I have chosen to make this submission under my author name of Trevor Cooper which was created to comply with the requirement of S121 (and does not match court appointed name either) due to the number of references and supporting documentation contained in my book and blogs. My book "The Pinball Machine The Family Separation Industry and Parental Alienation" was submitted to the Joint Select Committee on Australia's Family Law System (submission #821) and as such is available to members of parliament and this consultation.

My background in peer support provides a wealth of experience dealing with innocent people (both men and women), that have been mercilessly attacked by the Family Separation Industry whom have aided their former spouses, often with a personality issue, mentally compromised or simply violent men and women. This has led to high levels of suicide ideation, social isolation, near or actual bankruptcy and other issues as they lose contact with the children they love and are prevented from caring and nurturing them as they should.

Firstly, I would like to express my extreme disappointment of the proposed bill which has clearly been driven by various interest groups, some of which are based upon the underlying ideology whilst otherwise claim simplification of the law which will, in my opinion (based upon experience and research provided), ramp up conflict and has no focus on what is best for the children.

The government continues to be misled by questionable individuals, one of which was clearly called to account by 110 of the world's leading researchers in the paper titled Social Science and Parenting Plans for Young Children: A Consensus Report. It is important that such ideology, masquerading as research by various individuals and groups be investigated and the raw data is scrutinised. The size / quantum of a study must also be considered. e.g. Should the emotive accounts of 4 people that have taken refuge in a Domestic Violence shelter hold more weight than the Partner Abuse State of Knowledge (PASK) which was conducted by 42 Scholars and 70 research assistants that screened ~12,000 studies and more than 1,700 summarised into tables. These are factors that must be considered before legislation is based upon them! Failure to do so would be an act of gross negligence within both the public service and by the various ministers and elected representatives.

Organisations often present views that benefit their members and not that of the children, that the Family Law Act is to focus upon. This was best witnessed at a family law reform hearing that I attended. The organisation representing counsellor wanted government to legislate that counsellors could not write family reports unless they were a member of their organisation so they could ensure they were provided with training. Looking at it another way it was a request to force practitioners to hand over money to them. Organisations such as this, focus on the membership (growth and revenue) and often have a callous disregard for the children that the Family Law Act is required to focus upon as evidenced by the case of the WA a psychologist (Dr Darryl Menaglio whose name was able to be published after legal case by The Australian) that was fined $20k and hit with a ban in October 2019 for labelling a litigant as psychopathic without evidence, dramatically impacting the court outcome and the child's welfare (whom subsequently attempted suicide). The issue however is that The West Australian reported that this malpractice occurred back in 2012, resulted in the child being taken internationally (away from the maligned loving and

supportive parent) and did not see his parent for 7 years. Furthermore, other reports showed the child attempted suicide and one analysis revealed the income Darryl Menaglio derived from the consultations and court appearances, would have been greater than the fine. Hardly justice for that child and it took 7 years for the action brought by the Psychology Board of Australia to the State Tribunal to act against Darryl Menaglio for malpractice. Putting faith in a membership organisation to manage the ethical standard of its members is a highly questionable strategy and "justice delayed, is justice denied".

When legislation becomes law, courts are meant to rule on a "finding of fact" and the way the Family Court works, means that this is often not the case and destroys confidence in the entire legal system. Some of the common tactics used include:

- False police report and perjury are so are common (although rarely if ever, prosecuted) and restrict or eliminate a child access (to a loving parent) and years later, when matters finally make it to a formal hearing (i.e. trial), the accusations are dropped and never tested and the argument changes to "the child has not seen the parent for years and would be traumatic to change custody". This tactic is so common and effective, it is known as the "silver bullet" (defence or attack) and no-where in this 2023 consultation proposal has an effort been made to deal with this disgraceful and overtly criminal tactic despite the Australian Law Reform Commission (ALRC). People MUST be held accountable for their actions; criminal behaviours require criminal prosecutions and a history of criminal behaviour (be it assault, the use of false police reports or perjury in affidavits or on the stand) impact the fitness of a parent (as we should all be examples to our children) to have custody. The ability of a judge to be able to order (not just recommend to the AG and nothing is done) must be included if any changes are to be implemented. This has not been covered in the consultation proposal.
- A blog on the impact on use of lies was covered in a Blog by Trevor Cooper The consultation discusses the use of the court system for coercive control however neglects the main tactic that is perpetrated through the court system which include lies (discussed in previous bullet point) and delaying tactics.
- DARVO (Deny, Attack & Reverse Victim and Offender) is also so common it has its own acronym. Again, using lies (often to social workers) to seek assistance and enlist emotional support by playing the victim (that will usually encourage police interventions). In the extreme cases like that of Grainger, the ongoing trauma will continue and be amplified in the future. *The mother claimed sexual abuse of the daughter and lodged a victim support compensation claim, was paid and the child will receive a payment when turns 18. Yet the father was subsequently ruled by the court as a "totally decent person" and that had not done what was accused. The trauma to the daughter will be amplified when she turns 18 and gets a payment and reason from victim compensation (the public service has refused to overturn the taxpayer funded payment).* Seeking social/ mental health / psychological support should be encouraged, however when it is part of a lie (e.g. a false claim of domestic violence or false accusation of drug use) and found to be a lie, it denys real victims (those at the receiving end of the purported lie) support, wastes publicly funded resources and MUST be prosecuted (which may result

