



Identifying and responding to family violence and child safety concerns

Findings from the AIFS Evaluation of the 2012 family violence amendments

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The *Family Law Legislation Amendment (Family Violence and Other Measures) Act 2011*(Cth) introduced amendments to the *Family Law Act 1975* (Cth) that were primarily intended to improve the family law system's screening of, and response to, family violence and child abuse. The reform agenda responded to the concerns raised about the capacity of the family law system to respond effectively in cases involving family violence and child abuse. These concerns had been raised in a number of reports examining the operation of the family law system (including Australian and New South Wales Law Reform Commissions, 2010; Chisholm, 2009; Family Law Council, 2009; Kaspiew et al., 2009).

The legislative amendments, which came substantially into effect on 7 June 2012, sought to better support the disclosure of concerns about family violence, child abuse and child safety on the part of parents interacting with the family law system and to encourage professionals to identify and respond to these

concerns with parenting arrangements that prioritised protection from harm.

The main elements of these 2012 family violence reforms included:

- the introduction of wider definitions of “family violence” and “abuse in relation to a child” (s 4AB and s 4(1));
- the inclusion of s 60CC(2A) to clarify that when determining the best interests of the child, the court is to accord greater weight to the protection of children from harm where this conflicts with the benefit to the child of having a meaningful relationship with both parents after separation;
- the introduction of obligations on advisors¹ to inform clients that the best interests of children are the paramount consideration when making parenting arrangements and to encourage parties to make arrangements that are consistent with s 60CC(2A) (s 60D);
- the imposition of legislative obligations on “interested persons”² to file a Form 4 Notice/

The reform agenda responded to the concerns raised about the capacity of the family law system to respond effectively in cases involving family violence and child abuse.

- Notice of Risk when making allegations of family violence or risk of family violence (s 67ZBA) and extending the obligation when making allegations that a child has been abused or is at risk of being abused to other interested persons as well as parties to family law proceedings (s 67Z);
- the imposition of obligations on parties to proceedings to inform the courts about whether the child in the matter or another child in the family has been the subject of attention from a prescribed child welfare authority (s 60CI);
 - the imposition of a duty on the court to actively enquire about whether a party to the proceedings considers that the child has been, or is at risk of being, subjected or exposed to family violence, child abuse or neglect (s 69ZQ(1)(aa)(i)), and whether the party considers that he or she, or another party to the proceedings, has been, or is at risk of being, subjected to family violence (s 69ZQ(1)(aa)(ii));
 - setting out the court's obligation to take prompt action in relation to Form 4 Notices/Notices of Risk filed in relation to allegations of child abuse or family violence (s 67ZBB); and
 - amending the additional best interests consideration relating to family violence orders (s 60CC(3)(k)) and amending or repealing other FLA provisions identified as potentially discouraging disclosure of concerns about child abuse and family violence (e.g., the former s 60CC(3)(c) and s 117AB).

The Australian Institute of Family Studies (AIFS) was commissioned by the Australian Government Attorney-General's Department to undertake an evaluation of these 2012 family violence reforms, with the reports arising from this evaluation being released in late 2015. The research questions guiding the evaluation covered:

- the extent to which patterns in post-separation parenting arrangements had changed since the reforms and whether any changes were consistent with the intent of the reforms;
- whether more parents were disclosing concerns about family violence and child safety to family law system professionals;
- whether there were any changes in patterns of service use following the reforms;
- the size and nature of any changes in relation to practices among family law system professionals, court-endorsed and court-ordered outcomes and court-based practices, and whether any changes were consistent with the intent of the reforms;

- whether there was any evidence that the reforms had influenced any of these patterns or changes; and
- whether there were any unintended consequences arising from the reforms.

Methodology

A mixed-methods strategy was employed to address the research questions outlined above, with the evaluation comprising three main studies and a synthesis report drawing together findings from each study.

The Responding to Family Violence Study (RFV)

A survey of family law practices and experiences examined the views and experiences of professionals working across the family law system between December 2013 and February 2014 via an online survey of judicial officers and registrars ($n = 37$), lawyers ($n = 322$) and non-legal family law professionals (e.g., family consultants and family dispute resolution (FDR) practitioners; $n = 294$). A further component of this study involved telephone interviews with parents who had used family law system services in the period of approximately 12 months preceding August 2014 to examine their experiences of these services. This sample of parents was drawn from the first half of the fieldwork period for the Survey of Recently Separated Parents 2014 (see below), with 2,473 parents in this interim sample ($n = 3,428$) reporting that they had used family law system services in the relevant period.

