

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011 (Cth)

Domestic and Family Violence Amendment (Information Sharing) Bill 2017

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011 (Cth)*.

Overview of the Bill

The Bill creates a domestic violence information sharing regime to facilitate information sharing in domestic and family violence matters. The principal aim of the regime is to provide increased protection for victims of domestic violence, who are disproportionately women and children, as well as to improve service delivery for victims and perpetrators of domestic violence with the long-term aim of reducing rates of domestic violence. It will enable agencies to better assess risk and respond to instances of domestic violence, which will improve the safety of victims and make perpetrators more accountable for their actions.

The Bill will allow information to be shared, without consent, between certain government and non-government agencies for the purposes of assessing risk to the safety of a person who fears or is experiencing domestic violence, or responding to a threat of domestic violence. Information can only be shared to the extent that it is necessary to assess a threat, or take action to lessen or prevent the threat, and penalties of up to two years imprisonment or 200 penalty units apply for inappropriate disclosure.

Human rights implications

This Bill engages several applicable rights or freedoms.

Article 3 of the Convention on the Elimination of All Forms of Discrimination against Women provides that:

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 3 of the Convention on the Rights of the Child provides:

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

Article 17 of the International Covenant on Civil and Political Rights provides that:

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

Conclusion

This Bill is compatible with human rights as it balances the rights to privacy of the individual with the right to safety and protection, by providing that consent to share information should be obtained from a person who fears or is experiencing domestic violence wherever possible, but where this is not possible the imperatives of victim safety and wellbeing should prevail. The Bill has adequate safeguards for wrongful disclosure of private information, and clear limits on the persons and entities who are able to share and receive information. It will impact positively on the health and wellbeing of vulnerable women and children, by better protecting those who are affected by domestic violence. It will allow agencies to better identify victims, and provide more appropriate, integrated responses to families, taking better account of the level of risk and the specific needs of the victims and children involved. This model of information sharing in the domestic violence context been identified as best practice by the Victorian Royal Commission into Family Violence, and the Queensland Special Taskforce on Domestic Violence (refer to the report 'Not Now, Not Ever: Putting an End to Domestic and Family Violence in Queensland').