in an order for (hopefully) therapy, a fine or jail). This is not in the proposal and MUST be.

- Parental Alienating Behaviours (PAB per link) which are forms of child abuse have not been considered despite my request to my local MP Mark Dreyfus on 26 May 2022 and they must be to prevent child abuse and before any other changes are even considered to the Family Law Act. The response from the AG department did not even match my request (for me to have a meeting with him) and the details of what occurred were only revealed after the FOI request of 6 Nov 2022. The filtering of vital information to the AG (and thereby inputs into the consultation) is a clear cause of concern that may be one of the reasons this consultation appears so far off track from what is needed for the "best interests of the child". The public service is meant to "*demonstrate impartiality by: making decisions and providing advice on merit and without bias, caprice, favouritism or self-interest"* and if they cannot show they have acted properly, then this should be referred to the independent National Anti-corruption Commission for investigation.

Per page 6 and Schedule 6 of the Consultation Paper there is a proposal to provide "an express statutory power to exclude evidence" which specifically goes against the principles of truth, justice and therefore the best interest of the children. The court MUST have the right to access all evidence as if there is no evidential record and no finding of fact, then it should not even be called a court. Psychiatric / psychology and counselling notes provide evidence as was eloquently shown by example in my book p171-172 (relating to psychology notes) & p176-178 (where the admittance to a cardiac ward and inference of heart issue requiring a 6 month delay turned out to be a diagnosis that resulted in a referral to a psychiatrist) and as such was essential to establishing the facts of the relationship and physical health so that the courts actions can be based upon facts. Similarly, the mental health of a parent is paramount in determining the best interests of a child so the exclusion of this vital information represents an injustice of profound and likely lifelong impact for children and thus, if a counsellor/psychologist/psychiatrist exists in a case then they must be qualified and made accountable systematically in the best interests of the child.

All counsellors are also taught that they must inform their clients at the induction interview and the "client contract" of the limits of confidentiality. Using the "ACA Code of Ethics and Practice Version 16" section 4.5b states "*The counselling contract will include any agreement about the level and limits of the confidentiality offered."* Using the Australian Institute of Professional Counsellors notes for example, in the very first module the limits of privacy are taught (and reinforced in many later modules) and client must be informed that the limitations are:

1. The threat of self-harm or harm to others
2. Mandatory reporting such as child abuse and criminal activity
3. Subpoenaed by a court of competent jurisdiction

Competent counsellors, psychologists and psychiatrists will have managed the expectations of clients by following their training and maintaining this expectation within the client contract. The bigger issue is when counsellors are less competent and cannot perform their ethical obligations, and these are precisely the ones that we do not want to be giving their opinion to the courts masquerading as evidence.

The courts MUST have access to the specialists notes to determine under cross examination if they have reached a valid conclusion from their notes. In fact, the reverse of what is proposed should be mandated in that video of the interviews that formed the basis of the recommendation should be required to ensure the evidence of these so-called experts under cross examination ensures high ethical standards and robustness to the court process and outcomes. More than ever, incompetent court advisors must not be allowed to operate under a cloak of secrecy and be completely unaccountable (as proposed in this consultation document) as will surely happen should their records not be made available to access by the appropriate authority.

We have seen many inquiries verifying the many examples of the lack of competency of social workers, counsellors and psychologists such that it should be mandated in the legislation that the judges shall report those practitioners that it suspects to have not complied with their ethical standards and when negligence is apparent in the formulation of their conclusions. As such, current practices where documents can be subpoenaed are justified, essential for cross examination and therefore administration of justice but this needs to be strengthened rather than reduced “in the best interests of the child”.