The Experiences of Separated Parents Study (ESPS)

The ESPS involved the comparison of two nationally representative and comparable samples of separated parents with children under the age of 18 years derived from the Department of Human Services–Child Support (DHS-CS) database. The pre-reform survey data collection (Survey of Recently Separated Parents [SRSP] 2012) examined the experiences of parents who had separated between 1 July 2010 and 31 December 2011 ($n = 6,119$). The experiences of this cohort of separated parents reflected the way in which the system operated in the two-year period prior to the operation of the 2012 family violence reforms. The post-reform survey data collection (Survey of Recently Separated Parents [SRSP] 2014) took place from 7 August to 30 September 2014 and involved a sample of parents whose separations took place between 1 July 2012 and 31 December 2013 ($n = 6,079$).

The Court Outcomes Project (Court Outcomes)

Court Outcomes Project involved three studies:

- an analysis of administrative data obtained from the three family law courts, to assess patterns in filings in parenting matters and other relevant issues, including filings in relation to Form 4 Notices/Notices of Risk (Court Administrative Data Study);
- an analysis of court files ($n = 1,892$) involving matters resolved by judicial determination and consent both pre-reform ($n = 895$) and post-reform ($n = 997$), allowing a rigorous comparison of outcomes in these two time periods (Court Files Study) to examine patterns in orders for parental responsibility and care time, and a range of other relevant issues, including the prevalence in the files of allegations about family violence and child abuse; and
- an analysis of published judgments to examine how the legislative amendments were being applied in court decision-making (Published Judgments Study).

The findings from these three studies are described in detail in three separate reports, with a synthesis report drawing together the findings from each of the three studies comprising the Evaluation of the 2012 family violence amendments (“the Evaluation”).³ The discussion in this article will present a summary of key findings from each of the studies comprising this Evaluation. When considering these findings it is important to keep in mind

that these findings reflect practice some two years after the 2012 family violence amendments were implemented, which is a comparatively short period of time for change to unfold. Evidence of limited effects in some areas (such as patterns in parenting arrangements) in the context of more significant changes in other areas (such as screening) suggests that further effects of the amendments are still to emerge.

Identifying family violence and child safety concerns since the 2012 family violence amendments

Data from each component of the Evaluation suggested an increased emphasis on the identification of family violence and child safety concerns across the family law system, particularly among lawyers and courts.

Increases in professionals asking about family violence and safety concerns

The ESPS identified statistically significant increases in the proportions of parents reporting in the SRSP 2014 that they had been asked about both family violence and safety concerns when using a formal family law pathway (FDR/mediation, lawyers or courts) to resolve their parenting arrangements (see Table 1). Notwithstanding this change in professional practices, the ESPS study also identified that

Table 1: Whether professional asked about family violence or safety concerns, by main pathway used and parent gender, 2012 and 2014

Whether professional asked	Formal pathway (%)				Not-resolved/informal pathway (%) ^a			
	2012 Total	2014		2012 Total	2014		2014 Mothers	
		Total	Fathers		Mothers	Total		Fathers
Yes, asked about:								
Both family violence and safety concerns	50.2	59.8 ^{***}	55.5	64.6 ^{††}	42.0	47.2	38.9	54.5 ^{†††}
Family violence only	8.1	6.8	5.8	7.9	6.8	4.7	3.8	5.4
Safety concerns only	5.8	4.2	4.2	4.2	6.3	5.2	6.5	4.1 [†]
Subtotal	64.1	70.8	65.5	76.7	55.1	57.1	49.2	64.0
No, never asked	35.9	29.2 ^{***}	34.6	23.4 ^{†††}	44.9	42.9	50.7	36.1
Something else ^b	4.0	–	–	–	4.7	–	–	–
No. of observations	1,392	1,417	690	727	1,663	1,586	687	899

Notes: Data have been weighted. The “don’t know” and “refused” responses (3–5%) were excluded from the analysis. Parents who had contact with at least one family law service in relation to their separation were asked: “At any time during this process, have any of the professionals involved, ever asked you about your possible experience of family violence or any safety concerns for <child>?”, and then if necessary, interviewers probed for clarification: “Were you asked about family violence, the safety of <child>, or both?”^a This included parents who reported that either their arrangements were still being resolved, that their main pathway was discussions with other parent, or that parenting arrangements “just happened”, but they had been in contact with family law professionals at some stage. ^b In the SRSP 2012, participants could also choose “something else”, but this option was not available in 2014. Percentages may not total 100.0% due to rounding. Statistically significant differences between 2012 and 2014 within a given population are noted: * $p < .05$; ** $p < .01$; *** $p < .001$. Statistically significant differences between mothers and fathers within a given population (years) are noted: † $p < .05$; †† $p < .01$; ††† $p < .001$.

