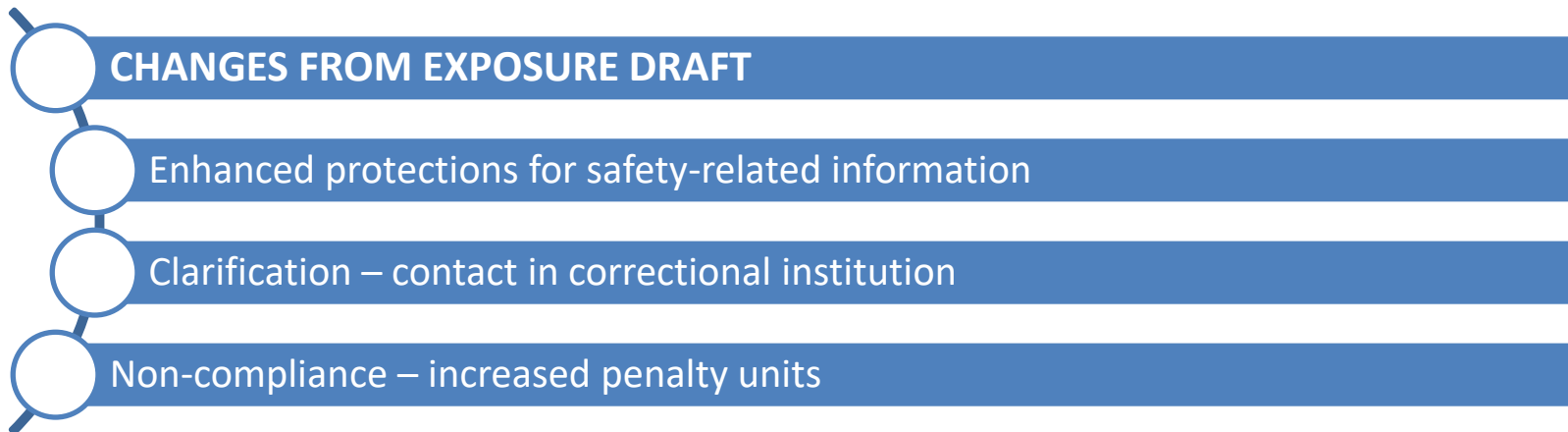
*Consolidated list of matters that may be
arbitrated*

*New powers for arbitrators – to apply to the
court for directions*



Schedule 2: Children's Contact Services

- **A regulatory framework** for Children's Contact Services
 - To ensure the provision of safe and child-focussed services, for children whose families are unable to safely manage contact arrangements on their own.
 - To provide a neutral location where children can be safely transferred between parents for scheduled unsupervised visits
- **Regulations** currently under development





Schedule three: case management and procedure

Part One

pre-filing
requirements:
children's matters

Part Two

Divorce proceedings

Part Three

Commonwealth
Information Orders

Part Four

Operation of
s69GA



Part five, schedule three: Protecting sensitive information

- A new mechanism to **safeguard evidence of ‘protected confidences’**
- Provisions operate to **protect evidence of a communication** made by one person to another who is acting in a professional capacity to provide certain services
 - Health
 - Specialist family violence
 - Specialist sexual assault
- Courts will have power to make directions that
 - Evidence is **not adduced** in family law proceedings, or
 - A Document or parts of documents cannot be **produced, inspected or copied.**



Schedule four: general provisions

Part One

Costs orders

Part Two

State Court rule making
power

Part Three

Superannuation
regulation-making power



Schedule five: statutory review

- Conducted **three years** after commencement of most provisions
- Will ensure significant reforms are operating **effectively and as intended**

Family Law
Amendment
Bill 2024



Australian Government
Attorney-General's Department

Consultation on the **Exposure Draft of the Family Law Regulations 2024**

Visit consultations.ag.gov.au



Family Law Amendment Bill 2024

- Track the progress of the Bill here:
www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r7234