Should the family court even consider domestic violence?
This may sound like a strange question but it actually conflates civil matters with criminal actions that should be dealt with in a criminal court and based upon evidence of a standard that aligns with a criminal code. It was The Honourable John H Pascoe, AC CVO (the immediate previous Chief Justice of the Family Court) on 12 Oct 2022 (Parental Alienation Day in Australia) where he outlined as Key Note Speaker that:
(@1:45) “when I retired, I said that there needed to be a Royal Commission into the Family Law System because of all of the problems that were being experienced, in particular I worried that we were creating a generation or generations of adults who had been very much damaged by the experiences of their parents in the family law system”.
(@3:25) “The Adversarial System does not act in the Best Interest of the child”
(@6:20) with respect to family violence & perjury that for him “someone who punches his or her partner, stalks his or her partner, leaves people living in fear, whether that is in a domestic situation or in the work place or any other position, that is criminal violence and the fact that it is somehow termed family violence should not mean it is in anyway downgraded or somehow seen as any less important, and it is the same with perjury.”
@23:11 “Many anecdotal suicide cases”
It is this statement @6:20 and the later expansion that a new approach may be required. Currently, while no one wants to have a parent or family member abused, the current system is open to arbitrary claims and incentivises the disturbing trend to have clients lodging domestic violence restraining order and the implications are described on page 358 & 359 of the book “The Pinball Machine The Family Separation Industry and Parental Alienation”. The current system of lodging a complaint to obtain a restraining order can be done legitimately (i.e. there is a real danger), or for vindictive or mental health reasons (as outlined in p350 & 351 of my book) or for frivolous / tactical reasons (again as outlined in p358 & 359 of my book) and a detailed trend analysis of these tactics are referenced by L.G Yves Michel & Co. in their

submission of 20th January 2017 to a previous government inquiry which can be taken from the AG Website or found here.

In cases where a couple argue and both raise their voice it is easy for one party to document they were yelled at and felt intimidated (sometimes in front of the child), secure a domestic violence order (yet both parties may be equally at fault) and raise it in the Family court again in a distorted and misleading way to gain advantage. As such something needs to be done. The prosecution of false and misleading police statements and perjury as recommended in many (including the ALRC and previous two inquiries), will go a long way to amelioration of false, distorted and misleading statements. As per the presentation by The Honourable John H Pascoe, AC CVO (*@19:50 is dominated by an adversarial system which creates a great deal of conflict and may not necessarily deliver the right answer*) the replacement of the Family Court with a less adversarial system should be the highest priority of the government.

It is totally inexcusable that a recommendation by the immediate former Chief Justice of the Family court of the need to hold a Royal Commission has been ignored and current staff and the Attorney General himself need to openly and transparently explain their actions or lack thereof.

What is a good enough parent?
One has to question why the proposed changes do not outline what is a "good enough parent" to maintain primary custody or other than 50/50 shared custody?

1. When someone has a known and proven drug addiction, the ability to look after and care for defenceless children must be brought into question as evidenced through the (possibly avoidable as Child Protective Services were alerted) death of two children at the hands of Kerri-Ann Conley who had lawful custody.
2. Similarly, should we leave children in the hands of those with a known mental health issue? This scenario is highlighted by the case of Cuzens, where the mother (Heather Glendinning) actually reported (see coroner's report) that she was living next to a coven of witches) that was given custody against the father's wishes and resulted the death of two children.
3. Should those with cluster B mental health issues, that distort facts to fit their desired outcome, lie to police and commit perjury be considered a fit and proper role model to raise children, have primary custody and maintain custody?

These are but three considerations that should formally and specifically be given to the courts for consideration as they rob children of their lives or childhood and are often put into a position where they become the effective carer / parent for those parents with mental health issues which I suggest is unacceptable especially when another parent is willing / wanting and able to take on the parenting role but often denied.

A parent's drug addiction and mental health issues fundamentally impact the raising of children and are facts to be determined the moment a case comes before the court. The slightest concerns those parties have (only needs a tick box) should empower the registrar to subpoena the release of any existing documentation (if under treatment and kudos to them if they are taking responsibility), the testing

(pathology is cheap compared with litigation) and assessment of both parents (and parents unwilling to participate in the process in itself is revealing) in the first week that a case is registered and assist speed up the court processes. Such screening (as per recommendation #3 in the coroner's report in the Cuzen's inquiry) would not only put parents on notice that these are things that will be considered by the court. Hopefully, those that need treatment will get is sooner (rather than later or never) and as in the Glendinning / Cuzens case, action may be able to be taken before children are murdered!

The delays in assessing a silver bullet strategy (withholding the child for years based upon false allegations and then arguing it would be traumatic for the child to change primary custodian) whilst enormous damage is done to the child and the targeted parent (and the child is alienated from a good parent, in this case a mother so it is NOT gendered was summarised in a real life example in a blog by Trevor Cooper on RUOK day 2019) that often cannot, or is simply not put right as too much damage and too much time has passed.

