Written Submissions of

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Victims of Family Violence (Strengthening Legal Protections) Legislation Bill

Dated: 30 October 2023

Introduction

We commend the overarching purpose and objectives to protect parties in legal proceedings and particularly the genuine victims of family and sexual violence. However, there are specific aspects of the bill that we find particularly unjustifiable.

Before delving deeper into the issues, it is imperative to bear in mind the intricacies of the New Zealand Family Court system, which are relevant to this proposed bill. The Family Court was criticized as being monocultural and not fit for purpose The Family Court proceedings are perceived as daunting, lengthy, and expensive for many families. Many parents reported that they are treated unfairly and like criminals in the family court system.

We have personally known many parents who have chosen to end their lives, because they haven't had any support or guidance through the complex process of separation and dealing with the Family Court. Many have experienced severe mental health strain due to their involvement in the Family Court proceedings and their struggle to access to their children. Many parents we've known ended their lives or abandoned their children after despair.

In 2008, a Principal Family Court Judge had called for more support and help for families going through the family court system . Also in 2004, another Judge had attacked the Family laws which tended to alienate the parents, generally fathers, who had lost custody and the judge had highlighted that the family laws lack in sophistication.

Additionally, the 2018/2019 findings of the independent panel who examined the 2014 changes of the family court were very concerning. First, the panel chairperson Ms. Noonan had called for an urgent change in the family court system and laws, also she mentioned that the current family court system "is not fit for purpose", she also said that the same issues had been raised in 1987 and she was shocked that so little had changed and she heard from many people that they felt being treated as criminals in the family court.

General Comments

Given the above, proposing any new bills must be done with caution and deliberation, most importantly there is a need to acknowledge that that the Family Court proceedings are adversarial and there is a need for careful consideration and measured steps. "Let's not run before we walk,"

"In a broad sense, everyone is aware that the adversarial nature of family court proceedings and the presence of vague laws have been causing more harm than good for New Zealand families and children since the family court was established in 1980."

It's the breakdown of relationships, high parental conflict, and the adversarial separation process that are causing the chaos. **The presumption that litigation is the typical way of**

dispute resolution needs to change. This can be achieved through educating the whanau and communities and by raising awareness. We suggest that policies and lawmakers should focus more on intervention and prevention initiatives, rather than solely on crisis management.

The adversarial nature of family court proceedings can exert a profound influence on both families and their children. This confrontational approach, often characterized by opposing parties vying for their interests, can lead to heightened emotional stress and strain on all parties involved. It may exacerbate existing tensions, potentially resulting in longer-lasting and more acrimonious conflicts. Moreover, children caught in the midst of such proceedings may experience emotional distress and uncertainty about their family dynamics. Recognizing the impact of this adversarial environment is pivotal in advocating for alternative dispute resolution methods that prioritize cooperation and the well-being of all family members.

Emotions associated with Family Separation:

Family separation is an emotionally intricate experience, often marked by a range of intense feelings. It commonly triggers deep sadness and a profound sense of loss, particularly when involving close family members or children. Anger and resentment can arise from conflicts or disagreements leading to the separation. Anxiety and fear often stem from uncertainties about the future, financial stability, and the well-being of children. Loneliness and isolation may result from the physical distance from those who provided emotional support. Guilt and regret may be present, especially regarding decisions that led to the separation or its impact on family members. The process can also bring about feelings of confusion due to the complexities of legal procedures, custody arrangements, and financial matters. It is important to acknowledge that individuals can experience a mix of these emotions, and their intensity may vary. Over time, with support and adjustment, there can be a shift towards optimism and hope for the future.

In many complex cases involving children, the process takes up to 3-5 years to be finalised. The emotional toll on the parents and children involved is substantial. The systemic, undue delays are resulting in an unfair and burdensome situation for all parties. Leaving the parties involved and children hanging in there without any support or help is blatantly unfair and oppressive. The injustice and unfairness in the current Family Court system have far-reaching consequences, including mental health diagnoses and, tragically, instances of suicide. Prolonged and contentious proceedings, coupled with biases and unfairness contribute to significant emotional strain for those involved.

