



Statement from the Family Court of Australia and Federal Circuit Court of Australia

The Parliament has now passed the Federal Circuit and Family Court of Australia Act 2020 and the Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Act 2020, which awaits Royal Assent.

The Courts have consistently declined to comment on Government policy. The role of the Courts is to apply the law of Australia by hearing and deciding cases and interpreting legislation created by the Parliament. They must also perform the business of the Courts in a manner that is efficient and fair.

The new Acts will create an amalgamated Federal Circuit and Family Court of Australia (FCFCA) with two Divisions: one which will include judges of the Family Court of Australia dealing with the most complex matters and exercising appellate jurisdiction, the other consisting of judges of the Federal Circuit Court of Australia, which will be the single point of entry for family law and child support cases.

In the exercise of its jurisdiction the FCFCA will continue to have a statutory obligation to have regard to the need to protect the rights of children and to promote their welfare, and protect them from family violence.

The first Core Principle of the Courts is:

The prioritisation of the safety of children, vulnerable parties and litigants, as well as the early and ongoing identification and appropriate handling of issues of risk, including allegations of family violence, are essential elements of all case management.

The Courts will continue to provide specialisation in family law. Both Courts already have specialist family law judges, with 33 family law judges in the Family Court of Australia and 40 specialist judges that deal exclusively with family law cases in the Federal Circuit Court of Australia (FCC). The public may not be aware that the FCC currently hears approximately 90% of all family law cases and 92% of all parenting cases. The FCC family law judges have an average of 25 years of family law experience between them, and many are former Registrars of the Family Court, experienced family law solicitors, barristers, senior counsel and senior academics. All of the specialist judges of both Courts will continue to sit in the new FCFCA, hearing family law cases only.

The number of specialist judges under the new structure will increase, and by August it is intended that there be 35 specialist judges in what the new legislation designates as Division 1 and 43 in Division 2. The legislation



also prescribes that the number of judges in the Family Court or Division 1 cannot be below 25. The Attorney-General has assured the Courts that any retiring judge will be replaced.

The Courts will continue to focus on implementing key case management improvements and family violence-related reforms such as rules harmonisation, the Lighthouse Project and the national COVID-19 List.

The Courts will also continue to seek further resources from Government to carry out these important reforms and other measures to reduce delays and chronic backlogs.

To improve the system we need a streamlined single point of entry, as well as harmonised rules, forms and case management approaches.

With change comes opportunity. I ask that we work together to create a world-leading family law system—one that we can all be proud of and one that the people of Australia and future generations of Australians deserve.

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The Hon. Justice William Alstergren
Chief Justice - Family Court of Australia

Chief Judge - Federal Circuit Court of Australia