Rhoda Feinberg and James Tom Greene wrote in their book (Feinberg R., & Greene J. T. (1997). The intractable client: Guidelines for working with personality disorders in family law. *Family & Conciliation Courts Review*, 35(3), 351–364. doi: 10.1111/j.174-1617.1997.tb00476.x) about cluster B personality disorders that:

> *These are the clients whom you will most see in protracted litigation or mediation. They make up the bulk of custody commissioner, court master, and special guardian ad litem cases. . . . People with personality disorders usually 'dig in' and maintain their rigid attitudes and perceptions throughout the legal process. (pp. 354–355)*

Identification of these types of litigants early in a matter is essential to reducing the duration of court cases and the resultant suicides by children (anecdotal evidence exists however not methodically collected), along with the loss of family assets to pay exorbitant legal bills that rob the children of a prosperous future. Failing to address this aspect is failing the litigants (both those with cluster B and the targeted parent but especially the children that the Family Court is meant to, and should be, its focus.

The amendments also do not address the terrible incidence and frequency of **international child abductions**. In a letter to the then Dads In Distress in 2015 the AFP expressed their concerns that should Dads In Distress shut its doors that they would have nowhere else to refer fathers / parents that had children internationally abducted and stated this was occurring at a rate of 3 a week (pre-covid). Clearly Ken Thompson (an Australian and the first foreigner to receive "father of the year" award in the Netherlands), who had his son Andrew abducted (by Melinda Stratton that "fled overseas claiming her husband had been sexually abusing their son"), has been involved in child abduction parental advocacy for over a decade now and has important lessons and his interview MUST be viewed, he needs to be interviewed personally and his recommendations formally assessed, reported upon (publicly) and then put into any revision of the Crimes Act (so that Federal Police will act) and the Family Law Act and assistance given the return of the Australian (child) citizens abducted internationally. Again, failure to do so would be a failure to act in the best interests of

the children (in this extreme form of Domestic Violence and Child Abuse) by those proposing changes to the family law act and its procedures.

Setting expectations of parenting arrangements

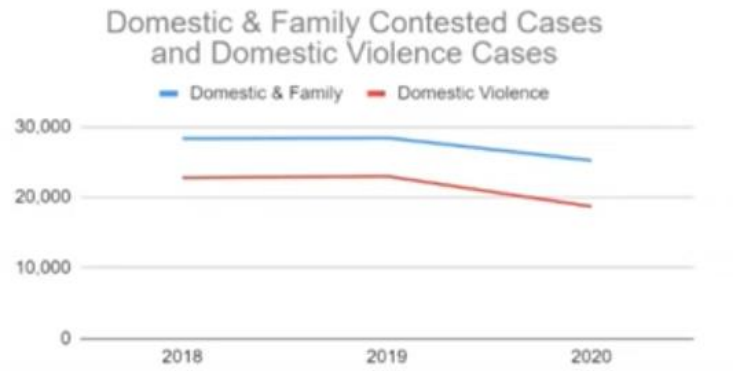
The principle of the state (Australia) making its expectations clear and in the "best interests of the child" is applauded, when nested within the legal pillars of truth, justice, due process and equality under the law, however this current proposal is clearly a backward step.

If you were sincere in asking how government might greatly reduce the court case load for both the Family Court and Domestic Violence courts in spite of a growing population and broader definition of Domestic Violence then you would be compelled to look at Kentucky USA where there is a rebuttable presumption to equal shared parenting.

Research shows that shared care leads to the best outcome for children as outlined in research studies such as that by William Fabricius:
Equal Parenting Time: The case for Legal Presumption and that of Fabricius, Sokol, Diaz and Braver
Parenting Time, Parent Conflict, Parent-Child Relationships, and Children's Physical Health
both of which are substantial data sets, peer reviewed and reputably published.

The research and evidence such as these have informed the state (and even one of the major groups of DV law reform advocates) that there was an expectation of 50/50 shared parenting (that is rebuttable upon evidence), set expectations and the starting point for negotiations. *"It's common sense that shared parenting laws lessen parental conflict. As a domestic violence survivor who speaks with alienated mothers every day, I can personally state that Kentucky's Shared Parenting Law is lessening domestic violence."*

Effects of Kentucky's Equal Shared Parenting Law



Case Category	2018	2019	2020
Domestic & Family	28,333	28,447	25,239
Domestic Violence	22,768	22,986	18,701

Source: https://kycourts.gov/AOC/Information-and-Technology/Analytics/Pages/Caseload-Yearly-by-Category.aspx

Anything else, such as what is proposed in this consultation paper leaves people with a "winner takes all mentality" and the associated prizes of vengeance and child support which is not in the "best interests of the child". The loss in family assets, as lawyers push people into expensive litigation in this environment (such as the example in Trevor Coopers book on page 344 where the lawyer allegedly stated to her client "*You have to take everything, it is your duty as a mother for your children's future*"). Such an attitude ensures conflict as the targeted parent has to fight for their very existence as they face what is called the perfect storm as described on page 310 of my book.