Would banning people from accessing Court and Justice help those parents?

Banning parents who exhibit a (one-off) conduct from accessing justice / courts is unlikely to help parents facing challenges within the Family Court system. Instead, it highly likely exacerbate their difficulties and limit their ability to seek resolutions. There is no doubt that parents who initiate meritless applications should be banned.

Alternative Inquisitorial approach:

Having this proposed bill before the parliament clearly emphasises that 'The current Family Court System is susceptible to misuse and wrongful purposes.' Without a doubt, this issue has been prevalent since the family court was established in the 80s. Despite our numerous submissions in previous family law reforms and bills, they were not even acknowledged.

Implementing effective procedural safeguards and reforms to prevent vexatious litigation or offering parents help and support, on the other hand, can better to address issues of misuse or abuse of the court process. This approach aims to protect the integrity of the legal system while ensuring that parents can still access justice in a fair and balanced manner.

Establishing protective measures from the outset and filtering applications in the Family Court is what policymakers and legislators should focus on, rather than punishing parents who are struggling to deal with their separation.

While we acknowledge the importance of protecting victims of family violence, outrightly barring parents from accessing the court and seeking justice is not the optimal solution, considering the lack of clarity and subjectivity of the vague terms and criteria emphasised in the proposed bill.

Self-litigants in the Family Court

A recent media article highlighted that legal aid shortfalls leave people forced to represent themselves in court. Many media articles have been published about the issues facing whānau dealing with the Family Court system.

The issue of the lack of support for unrepresented families has persisted for decades and still not yet resolved. The fact that it is causing alot of harm on many families and children. The lack of support for these vulnerable families often exacerbates their parental conflicts and leads to a significant backlog in the system, family violence which often causes further undue delays in resolving their disputes.

Over the course of a decade, I've supported and assisted hundreds of self-litigant parents dealing with the Family court nationwide. A recurring observation in our daily work is the widespread issue of self-litigants lacking essential knowledge of how the Family court system operates and how things are dealt with in the complex family court system that was made for lawyers not for parents with no legal background. While the government is providing self-litigants the ability to represent themselves in family court and provide them with forms, it's clear that this falls short of true access to justice. Instead, it merely grants them just access to the court.

Do we really want to start preventing self-litigants from access to Justice and the courts due to their lack of knowledge and their struggle to understand the complexity of the system? And expect them to spend thousands of dollars on legal fees? There is a need to develop comprehensive educational resources tailored for self-litigants. This could include mandatory mediation or conciliation guides, Simplified Legal Language, implement navigator programs where trained individuals assist self-litigants in understanding and navigating the legal process.

workshops, and online resources covering common legal procedures and requirements. Most importantly, propose clear and simple laws that are not open for misinterpretation.

Submissions on the Victims of Family Violence (Strengthening Legal Protections) Legislation Bill

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My submission is focused on inserting the new section: 12B Restriction on commencing or continuing proceedings to the Family Court Act 1980, particularly about the following issues:

1. Serious Concerns about the lack of clarity and subjectivity of the terms used in the proposed bill. The terms "Abuse of the court Process" and "Conduct"

2. We propose that Section 12B should only apply if 1 or both of the following kinds of orders made under section 79 of the Family Violence Act 2018 is or are, or at any time has or have been, in force against 1 or more parties to the application a temporary protection order or a final protection order.[1]

3. Opposing the repeal of section 141 of the Care of Children Act 2004.

Once again, we're faced with a situation that places parents and children in the family court system at a clear disadvantage. This not only leads to inherent challenges but also escalates conflicts between parents and raises the levels of litigation.

This section 12B insert should only apply in situations where there is a temporary or final protection order in place. Parties who do not have a protection order in their favour, are able to apply for a protection order if they feel "annoyed or harassed" by the other party's conduct".

If this bill is enacted, we must closely consider the anticipated surge in the number of applications in the family court. This could result from any parent feeling annoyed or harassed, potentially inundating the system with additional cases and further parental conflicts.