Source: ESPS report, Table 5.3, p. 91

Data from each component of the Evaluation suggested an increased emphasis on the identification of family violence and child safety concerns across the family law system.

a substantial minority of parents in the SRSP 2014 reported seeking advice from family law professionals but not being asked about family violence (resolved by formal pathway: 29%; not resolved/informal pathway: 43%).

The RFV study indicated changes in professional practices involving a greater emphasis on identifying and assessing concerns about family violence and child abuse, with self-assessments by lawyers and non-legal professionals indicating shifts in advice-giving practices in a direction consistent with the intention of the 2012 family violence amendments, although this shift was evident among lawyers to a greater extent than among non-legal professionals (*RFV report*, Table 2.10). While the RFV study indicated that professionals were more confident in their own capacity to identify family violence and child abuse/child safety concerns since the reforms (*RFV report*, Tables 4.3 and 4.4, and Figure 4.3), this did not translate into high levels of confidence among the aggregate sample of professionals in relation to the system's general capacity to screen for these concerns (see Table 2). Professionals participating in the RFV study also raised concerns about the limited effects of the amendments, including the level of resources required to assess family violence and child abuse concerns, the need for improvements in training and practice tools, and the complexities associated with the family law system, including overlaps with and inconsistencies between the family law system and state/territory child protection and family violence responses (*RFV report*, sections 4.2–4.3 and 6.2–6.3).

Increases in parents disclosing concerns

The ESPS findings suggest an increase in the proportion of parents disclosing concerns when comparing parents' reports in the SRSP

2012 and the SRSP 2014. A small but statistically significant increase emerged in the proportion of parents who reported experiencing family violence to one of a range of services and organisations from 53% in the SRSP 2012 to 56% in the SRSP 2014 (*ESPS report*, Table 5.1). In relation to family law services specifically, the proportion of parents who reported disclosing family violence to these services increased by approximately three percentage points, with this representing a statistically significant increase between the SRSP 2012 and the SRSP 2014 (see Table 3, page 11). Nevertheless, substantial minorities of parents still reported not disclosing family violence or safety concerns (38%; *ESPS report*, Table 5.10), with this being more marked for family violence than safety concerns (*ESPS report*, Figures 5.3 and 5.4). In both the SRSP 2012 and the SRSP 2014, mothers were more likely to report disclosing family violence and safety concerns than fathers to a statistically significant extent (*ESPS report*, Table 5.7), although the reforms were associated with a statistically significant increase in fathers disclosing these concerns to lawyers (*ESPS report*, Table 5.9). The increases in parents disclosing family violence or safety concerns across each of the formal pathways were lowest for parents using FDR and highest for parents who used courts (*ESPS report*, Tables 5.5 and 5.6).

Consistent with this, data from the Court Files Study in the Court Outcomes Project indicated that allegations of family violence and child abuse were made in court proceedings to a greater extent since the 2012 family violence amendments (see Table 4, page 11). The data from the Court Files Study also indicated a greater emphasis on identifying concerns about family violence and child abuse in matters proceeding to court, with evidence of more discussion of risk assessment in Family Reports (*CO report*, Table 3.16), and more evidence

Table 2: Agreement that since the 2012 reforms, the legal system has had the capacity to screen adequately for family violence and child abuse, by professional group, 2014

	Judicial officers		Lawyers		Non-legal		Aggregated	
	No.	%	No.	%	No.	%	No.	%
Strongly agree	1	2.7	7	2.2	11	3.8	19	2.9
Mostly agree	23	62.2	140	43.8	99	34.0	262	40.4
Mostly disagree	7	18.9	110	34.4	92	31.6	209	32.3
Strongly disagree	1	2.7	42	13.1	47	16.2	90	13.9
Cannot say	5	13.5	21	6.6	42	14.4	68	10.5
Total	37	100.0	320	100.0	291	100.0	648	100.0

Notes: Professionals were asked: "Thinking about the period since the family violence reforms were introduced, to what extent do you agree or disagree that the following statements describe your view? The legal system has been able to screen adequately for family violence and child abuse". Percentages may not total 100.0% due to rounding.