"According to the "Perfect Storm" definition of:

- *no wife,*
- *cannot see your children,*
- *you are removed from your home so have nowhere to live,*
- *you are accused of domestic violence so your friends become wary of you,*
- *you get back to work and are dismissed particularly if you hold a job that requires you to bear arms such as the police, Armed Services or Security,*
- *even if allowed to work, are mentally overload and cannot focus at work and poorly viewed or dismissed,*
- *with no money to fight the court battle ahead,*
- *with no apparent hope, and*
- *you're unable to see the alternatives, why not suicide?"*)

as otherwise, the targeted parent will lose everything and too often become a statistic as shown in table 2 of the ABS publication of the "Psychosocial risk factors as they relate to coroner-referred deaths in Australia" table 2 and have highlighted the risk factors associated with family separation (which is best described as an organised cage fight where people are brutalised and often die that the Family Separation Industry has become) and is shown below:

Table 2: Most frequently occurring psychosocial risk factors, coroner-certified deaths, Australia, 2017 (a)(b)

	Frequency (c)
Z915 Personal history of self-harm	765
Z635 Disruption of family by separation and divorce	460
Z630 Problems in relationship with spouse or partner	358
Z653 Problems related to legal circumstances	286
Z634 Disappearance or death of family member (or primary support group)	270
Z598 Problems related to economic circumstances	202
Z736 Limitation of activities due to disability or chronic health condition	142
Z560 Unemployment, unspecified	112
Z633 Absence of family member	92
Z638 Other specified problems related to primary support group	86
Z652 Release from prison	75
Z637 Other stressful life events affecting family and household	58
Z562 Threatened or actual job loss	57
Z590 Homelessness	53
Z818 Family history of suicide	53
Z604 Social isolation, exclusion, and rejection	46
Z631 Problems in relationship with parents and in-laws	43
Z566 Physical and mental strain related to work	42
Z911 Personal history of noncompliance with medical treatment and regimen	36
Z614 Problems related to alleged sexual abuse of child by person within primary support group	34

a. Causes of death data for 2017 are preliminary and subject to a further revisions process. See Explanatory Notes 57-60 in Causes of Death, Australia, 2017 (cat. no. 3303.0). and Causes of Death Revisions, 2014 Final Data (Technical Note) in Causes of Death, Australia, 2016 (cat. no. 3303.0).
b. For a complete list of psychosocial risk factors, refer to explanatory note Annex listing: Psychosocial codes (exclusions and inclusions) in Psychosocial risk factors as they relate to coroner-referred deaths in Australia (cat. No. 1351.0.55.062).
c. Data in this table indicates the number of deaths with each specified risk factor recorded. Risk factors may not be mutually exclusive, and therefore people with multiple psychosocial factors recorded will be counted in more than one category. Examples of co-occurring psychosocial risk factors can be seen in Data Cube 2, Psychosocial risk factors - Suicide deaths.

Any decision made by governments should always consider the impact on mental health and suicide in a "whole of government approach" as recommended by "Suicide Prevention Australia". I call upon the government to release the associated report by those that assembled this proposal on the impacts that the changes proposed in this consultation paper will have on mental health and suicide and make it public. Should this not be available then those responsible for this document MUST be held accountable to ensure such gross negligence is not repeated.

It should be noted that there are women's groups that have formed in the USA to also demand equal shared parenting and part of their logic is that they can equally participate in the workforce and the alleged wages gap (and savings upon retirement) narrowed. The benefits of shared parenting are broader and beneficial to various groups when carefully considered.

The proposal to repeal the presumption of equal shared parental responsibility is against best research, poorly constructed and more likely to increase the costs of litigation, mental health of the children and targeted parents along with increase rates of suicide.

The voice of the child

We demand children go to bed, eat their vegetables, brush their teeth, go to school and many other things. It is called being a responsible parent! Unfortunately, we also see in the situation of family separation a child being coerced to take a side. This

could be directly, by indirect threats, a parent just getting upset when the children ask to see their father or mother, or a child becomes enmeshed (essentially taking on the role of caregiver for a distraught and dysfunctional parent after often being told lies about the other parent to which they should not (e.g. financial settlement arrangements etc) and that dysfunctional parent becoming / acting sad or depressed. These are common techniques in enabling a child to express their (non-authentic) views to the benefit of a dysfunctional parent. When a child is coerced to take sides, it is child abuse as it severs the essential loving and caring relationship as outlined in psychology and known as attachment theory. This is often perpetrated by cluster B personality disordered people and hence the need for early assessment of parents to head off this form of child abuse whenever possible.