"Abuse of the court" and "Conduct" definition

The potential for a surge in applications under Section 12B is a serious concern. "Abuse of the court" definition is *"abuse of the court includes conduct that is*

[1] Similar to Section 5A(b) of the Care of Children Act 2004

intended to harass or annoy any other party to a proceeding"[2] This definition is overly broad and subjective. It lacks clear and specific criteria for determining what constitutes harassment or annoyance.

The subjective nature of the term "annoyed" "harassed" leaves room for a wide range of misinterpretations. This leaves ample room for interpretation, potentially leading to inconsistent judgments and unfair treatment of the parties involved. This could lead to a significant increase in the number of vexatious and unnecessary applications being filed, potentially overwhelming the Family Court system, which is already in crisis.

The total number of "Application still active" in the family court reported in June 2023 is 15,307 applications – the current system is not even coping to deal with the basic disputes. [3]

Choose which types to show or hide	Choose which outcomes to show or hide	Number of applications									
Case type	Application outcome	2013/2014	2014/2015	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023*
Total Family Court	Application granted	54,175	46,358	47,153	46,909	47,006	47,488	45,395	46,080	40,314	36,356
	Dismissed or struck out	5,336	5,101	5,044	5,192	5,119	4,760	4,795	4,627	3,695	2,780
	Lapsed, withdrawn or discontinued	8,676	7,500	7,983	8,193	8,446	8,305	8,925	8,853	7,219	5,317
	Application still active	0	3	11	18	71	250	632	1,649	4,193	15,307
	Total	**68,187**	**58,962**	**60,191**	**60,312**	**60,642**	**60,803**	**59,747**	**61,209**	**55,421**	**59,760**

What is conduct that is an abuse of the court?

Assessing a party's conduct in family court proceedings would be fraught with challenges due to its inherent subjectivity. This subjectivity stems from the diverse perspectives and interpretations involved in evaluating behavior. Parties involved may have differing views on what constitutes appropriate or inappropriate conduct, leading to complexities in the assessment process.

Emotions often run high in family court cases, which can significantly influence how behavior is perceived and assessed. Personal biases, cultural disparities, and individual experiences may also play a pivotal role in shaping judgments about conduct. This subjectivity can lead to discrepancies in how different judges or legal professionals interpret and respond to similar behaviors.

Furthermore, the lack of clear, universally accepted criteria for assessing conduct further exacerbates the subjectivity issue. Without well-defined standards, there is greater room for

[2] Section 12B (8)
[3] https://www.justice.govt.nz/assets/Documents/Publications/13WFYB1_Family-Court-applications_jun2023_v1.0.xlsx

interpretation, potentially resulting in inconsistent and unfair judgments. This inconsistency can erode trust in the legal system and may lead to dissatisfaction among parties involved in the proceedings.

Banning parents from accessing the court or justice in cases where conduct is in question could have significant repercussions. It could potentially deny individuals their fundamental right to seek resolution and protection through the legal system. This restriction may inadvertently silence valid concerns and exacerbate existing tensions within families.

Moreover, it may disproportionately affect vulnerable individuals who may not have access to alternative dispute resolution methods. This could leave them in a state of limbo, unable to address legitimate grievances. Instead of an outright ban, a more balanced approach might involve providing support, education, and resources to parents to navigate the legal system effectively and ensure that conduct assessments are fair and just.

In conclusion, addressing the subjectivity of conduct assessment in family court proceedings requires thoughtful consideration and potential reforms. Establishing clearer guidelines and criteria for evaluating behavior, along with providing training to legal professionals on impartial assessment, could help mitigate some of these issues. Additionally, a measured approach that supports parents in their pursuit of justice is crucial to ensure a fair and equitable legal process for all parties involved.

"Conduct that is an abuse of the court" refers to any behavior or actions exhibited by a party within legal proceedings that disrupt or undermine the proper functioning of the court, thereby impeding the pursuit of justice.