Source: Survey of Practices 2014, *RFV report*, Table 4.1, p. 47

relating to family violence and child abuse on court files, including evidence concerning engagement with state child protection agencies (*CO report*, Tables 3.19 and 3.22). The Court Administrative Data component of the Court Outcomes Project also indicated a substantial increase in cases where Form 4 Notices/Notices of Risk were filed following the reforms (see Figure 1, page 12), although the effect of this increase on statutory child protection services has been identified as a cause of concern across the family law system.

While the RFV study suggested the refinement and development of identification practices in the court and non-court based context and in the educative effect associated with the wider definitions of family violence and abuse introduced as part of the 2012 amendments, the repeal of the “friendly parent” criterion and s 117AB (which provided for the court to make costs orders where a party was found

to have knowingly made a false statement in proceedings) were not measures associated with the encouragement of disclosures of family violence and safety concerns (*RFV report*, Table 3.4 and Figure 3.1).

Patterns in post-separation parenting arrangements since the 2012 family violence amendments

Data from the ESPS suggest subtle changes in the patterns of parenting arrangements since the 2012 family violence amendments. Where parents reported holding safety concerns, there was a trend towards an increase (though falling just short of statistical significance) in parenting arrangements involving 100% mother care time, and where the child spent time with the father during the daytime only from 19% in the SRSP

Table 3: Whether parents disclosed family violence or safety concerns, by parent gender, 2012 and 2014

Which parent disclosed	2012 (%)			2014 (%)		
	Total	Fathers	Mothers	Total	Fathers	Mothers
Family violence						
Participant disclosed	34.8	25.8	45.4 ⁺⁺⁺	37.7 [*]	28.2	46.9 ⁺⁺⁺
Other parent disclosed	0.2	0.5	0.1 [†]	0.5	0.9	0.1 ^{††}
Both parents disclosed	1.6	2.3	0.7 ⁺⁺⁺	1.2	1.9	0.6 ^{††}
Neither parent disclosed	63.3	71.5	53.7 ⁺⁺⁺	60.6 [*]	69.0	52.4 ⁺⁺⁺
No. of observations	3,124	1,432	1,692	3,088	1,416	1,672
Safety concerns						
Participant disclosed	34.5	27.6	40.8 ⁺⁺⁺	37.5 [*]	30.8	44.0 ⁺⁺⁺
Other parent disclosed	0.2	0.4	0.1	0.4	0.6	0.2
Both parents disclosed	0.9	1.3	0.5 [†]	0.8	1.2	0.5
Neither parent disclosed	64.4	70.8	58.6 ⁺⁺⁺	61.3 [*]	67.4	55.3 ⁺⁺⁺
No. of observations	3,126	1,434	1,692	3,089	1,414	1,675

Notes: Data have been weighted. Percentages may not total 100.0% due to rounding. Parents who had contact with at least one family law service in relation to their separation were asked: “Did you ever raise or disclose any issues about family violence with these professionals?”, followed by: “Did you ever raise or disclose any concerns about the safety of <child> with these professionals?” Responses were not read out, but interviewers could record instances where parents volunteered information about the other parent disclosing. Statistically significant differences between 2012 and 2014 within a given population are noted: * p < .05; ** p < .01; *** p < .001. Statistically significant differences between mothers and fathers within a given population (years) are noted: † p < .05; †† p < .01; ††† p < .001.