The proposed legislation does nothing in itself to protect the children and in fact will encourage a parent into committing child abuse to enlist the support of the child to influence the court and maintain their control and the government will therefore be complicit in child abuse. It is essential that legislators do what they can to protect (rather than incentivise) child abuse and not simply palm off the responsibility to police, (state) child support agencies and the courts.

As such the views of the child must be tempered by the various parental alienating behaviours (as taken from the Book Understanding and Managing Parental Alienation: A Guide to Assessment and Intervention page 335-339) addressed and specifically stated in the legislation. This would assist the courts in addressing them should they occur and hopefully act as a warning for separating parents as if legislated, it would quickly be quoted in brochures handed out to separating parents. This type of change to legislation would undoubtedly influence behaviours for the better (which is far better than punishment after the damage has been done to the children). The current proposed changes to 60CC is problematic and simply not in the best interests of the child.

Best interests of Aboriginal and Torres Straights Islander Children
According to the 2021 Census there was 812k people registered as having Aboriginal and Torres Straights heritage (3.2% of the population) while there is 1,018k people registered as Italian ancestry (25% larger). The various sections referring to a this specific ethnic (Aboriginal and Torres Straights) group should be generalised, without diluting its intention of ensuring the children's rights to know their culture. Certainly, kinship care (with any cultural sector) may be preferable in most cases and these sections could possibly be improved by making them applicable to every cultural background.

If we are to go back to a winner take all mentality which this proposed consultation seems to propose, it will ramp up conflict (that lawyers often encourage) in a desperate fight to maintain contact with children (as unfortunately is currently the case) then maybe we should scrap the no fault divorce and go back to the Matrimonial Causes Act 1959 and suffer those consequences as outlined by Justice Nicholson (2nd Chief Justice of the Family Court) in the book "Mums the Word" (excerpts of which are available on line).

What appears to be happening in this consultation proposal is the quasi removal of no-fault divorce and a return to pre-1975 but who gets the children and assets from

adultery, desertion, cruelty, habitual drunkenness, imprisonment and insanity et al. to who can argue the best that their spouse has been more violent (using ideological parameters and excluding others).

We should ensure a system is established that is capable of dealing with the situation where one parent is suffering a mental health (including Cluster B personality disorder) as opposed to those cases where the parents can sit down amicably and either do not need the court or simply wish to register an agreement. It is inexcusable that the government forces a good parent into what is best described as a brutal and often fatal, government constructed and organised cage fight which is what the Family Separation Industry and the courts have become where:

- Lawyers take a significant proportion of assets (offering to tag in for a few rounds in the cage fight at great cost),
- Access supervision centres (that charge like wounded bulls for supervising both those that really need supervision but quite often, falsely accused safe and loving parents),
- Social workers and mediation centres (whose staff are often indoctrinated into feminist ideology, suffer extreme cognitive anchoring and who are not equipped to identify, deal with, or refer those with mental health needs),
- family report writers (and the many inquiries have found many to be either anchored so not looking at facts and therefore biased) and a host of others.

that drain resources that a good parent would otherwise devote to their children's future.

Should default, rebuttable upon evidence, shared parenting be introduced into Australian Family Law, then a good parent would be able to defend (as there would either be clear and provable evidence or there would not and not rather than the vague accusations that are currently thrown around before and during court cases) their children's rights to access both parents, have more of their own resources intact to raise their children and there would be much less incentive for false restraining orders and perjury as used today to tilt cases. This would especially be the case should false police reports and perjury be prosecuted which it should as a standard procedure to which government should fund.

It should be noted that the tests for perjury protects those that believe what they state and when found to be incorrect to the point of delusional then mental health issues can be assessed and addressed. Earlier treatment is the best chance for those parents to be positively involved in a major way, rather than traumatising the children and scarring them for life.

To claim that the changes in the proposed Family Law Amendment Bill 2023 will result in the Best Interests of the Child without considering these scenarios and consideration is simply ludicrous. More precisely when a law is created that has clear potential for misuse, the legislators must take all reasonable steps to ameliorate such risk / reasonably prevent such misuse or find themselves complicit in the misuse. I call on the government to show the risk assessment (that should have been completed prior to the release of this consultation paper) of the impacts and likelihood of the misuse of the proposed legislation.

Schedule 1 Amendments to the framework for making parenting orders

The discussion above (and below) should outline many of the concerns with respect to this section which I hold as being ill conceived.