In contentious and adversarial family court proceedings, emotions often run high, and parties involved may experience feelings of annoyance or harassment. It's a natural reaction to the stress and tension that can arise in such situations. Recognizing this, it's important to have clear and specific criteria for what constitutes "abuse of the court" to prevent the subjective interpretation of these emotions from leading to unjust restrictions on individuals' access to justice or the court.

Section 12B(1)(a) grants a Judge the authority to limit parties from initiating additional proceedings or take any particular steps in the proceedings based on their 'conduct.' However, there is an ambiguity regarding whether this conduct pertains to a singular incident or multiple incidents. Given the emotionally charged and adversarial environment of the Family Court system, it is highly likely that we'll see many parents facing restrictions within the Family Court, also an increase in litigation and inflame the parental conflict.

We propose that any parties in the proceedings should only be restricted from filing any further proceedings if they have **persistently** initiated proceedings which amount to an abuse of the court process.

The definition of the "abuse of court process" goes well beyond the interpretation mentioned in the proposed bill. This raises concerns about the potential for overreach and subjective interpretation, which could lead to unjust restrictions on individuals' access to justice. It is crucial that any definition related to court conduct be clear, specific, and objective to ensure fair and consistent application.

The below terms are defined in Black's law dictionary 9th edition as follows;

> **Abuse of process.** The improper and tortious use of a legitimately issued court process to obtain a result that is either unlawful or beyond the process's scope... Legal action that is regarded by the courts as misuse or even abuse of the legal process.
> **Abusive** .... adj. 1. Characterised by wrongful or improper use < abusive discovery tactics>....
> **Frivolous,** adj. Lacking a legal basis or legal merit; not serious, not reasonably purposeful <a frivolous claim>
> **Vexatious** ... adj. (of conduct) without reasonable or probable cause or excuse; harassing; annoying

HH Palmer J in a High Court case Tamihere v Commissioner of inland revenue & Ors defined the "Abuse of process" as follows;

> [10] An abuse of process captures all other instances of misuses of the court's processes, such as proceedings brought with improper motives or intended to obtain a collateral advantage beyond that legitimately gained from a court proceeding.

The concept of the misuse of the processes of the Court amounting to an abuse of process is well established. In Goldsmith v Sperrings Ltd the Court of Appeal put it this way:[4]

> (b) Abuse of legal process in a civilised society, legal process is the machinery for keeping order and doing justice. It can be used properly, or it can be abused. It is used properly when it is invoked for the vindication of ... rights or the enforcement of just claims. It is abused when it is diverted from its true course so as to serve extortion or oppression; or to exert pressure so as to achieve an improper end. When it is so abused, it is a tort, a wrong known to the law. The judges can and will intervene to stop it. They will stay the legal process, if they can, before any harm is done. If they cannot stop it in time, and harm is done, they will give damages against the wrongdoer. Sometimes abuse can be shown by the very steps being taken in the courts. ... At other times the abuse can only be shown by extrinsic evidence that the legal process is being used for an improper purpose. On the face of it, in any particular case, the legal process may appear to be entirely proper and correct. What may make it wrongful is the purpose for which it is used.

An 'abuse of the process of the court' is "improper use of [the court's] machinery"[5] use of that process "for a purpose or in a way significantly different from its ordinary and proper use" [6]

Similar concerns relevant to issues related to "conduct" and "abuse of the court process" were highlighted in the final report of the Independent Panel examining the 2014 family justice reforms in May 2019 as follows;[7]

> 101. We heard that people's experiences of the Family Court and related services can be alienating and disempowering. Professionals raised concerns about how the behaviour of victims of family violence, usually mothers, may be misinterpreted when they are in a heightened state of distress. When experiencing extreme distress, some victim-survivors find it difficult to distinguish between fear and risk, and they may appear to be unreasonable, exaggerating, manipulative or destructive. We heard also about the distress experienced by parents, usually fathers, who lose contact with their children for long periods of time
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> 99. Consultations, submissions and research have established that: many individuals and organisations are concerned about how family justice

[4] Goldsmith v Sperrings Ltd [1977] 2 All ER 566 (CA) at 574

[5] imon Goulding, DB Casson and William Blake Odgers Odgers on Civil Court Actions (24th ed, Sweet & Maxwell, London 1996) at [10.15] as cited in Commissioner of Inland Revenue v Chesterfields Preschools Ltd [2013] NZCA 53, [2013] 2 NZLR 679 at [87].

