



Landmark family law reforms passed in October 2023

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E&A Lawyers has made the decision to no longer provide family law services. While we no longer take on any new family law matters, we are happy to assist by referring you to lawyers specialising in this area. Please don't hesitate to contact us if you would like a referral.

[CALL US IF YOU'D LIKE A REFERRAL TO A FAMILY LAWYER: 02 9997 2111](tel:0299972111)

On 19 October 2023, the Australian Parliament passed two significant pieces of legislation in an attempt to reform Australia's family law system. The two Bills were passed to the Governor-General for assent on 6 November 2023 and most of the changes will come into effect on 6 May 2024. These two pieces of legislation have been designed to make Australia's family law system simpler, safer and more accessible. In this blog, we explore the new Bills and what they mean for people involved in family law proceedings.

The Family Law Amendment Bill – changes affecting parenting disputes

The first Bill to pass through Parliament was the Family Law Amendment Bill 2023. The aim of this piece of legislation is to ensure that in determining parenting issues, the best interests of the children is at the forefront of all decision-making, whether it be inside or outside of the courtroom.

Perhaps the most contentious part of this Bill is that it removes the *presumption of equal shared parental responsibility* that currently exists under section [61DA of the Family Law Act](#).

Prior to these changes coming into effect in May 2024, where a parenting matter is/was being determined, the *Family Law Act 1975* ("the Act") imposes a presumption that the child's parents should have equal shared parental responsibility (meaning an equal say in determining long term issues in relation to the child). The exception to this is where there has been abuse of the child; family violence, or the court otherwise considers that it would not be in the best interests of the child for the parents to have equal shared

parental responsibility.

Under the new laws, all parenting decisions, including the allocation of parental responsibility, must be considered against the best interests of the child.

In addition to ensuring that the best interests of the child guide all decision-making where parenting orders are being considered, the new legislation also implements significant changes to improve the efficiency and functionality of the court's processes, including the following:

1. Providing the Government with the appropriate powers to regulate family report writers;
2. Making it a formal requirement that where the Court considers that a child's interests in the proceedings should be independently represented by another lawyer (an Independent Children's Lawyer), that lawyer is formally required to meet directly with the child or children that they have been appointed to represent. The ICL must give the child an opportunity to express their views, save and except if the child is under 5 years of age or the child does not wish to meet with the Independent Children's Lawyer.
3. In matters that are heard under the Hague Convention on the Civil Aspects of International Child Abduction, ensuring that the children's voices are able to be heard;
4. Inserting a definition of the term "member of the family" into the Act to ensure that it is inclusive of Aboriginal and Torres Strait Islander concepts of family and kinship.
5. Adding further provisions to the Act in relation to compliance and enforcement of child-related orders.
6. Setting the court's powers in relation to proceedings that the court considers are without merit, harmful or vexatious. This means that if proceedings may result in harm to another party or to a child involved in the proceedings or may have been instituted for a wrongful purpose, the court has the power to dismiss all or part of the proceedings at any stage.

Family Law Amendment (Information Sharing) Bill 2023 – enhancing family violence protections

The second Bill to pass through parliament is the Family Law Amendment (Information Sharing) Bill which amends the *Family Law Act* to enable sharing between the Family Law and Family Violence and Child Protection Systems. These legislative changes will come into effect on 6 May 2024.

These reforms aim to ensure that any information in relation to [family violence](#), child abuse and neglect risks is accessible to the Federal Circuit and Family Court of Australia and Family Court of Western Australia when parenting matters are being determined.

More family law reforms to come

The above two Bills, and subsequent legislative changes, are merely the beginning of a suite of new family law reforms that the government hopes will ensure that separating couples can better understand the decision-making framework used in family law to resolve their property and financial matters confidently and safely.

Whilst yet to be presented to Parliament, The Family Law Amendment Bill (No.2) 2023, which is currently out for consultation, seeks to introduce further reforms in relation to:

- [property settlement](#);
- children's contact services;
- the court's Case Management and procedures; and
- various other general provisions.

Get help from a family lawyer

If you have any questions or concerns about how these reforms might impact you or would like to seek some preliminary legal advice in relation to any area of family law, our experienced team of family lawyers can assist you.

Contacting E&A Lawyers

For more information or to arrange a consultation with a lawyer, you can call or email us.

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