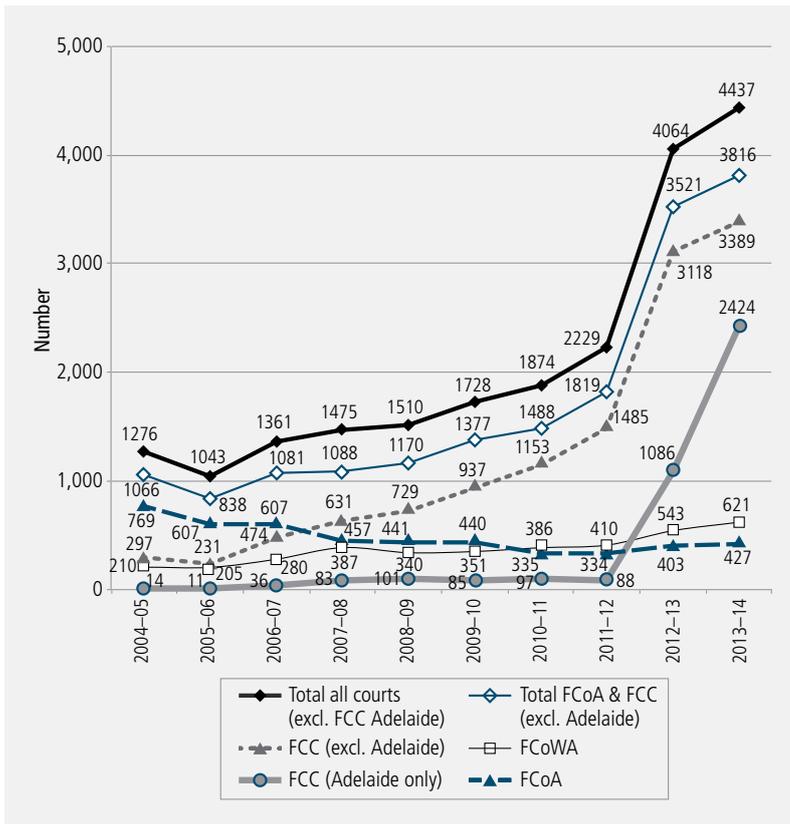
Source: *ESPS report*, Table 5.5, p. 95

Table 4: Allegation of family violence and child abuse, pre- and post-reform

Allegation of family violence ^a and child abuse	Pre-reform (%)	Post-reform (%)
Both family violence and child abuse	8.2	17.0 ^{***}
Family violence alone	18.2	18.9
Child abuse alone	2.8	4.9 [*]
Neither	70.8	59.2 ^{***}
Total	100.0	100.0
No. of cases	895	997

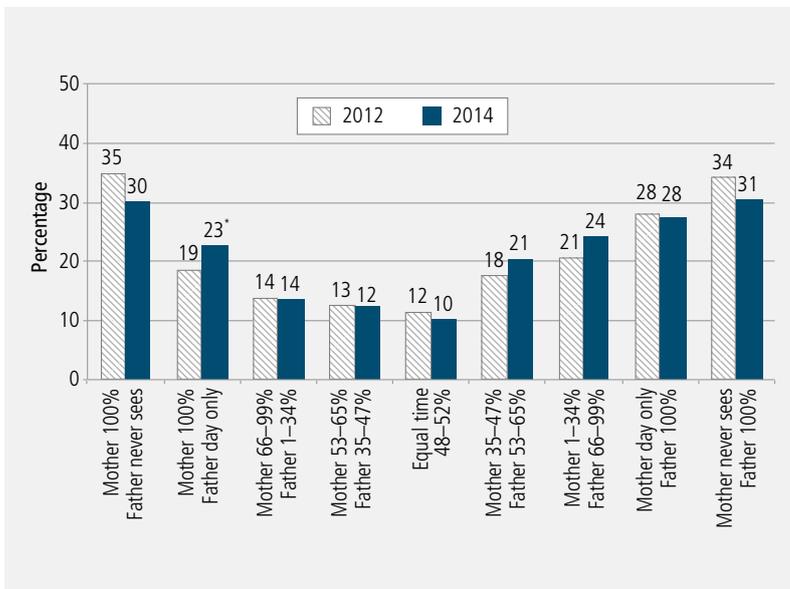
Note: ^a Includes family violence order raised. Percentages are based on weighted data. Statistically significant differences between pre- and post-reform periods are noted: * p < .05; ** p < .01; *** p < .001.

Source: *CO report*, Table 3.10, p.42



Source: CO report, Figure 2.9, p. 24

Figure 1: Number of Notices of Risk filed, FCC, FCoA and FCoWA, 2004-05 to 2013-14



Notes: Data have been weighted. In cases where both parents of a focus child participated (2012: n = 539; 2014: n = 523), data from one parent were randomly selected for inclusion. Statistically significant differences between 2012 and 2014 were not found.