Schedule 2 Enforcement of child-related orders

Sufficient time has not been made available to properly reflect and comment on the proposals. Certainly, the impact of not enforcing orders has cost lives in the past. I was once asked how to deal with a father who:

- went to the mother's residence to collect a child for scheduled access
- the wife yelled abuse (with the child listening) and screamed "I will make sure you never see your son again"
- Rather than escalating the argument (and expecting police to be called and more allegations made) he left.
- The house went quiet and sometime later the mother looked for the 8 y/o child whom was found to have suicided. Never seeing his father again was believed to be too much for the child.

The fact is that a very strong breaching mechanism is required and the public were assured that this would occur with the "Contravention List" when the two courts were amalgamated. It is vital that the performance of the "Contravention List" be made available for proper assessment. One needs to ask:

1. Have the judges actually imposed prison sentences for contraventions?
2. Have the judges actually imposed make up time (this by itself is of questionable value as it does not represent a penalty for the offending parent) with indemnity (i.e. all legal costs and not court scheduled) costs? This point is relevant regardless of the proposal to delegate the power to authorise make up time to the registrar).

If the judges / courts are handing out such sentences (and they already can) and it was publicised then that would have a far greater impact than the rewriting of legislation.

It should again be noted that it is suspected that the parents that commit breaches of orders are usually high conflict parents (potentially with mental health issues or personality disorders) and need to question if the judges are able to review the original psychological appraisal (of course they are however currently it is often simply not done due to parents avoiding having an assessment) and if placing the children in the custody of those that breach represents and error in the original judgement that should be recorded and reviewed. A review of custody should also be immediately considered and the offending party held to explain why they should not lose custody and the onus put on those that have breached court orders.

Schedule 3 Definitions of Family

This section should not proceed if it cannot even be documented in a briefing paper that clearly states the definition of "Aboriginal and Torres Straights Islander concept of family". If it is too hard to explain in this consultation paper, it is too confusing to put into legislation. This is not to say it should not be done but it is apparent that more work is needed to define what it is to be put into the legislation is required in terms of the "Aboriginal and Torres Straights Islander concept of family".

Schedule 4 Independent Children's lawyers

The way Independent Children's lawyer are meant to operate (e.g. video by Best for Kids TV (copywrite Legal Aid NSW 2011) and many others) appear too often

diametrically opposed to how ICL's are operating in the field. I have witnessed an ICL in a negotiation simply go way beyond what the mother's submission was to demonise a father. The fact was he had not seen the children or talked to the litigants and walked into the negations cold, saying things that revealed he had not read the affidavits or proposals (and talking to others this is common). What this consultation proposal appears to be doing is trying to set out things that should be in an ICL ethical standards document arguable already within their powers. There is of course another issue in so far as the psychology qualifications and additional training above that they would require (e.g. trauma informed is just one of many additional qualifications) to determine the authentic voice of the child. I would suggest that an ICL would be completely unqualified to determine the authentic voice of the "Vincenti" sisters where it was reported "They were never scared to return to their father in Italy, despite what they may have said at the time".

As is stated in the video by Best for Kids TV they are not there to represent the two warring parents and are being put in that place as yet another overhead imposed by the court system, are not government funded and the courts are generally inclined to order parties to contribute to the ICL's costs (some would say more jobs for the lawyers and membership for the legal associations). They are there to try to balance the fact that the lawyers and legislation make it an adversarial system between the parents. Making the Family Separation Industry more therapeutic and inquisitorial rather than adversarial will be a better use of resources.

Schedule 5 Case management and Procedure
The issue at stake here is using the court system to attack and put a former spouse in a state of fear and continuous anxiety. It is a form of domestic violence and how that should be handled when looking at it from that perspective it is appropriate that the court strives to not collaborate to commit this crime. The implications of the proposal have not been considered due to the short period allocated to this consultation.

Broadening and extending overarching purpose of 'family law practice and procedure'
Lawyers are small businesses and businesses exist to make money. The longer they spend in front of a judge or writing letters they write to each other on behalf of clients the more money (billable hours) they make.

The not uncommon practices of delaying production of evidence until years after a separation and custody dispute begins is a major problem and needs a major rethink and reform. Before lawyers are involved it should be able to be determined (through mediation or via court appointed registrars), various facts such as when the couple got together, number of children and ages, the asset pool, what each party brought to the union (be it marriage or defacto relationship), the contribution during the relationship in terms of financial and support (caring for children) and what each party propose for caring for their children's future and if there are allegations of mental health issues such that checks / documentation of each party can be obtained or ordered. The basics should be available within a month (including property valuations) and be responsible to the same level as submission of an affidavit (i.e. referral to face perjury if appropriate).