[6] Attorney-General v Barker [2000] 1 FLR 759 (QBD) at 764

[7] https://www.justice.govt.nz/assets/family-justice-reforms-final-report-independent-panel.pdf

services deal with family violence some victim-survivors felt re-traumatised and unsafe in the Family Court and FDR victim-survivors felt pressured to agree to arrangements/consent orders the behaviour of victims of family violence when in a heightened state of distress may be misinterpreted there is not enough specialist support and services available to help victim survivors of family violence who are involved in family justice services perceptions that exaggerated or untrue claims about family violence could be made without consequences respondents in without notice proceedings felt disadvantaged by orders that either stopped contact or limited it to supervised contact

Repealing S141 of the Care of Children Act 2004:

We do not believe that repealing section 141 is an appropriate step. The Proposed section 12B is completely irrelevant to s141 of the Act.

The terminology used in s140 and s141 of the Care of Children Act 2004 and rule 193: Striking out pleading of the Family Court Rules 2002 are far more appropriate. The terms used in the existing sections and rules are likely to provide clearer and more specific criteria for dismissing restricting a party's in the family court. The terminology and procedures in these existing regulations may serve as a better model for handling similar situations, emphasising the importance of well-defined standards in legal proceedings.

Section: 140 Power to dismiss proceedings

The court may dismiss proceedings before it under this Act if it is satisfied—

(a) that the proceedings relate to a specified child, and that the continuation of the proceedings is, in the particular circumstances, clearly contrary to the welfare and best interests of the child; or
(b) that the proceedings are frivolous or vexatious or an abuse of the procedure of the court.

Rule 193: Striking out pleading

(1) The court may order that all or part of an application or defence or other pleading be struck out if the pleading or part of it—
(a) discloses no reasonable basis for the application or defence or other pleading; or
(b) is likely to cause prejudice, embarrassment, or delay in the proceedings; or
(c) is otherwise an abuse of the court's process.
(2) An order under subclause (1) may be made by the court—
(a) on its own initiative or on an interlocutory application for the purpose:
(b) at any stage of the proceedings:
(c) on any terms it thinks fit.

I must reiterate that we commend the objective and purpose of this bill. However, the inconsistencies in some of the terminology used and the implementation proposal are overly concerning.

One of the main purposes of this bill is to reduce vexatious litigation in the Family Court, repealing s141 of the Care of Children Act 2004 is going to increase the number of vexatious cases in the care of children disputes.

Summary:

We commend the overarching purpose and objectives to protect parties in legal proceedings, particularly the genuine victims of family and sexual violence. However, there are specific aspects of the bill that we find particularly unjustifiable.

The bill lacks clarity on how Judges would assess someone's conduct. Additionally, the term "abuse of the court" needs further clarification. The terms "persistent" and "frequent" are particularly important and should be included in section 12B.

To ensure fairness, we propose that for "conduct" to be assessed as serious, it should be evaluated based on the criteria outlined in section 11 of the Family Violence Act 2018 – not based on any of the parties' or judge's perception. Restricting a party's access to the court and justice is a major decision that could cause prejudice and serious injustice to the parties involved. This decision should be made with careful consideration in the context of family court proceedings, emotions, and mental health.

From the Attorney-General's perspective [8], the proposed restrictions and criteria assessment may appear consistent with section 27 of the New Zealand Bill of Rights Act 1990. However,

[8] 7 (32) The fact that the decision to grant an order is itself expressly amenable to appeal is another important safeguard of parties' rights of access to the courts. For orders granted (or refused) in the Family or District Courts, the decision may be appealed to the High Court as of right; for orders granted (or refused) in the High Court, the decision may be appealed to the Court of Appeal as of right, or to the Supreme Court with the leave of that court.

https://www.justice.govt.nz/assets/Documents/Publications/20230822-Victims-of-Family-Violence.pdf

from a parent/community standpoint, appealing or reviewing a Family Court Judge's decision is an extremely difficult step. The number of the High court appeals from the Family Court (below table) is self-evident.