Source: ESPS report, Figure 3.17, p. 53

Figure 2: Care-time arrangements made in the presence of safety concerns associated with ongoing contact with focus parent, 2012 and 2014

2012 to 23% in the SRSP 2014 (see Figure 2). More generally, parents who disclosed family violence and/or safety concerns were more likely to have care time involving little or no contact with a father compared to parents who did not disclose such experiences, save for fathers in the 2014 cohort who disclosed family violence (*ESPS report*, Figures 5.7 and 5.8). These findings suggest that the greater emphasis on identifying family violence and child safety concerns has supported modest, positive shifts in the making of parenting arrangements in the period subsequent to the 2012 family violence amendments. Nevertheless, there was a reduction in reports of parenting arrangements involving supervision between the SRSP 2012 and the SRSP 2014, (*ESPS report*, Table 2.7), together with a decline in reports of no-time orders where parents reported safety concerns with a parent (see Figure 2).

The Court Files Study component of the Court Outcomes Project similarly suggested subtle shifts in court orders for parenting arrangements, which varied according to whether the orders were made by judicial determination, by agreement between the parties subsequent to the commencement of proceedings or filed with the court for endorsement as consent orders. Judicially determined orders for shared parental responsibility decreased after the reforms (from 51% to 40%: *CO report*, Table 3.25) but changes to care-time orders were limited in the judicial determination sample. Of note, negligible changes were apparent in the making of shared care-time orders by judicial determination in matters involving family violence and/or child abuse allegations (see Table 5, page 13). On the other hand, in cases resolved by consent after proceedings were issued, orders for shared parental responsibility did not change substantially after the reforms but orders for shared care-time were less frequent to a statistically significant extent (*CO report*, Table 3.31; and see Table 7, page 14). Orders for children to spend majority time with mothers were more frequent to a statistically significant extent in the post-reform sample (*CO report*, Table 3.31). Orders for supervised time remained stable at 4% in both the pre- and post-reform file samples (*CO report*, Figure 3.2) and orders for no-time were rare in both samples—with the highest occurring in relation to no-time with fathers, being 2% in the pre-reform sample and 3% in the post reform sample (*CO report*, Table 3.28).

Overall, the findings relating to court orders for the total sample indicate that the frequency of orders for shared parental responsibility did not change substantially after the 2012 amendments but orders for shared care time

were less common to a statistically significant extent in cases involving allegations of both family violence and child abuse (see Table 6, page 13).

Findings from the Published Judgments study component of the Court Outcomes Project suggested that the effects of s 60CC(2A) on outcomes in parenting cases varied according to the way in which the court analysed the facts of a case and applied its discretion in the context of the Part VII decision-making framework. In some contexts, s 60CC(2A) appeared to operate as a tie-breaker when making parenting orders that prioritised the protection of children from harm, in some cases it supported an unacceptable risk analysis, and in other cases it tipped the balance in favour of an outcome restricting or ceasing contact between a child and a parent. As noted above, the inclusion of s 60CC(2A) was intended to provide a means of resolving the tension between the two primary considerations, yet the analysis of published judgments suggested that this provision has had limited effect,

especially where courts found there to be ambiguity associated with the allegations of family violence or child abuse, or in the way in which one parent had behaved in relation to the other parent's relationship with the child. The judgment analysis suggested that when making parenting orders, judicial decision-makers sought to maintain children's relationships with both parents post-separation, with orders for sole parental responsibility and limited or no care time with the other parent tending to be made in cases where a very severe history of family violence had been established and the behaviour of one parent was clearly deficient compared to the behaviour of the other. In less clear-cut circumstances, particularly where the parent's motivation for raising allegations of family violence or child abuse was questioned, care-time decisions were more likely to favour arrangements that maintained the child's relationship with both parents.

The evidence of limited changes in the datasets described above is consistent with the findings in the RFV Study regarding the limited effect

Table 5: Children with shared time and shared parental responsibility, by allegation of child abuse and family violence and determination type, pre- and post-reform

	Judicial determination		Consent after proceedings		Consent without litigation	
	Pre-reform	Post-reform	Pre-reform	Post-reform	Pre-reform	Post-reform
Children from cases with allegations of both family violence and child abuse						
Shared care time	8.6	7.8	24.9	12.4 *	– ^a	–
Shared parental responsibility	53.6	32.3 **	83.1	88.1	–	–
No. of children	95–101	239–252	87–91	171–179	–	–
Children from cases with allegations of either family violence or child abuse						
Shared care time	7.3	10.6	19.4	15.4	–	–
Shared parental responsibility	45.1	33.8	92.8	95.8	–	–
No. of children	148–161	171–181	217–225	236–239	–	–
Children from cases with no allegations of family violence or child abuse						
Shared care time	9.8	11.4	28.5	13.0 ***	21.4	26.4
Shared parental responsibility	54.1	55.7	96.8	95.3	90.9	91.4
No. of children	139–146	109–125	279–288	233–243	381–405	420–427

Note: Results for children from consent without litigation cases with any allegations of family violence or child abuse are not shown as sample sizes are too small (16 or fewer). Percentages are based on weighted data. Statistically significant differences between pre- and post-reform periods are noted: * p < .05; ** p < .01; *** p < .001.