It was in a presentation on the 15 November 2018 where Justice Alistair Nicholson (that served as Chief Justice of the Family Court of Australia from 1988-2004) stated to paraphrase:

> *"nothing has changed since his time as you have 2 households where there was previously one and in the scramble for resources the arguments to the court you have:*
>
> 1. *Difficult problem dividing assets due to what is a business worth (valuations) and possibly nothing if broken up*
> 2. *One or the other party is grossly unreasonable*
> 3. *One or the other has been given grossly unreasonable expectations (by legal counsel)."*

If this information was assembled and with what the couples agree on and disagree on, then it could become an essential document for mediation and a brief to lawyers where a request for an "Estimate of Quantum" is made and responded to by the lawyers in writing. Lawyers that take cases to court that are way outside their advice (e.g. Such as where a lawyer instructed one client and set expectations that "You have to take everything, it is your duty as a mother for your children's future." per page 344 of my book) rather than a realistic expectation they they would be brought up on charges and complaints over their ethical standards by either party in the litigation or the court themselves.

Surely this would be a better outcome and meet the overarching purpose of the Family court in achieving the best interests of the child (but would possibly reduce the need for lawyers dramatically and be detrimental to their associations etc). There is little in this section that does represents constructive changes and simply more nice words and does not alter the fact that lawyers are a money-making business.

Schedule 6 Protecting sensitive information
This has been discussed earlier in the submission and is counterproductive to reaching the truth and laying the facts before the court. Facts are essential for the court to act in the best interests of the child and withholding evidence must remain a criminal offence.

Schedule 7 Communications of details of family law proceedings
Communications of family law proceeding has and always will be a contentious issue. The total lack of accountability is a major factor however in why the family separation industry is in such a mess and was the primary subject in submission #530 to the Joint Select Committee on Australia's Family Law System by a group of news services. The basis for making changes in submission #530 seems to be ignored when assembling this consultation document (yet another example of gross selective bias in the framing of this proposed legislative changes).

Certainly, with respect to submission #530 when a child has come of age then the decisions should be made available regardless of the adults being alive or dead so they can search what happened to their childhood. Some children will know they were forced to falsely testify however the information may impact any intimate and distorted details of the separation they have been fed by parents.

The submission #530 also recommended expert witnesses should be named and excluded from S121 so they can be held accountable (as many inquiries have provided evidence to the courts on how wrong these witnesses can be. This section serves to conceal more wrongdoings within the family court (just as the concealment of most of the submissions in the Joint Select Committee on Australia's Family Law System did and the public none the wiser of the evidence of the horrors of the Family Separation Industry that would hold the government to account). It has gotten to the point where the damage S121 has done, is arguable worse than the damage it would do to remove it entirely (with the exception of those that are incompetent or lie and mislead the courts).

S121 aims and objectives including how they impact accountability and outcomes, is required and not reporting and failing to review is a major impediment to systematic improvement (as experts in Six Sigma and other continuous improvement systems would testify) along with the impact on mental health and suicide rates is needed. Those falsely accused of domestic violence MUST be able to have their reputation reinstated and secrecy provision (and the lack of criminal charges for those making false allegations) mean that a person cannot regain their reputation (and sometimes their employment). This aspect requires more assessment than appears to have been given in this consultation paper.

Schedule 8: Establishing regulatory schemes for family law professionals

The problems of assigning industry membership associations the rights to assess and issue accreditation based upon membership and attendance in course they profit from creating is a form of corruption. People are either qualified and have completed training (e.g. psychiatry or psychology and I personally dispute social workers / counsellors have the skills) as well as in a spectrum of area's including:

- Attachment systems;
- Personality disorders;
- Anxieties, fears and phobias;
- Family systems;
- Family violence and child maltreatment;
- Complex trauma; and
- Parental alienation dynamics.

One of the major issues that is that of cognitive anchoring of social workers (and others). In one case a social worker (see page 324 of The Pinball Machine The Family Separation Industry and Parental Alienation) implanted false memories in the child that the child had been sexually abused by her father and then the social worker wrote a report based upon the planted memory. Whilst the report was proven to be wrong in court the child will still not see (the proven to not be sexually abusive) father. While I digress back to the S121 discussion, perhaps the child should have access to that decision and reasoning. While regulations have their place, exposure and consequences for those "expert witnesses" that this section is trying to address is by far a better option. This consultation proposal for changes to the Family law act is misconceived at its inception when we place best interests of the "expert witnesses" above that of the "best interests of the child".

Commencement of changes

It should be obvious that these changes go against the best interests of the child, remove accountability and are therefore just plain WRONG. They should not be implemented and as per the recommendation of the immediate past Chief Justice of the Family Court, I call for A Royal Commission.