Table 1: Number of Family Court appeal applications disposed in High Court by outcome, 2007-2019

Application Outcome	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Allowed	24	37	27	34	24	20	30	28	35	17	25	17	22
Dismiss	49	46	54	68	42	49	44	56	46	42	46	51	31
Other	29	26	31	31	25	29	17	29	26	42	23	22	33
Total	**102**	**109**	**112**	**133**	**91**	**98**	**91**	**113**	**107**	**101**	**94**	**90**	**86**

Notes for Table 1:

- Outcome 'Other' includes Abandoned and Withdrawn
- Number of applications are counted based on the application outcome date

Section 12B is an interlocutory matter (a step during court proceedings) and before filing an appeal, the applicant/appellant doesn't have an automatic right to appeal. It is important to note that the applicant or appellant may have a right unless they obtain leave from the Family Court.[9] Also, be mindful that finding legal representation for this process is extremely limited and the financial risks associated with filing an appeal or Judicial review are very high.

Given the extensive authority granted to Judges to limit a party's access to justice and the courts, the likelihood of appeals or judicial reviews being accepted is exceedingly low. There would be little room for the possibility of an appeal or Judicial review.

I propose that for "conduct" to be assessed as serious, it must meet the threshold as defined by several Judges' comments in this bill. Furthermore, the conduct must amount to "psychological violence" as defined in section 11 of the Family Violence Act. We already have enough legislation that is open to misinterpretation, and we should exercise caution in this regard.

While it is crucial to protect the genuine victims of family violence and sexual violence, it is equally important to weigh people's access to justice and courts very carefully. Most importantly, we must work to prevent parents from unnecessary litigation in the adversarial family court, which exacerbates conflicts and causes more harm than good for our children.

I must express my concern regarding subsection 4(b), which suggests that 'the Judge must have regard to the party's conduct outside of the proceeding (including in any related proceedings)

[9] Section 143 CoCA 2004

that is intended to harass or annoy any other party to the proceedings or the related proceedings.' This provision appears to lack clarity and may lead to confusion. It strikes me as rather unconventional and potentially inappropriate."

Assessing conduct outside of the proceedings, especially in related matters, presents a significant challenge. This provision seems to set an impractical standard that may be difficult to enforce or examine effectively. It raises questions about the feasibility and practicality of such an assessment, making it appear contradictory and implausible in practice.

I strongly believe that passing this bill to be included under the Care of Children Act 2004 is going to cause a lot of harm to the parties and children involved. Parents involved in contentious litigation about their children's care arrangements or guardianship disputes often feel annoyed and harassed about the opposition party's conduct and their position. So, do we really want parents to file more unnecessary applications, pointing at each other's conduct, perceiving that the other party's conduct is "annoying"? This would inflame parental conflict, result in costs orders against them, and expose the children to more conflicts.

Due to the potential for misinterpretation and harsh consequences, parents may become hesitant to file legitimate applications, which could hinder the pursuit of just resolutions.

Policymakers and legislators should focus on passing bills and laws that prevent vexatious proceedings, which amount to psychological abuse (from a fair-minded observer perspective).

Once again, we find ourselves in a situation that places parents and children in the family court system at a clear disadvantage. This not only leads to inherent challenges but also escalates conflicts between parents and raises the levels of litigation.

If this bill is enacted, we must closely consider the anticipated surge in the number of applications in the family court. This could result from any parent feeling annoyed or harassed, potentially inundating the system with additional cases.

Limiting the definition of "abuse of the court process" to conduct with the intent to harass or annoy any other party involved in a proceeding would potentially lead to subjectivity in interpretation, determining intent, especially in legal matters, can be highly subjective. It

would rely heavily on the interpretation of judges, which may vary from case to case. This could lead to inconsistent judgments and potential injustices.