Source: CO report, Table 3.33, p. 64

Table 6: Children with shared care time, by whether there were allegations of family violence and/or child abuse, pre- and post-reform

	Pre-reform (%)	Post-reform (%)
Both family violence and child abuse	18.9	10.6 *
Either family violence or child abuse	17.4	14.9
Neither family violence nor child abuse	22.2	21.7

Note: Percentages are based on weighted data. Statistically significant differences between pre- and post-reform periods were tested using chi-square tests: * p < .05; ** p < .01; *** p < .001.

Source: CO report, Table 3.29, p. 62

Findings from each of the studies in the Evaluation support the observation that the amendments have been associated with longer resolution time frames for resolving parenting arrangements among parents in cases characterised by family violence.

of s 60CC(2A) on parenting arrangements, with the rate of endorsement in relation to the meaningful relationship consideration 20 percentage points higher than that for the protection from harm consideration (*RFV report*, Table 2.1). Reservations were also expressed by professionals participating in the RFV Study about the capacity of the family law system to deal adequately with cases involving family violence and child abuse concerns.

Patterns in service use since the 2012 family violence amendments

Findings from the ESPS indicate continuing consolidation of the aims of the 2006 family law reforms with the ESPS evidencing a shift towards more agreements being reached in FDR, including by those parents who were not affected by family violence (*ESPS report*, Table 4.13). Approximately half of the participants in both the SRSP 2012 and the SRSP 2014 reported that they contacted FDR providers and lawyers and 20% of parents reported contact with the court system (*ESPS report*, Table 4.1). More specifically, in relation to parents participating in the SRSP 2014 who had sorted out their parenting arrangements, approximately 10% reported using FDR/mediation as their main pathway, while approximately 6% used lawyers and 3% used courts as their main pathway (*ESPS report*, Table 4.8). The findings from the SRSP 2014 also indicate a strong association with the use of formal pathways and the experience of family violence and that parents, particularly mothers, were more likely to also report using family law services as their main pathways to sort out their parenting arrangements (*ESPS report*, Figures 4.1 and 4.2).

Findings from each of the studies in the Evaluation support the observation that the 2012 family violence amendments have been associated with longer resolution time frames for resolving parenting arrangements among parents in cases characterised by family

violence. The ESPS indicated an increase in the number of parents in the SRSP 2014 who reported that they had not resolved their arrangements at the time of the survey as compared to the SRSP 2012 (see Table 7). The Court Files Study data also indicated that time frames for the resolution of matters resolved by judicial determination or consent prior to or during trial had doubled, on average, from around 4 to 8 months (*CO report*, Table 3.4). While the views of professionals participating in the RFV indicate that these changes were at least in part linked to the need for a greater level of scrutiny of family violence and child abuse arising from the 2012 family violence amendments, other influences such as court resourcing and the evaluation sampling method also emerged as relevant considerations.

Unintended consequences

Although changes associated with longer resolution time frames were identified in the Court Files component of the Court Outcomes Project (discussed above), the Evaluation data indicate that the 2012 family violence amendments did not, in general, worsen parents' experiences of the family law system. The ESPS data suggest positive views in most areas and measures of efficacy increased between the SRSP 2012 and the SRSP 2014. While fathers in both surveys were less satisfied with the family law system than mothers, the disparity remained similar in the SRSP 2014, supporting the conclusion that no generalisations can be made about whether the amendments favoured mothers or fathers.