In reality, we are dealing with respondents in family court proceedings who are often served with orders made on the 'without notice' track (without their evidence being heard). These respondents often feel they are being treated unfairly by the process and the systemic delays. They are left hanging in there without help or support, and as a result many end up with mental health issues, end their lives, suicide and alot more. Many wait up to 3 to 5 years for their cases to be finalized or to be heard. So, if they exhibit any one-off misconduct during the proceedings, we should sympathise with them and offer them help and support and wrap some services around them not restrict them accessing the court and justice.

Lastly, the family court system needs to be fixed first before imposing repercussions on parents due to their one-off perceived misconduct.

Proposed changes to section 12B:

Section 12B (1)(a)

For clarity, it should be specified that the party to a proceeding has **"persistently"** exhibited conduct that is an abuse of the court process, as highlighted in the existing section 141 of the Care of Children Act 2004.

Section 12B (8)

"Abuse of the court process" should be defined in accordance with the above-mentioned case law references, rather than as "conduct that is intended to harass or annoy any other party to a proceeding."

Furthermore, it should be more explicitly stated and must be taken into whether the party's motive or intent behind the proceedings involves improper use of legal process.

Section 12B (4) (b)

The statement, 'the party's conduct outside of the proceeding,' is very vague and broad. The party's conduct should only be taken into account when there is a final or temporary protection order in place, or in cases of breaches of a protection order or Police safety orders.

The terms 'annoy' and 'harass' must be removed from this section. Any act should be assessed in accordance with section 11 of the Family Violence Act 2018 (Definition of Psychological abuse), not based on the perception of an individual".

While expanding the court's authority can be beneficial, it must be accompanied by accessible interpretation for the parties involved. Failing to do so may lead to confusion, harm, and an increase in Family legal disputes. Striking a balance between empowering the court and safeguarding the interests of all parties is crucial for a just legal system.

The proposed bill "Victims of Family Violence (Strengthening Legal Protections) Legislation Bill" should focus solely on the Family Violence Act 2018 and not encompass other specified acts. If a parent feels "annoyed" or "harassed," they should be able to apply for a Protection order, and the assessment of the conduct should be based on section 11 of the Family Violence Act 2018.

The inclusion of "annoying" or "harassing" conduct under the specified Acts (section 9 – except the Family Violence Act 2018), We alternatively suggest that the criteria should be more stringent, requiring conduct that is persistently vexatious, frivolous, or an abuse of the court process [10] – not as proposed "annoying" or "harassing".

"I would say that the majority of parents going through separation would feel annoyed and harassed during litigation. So, what are we accomplishing here? More applications?"

It's not uncommon for parents going through a separation to experience feelings of annoyance and harassment, especially when navigating legal processes like litigation. This could potentially lead to an increase of applications if the criteria for seeking protection orders include these emotions. The Family court system is already clogged and slow. The figures in June 2023 confims that there 15,307+ applications are still active.

It's crucial to carefully consider the terminology and criteria in the proposed bill to ensure that it effectively addresses cases of genuine concern while also preventing misuse or overuse of

[10] As defined by Many High Court Judges (case law references in this submissions)

the legal system. Striking the right balance is key to ensuring that the legal protections provided are fair and serve their intended purpose. This may involve further refining the criteria or providing clear guidelines for assessing and handling such applications.

What we are doing here is proposing more vague laws, open to misinterpretation. We then wait for parents to fall into these traps, leading to cost orders against them, financial and emotional hardships, mental health diagnosis and suicide and hindering their access to the court and justice.

There is a pressing need to incorporate additional clarification in this bill, specifying that the conduct encompasses both the motive and intent behind initiating court proceedings. Undoubtedly, the processes within the Family Court system are flawed and susceptible to misuse. It can be simply used a tool for harassment and further abuse.

Why don't we provide clearer, more precise laws to prevent this from happening?

Lastly, we commend the objective of this bill, However, there are specific aspects of the bill that we find particularly unjustifiable and are overly concerning.

Zayne Jouma