The ESPS data suggested marginal improvement in the views of parents affected by family violence, though this was true to a greater or lesser extent according to the measure and whether the experience involved was physical violence or emotional abuse (*ESPS report*, section 6.1 and Table B.5). Differences among these groups are evident in different areas, suggesting an uneven effect of the reforms, consistent with findings reported in relation to

Table 7: Status of parenting arrangements, by parent gender, 2012 and 2014

	2012 (%)	2014 (%)		
	Total	Total	Fathers	Mothers
Yes, sorted out	73.6	71.0 **	69.1	72.9 ††
In process of sorting out	19.2	20.7	22.3	19.0 ††
No, not sorted	7.2	8.4 *	8.6	8.1
No. of observations	6,056	6,010	2,795	3,215

Notes: Data have been weighted. The "don't know" and "refused" responses were excluded from this analysis (< 1%). Percentages may not total 100.0% due to rounding. Statistically significant differences between 2012 and 2014 within a given population are noted: * p < .05; ** p < .01; *** p < .001. Statistically significant differences between mothers and fathers within each of the two cohorts are noted: † p < .05; †† p < .01; ††† p < .001.

Source: *ESPS report*, Table 4.4, p. 66

service responses to the disclosure of family violence and child safety concerns. In general, less positive findings emerged in relation to safety concerns, with the experience of parents with safety concerns for themselves or their child (or both) in some areas changing little, if at all, with some indication of a negative shift for some sub-groups (*ESPS report*, section 6.1). These findings suggest a particularly mixed set of views and experiences among these parents.

As noted in previous sections, systemic pressures were identified by professionals participating in the RFV Study, together with concerns about the capacity of the family law system to facilitate the identification of concerns relating to family violence and child abuse and concerns associated with the complexity of the legislation and family law system and the need for more effective education and training.



Summary

The RFV Study indicated that the 2012 family violence amendments were perceived positively by a majority of family law system professionals, with strongest support evident among non-legal professionals compared with lawyers and judicial officers and registrars. While there was a greater emphasis on identifying family violence and child abuse, the SRSP 2014 data did not suggest that this translated into more parents reporting that their concerns were dealt with appropriately after the 2012 amendments. The ESPS samples and Court Files Study together with the RFV Study suggest that these amendments have had a greater influence on identification and screening practices than on patterns in parenting arrangements. As foreshadowed at the outset of this article, these findings reflect practice some two years after the 2012 family violence amendments were implemented, and it is likely that greater effects will be identified as practice continues to evolve over time.

Endnotes

- 1 s 60D(2) and s 63DA(5) of the FLA provide that an adviser is: (a) a legal practitioner; or (b) a family counsellor; or (c) a family dispute resolution practitioner; or (d) a family consultant.
- 2 s 67BA(4) provides that an interested person includes parties to proceedings and Independent Children's Lawyers (ICLs).
- 3 *Responding to Family Violence: A Survey of Family Law Practices and Experiences* (Kaspiew, Carson, Coulson, Dunstan, & Moore, 2015; "RFV report"); *Experiences of Separated Parents Study* (Kaspiew, Carson, Dunstan et al., 2015; "ESPS report") and *Court Outcomes Project* (Kaspiew, Carson, Qu et al., 2015; "CO report").

References

- Australian Law Reform Commission, & NSW Law Reform Commission. (2010). *Family violence: A national legal response*. Sydney: ALRC and NSWLRC.
- Chisholm, R. (2009). *Family courts violence review*. Canberra: Attorney-General's Department.
- De Maio, J., Kaspiew, R., Smart, D., Dunstan, J., & Moore, S. (2013). *Survey of Recently Separated Parents: A study of parents who separated prior to the implementation of the Family Law Amendment (Family Violence and Other Matters) Act 2011*. Canberra: Attorney-General's Department.
- Family Law Council. (2009). *Improving responses to family violence in the family law system: An advice on the intersection of family violence and family law issues*. Canberra: Attorney-General's Department.
- Kaspiew, R., Carson, R., Coulson, M., Dunstan, J., & Moore, S. (2015). *Responding to family violence: A survey of family law practices and experiences*. Melbourne: Australian Institute of Family Studies.
- Kaspiew, R., Carson, R., Dunstan, J., De Maio, J., Moore, S., Moloney, L. et al. (2015). *Separated parents and the Australian family law system: Experiences before and after the 2012 family violence reforms*. Melbourne: Australian Institute of Family Studies.
- Kaspiew, R., Carson, R., Qu, L., Horsfall, B., Tayton, S., Moore, S., Coulson, M., & Dunstan, J. (2015). *Evaluating the 2012 family violence amendments: Court Outcomes Project*. Melbourne: Australian Institute of Family Studies.
- Kaspiew, R., Gray, M., Weston, R., Moloney, L., Hand, K., Qu, L., & the Family Law Evaluation Team. (2009). *Evaluation of the 2006 family law reforms*. Melbourne: Australian Institute of Family Studies.

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