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Legislative Debate in the Federal Parliament**

**Family Law Amendment  
(De Facto Financial Matters & Other Measures) Bill 2008**

**Ms Grierson** (Newcastle) (12.14 p.m.)—I rise today to speak on the Family Law Amendment (De Facto Financial Matters and Other Measures) Bill 2008. Like my colleague before me, I welcome this legislation, which is indeed long overdue. It gives effect to an agreement between the Commonwealth, states and territories which was actually made in 2002. There are three key points embodied in this bill. Firstly, it will allow de facto couples to access the federal family law courts on property and spouse maintenance matters. Secondly, it will make the laws in this area simpler and more consistent across state boundaries. Thirdly, it is consistent with the government's policy not to discriminate on the basis of sexuality, as the bill applies to both opposite-sex and same-sex de facto couples. Given the increase in de facto relationships within Australian society—de facto partners now represent 15 per cent of all people living as socially married—it is important that these couples have access to a Commonwealth regime for handling the financial matters associated with any breakdown of their relationships.

This bill amends the Family Law Act 1975 to create a regime for de facto couples similar to that which exists under the act for married couples. I think it is extremely important, in a time when we are seeing more and more different family types, that those who choose to live in de facto relationships have access to the same process as those who live under formal marriages. Of course, ideally we like to see all relationships last and be productive and positive for everyone, whether they are married or whether they are de facto, but the truth is that, for many reasons, many do not survive. There are just over 50,000 divorces granted each year, about 30 per cent more than there were 20 years ago. That is possibly one reason why more people now choose to live in de facto relationships. Other reasons are probably to do with the changing nature of work, financial pressures and the way young people perhaps focus more on the quality of relationships than on the legal status of them. The opportunity for travel, of course, means young people spend more time in different parts of the world. It all means that people are less and less likely to stay in one place for too long.

I note the important part of this legislation that ensures same-sex de facto couples are not discriminated against. As I said earlier, we live in a country where, by and large, people are free to make their living and family arrangements as it suits them, and I strongly say that is how it should be. I note that there is an amendment, which I have only just looked at, from the opposition. The opposition wishes to ensure that the

centrality of marriage is not being devalued. I think that is a fairly simplistic approach. I wish relationships were that easy. Having a marriage certificate does not ensure the depth, positiveness and lasting value of a relationship. I find it rather distressing sometimes in this place when political parties politicise something that I think members of parliament would be the least able to comment on—human relationships. Most people would hope to end their life having had a very intimate and rewarding personal relationship. I think we would be the last people to tell them how that should look and what form it should take.

Many years as a school principal have given me the experience of the difference and diversity of caring parent relationships, whether they involve a person not even related to a child, a grandparent or another relative. That complexity is something that should be acknowledged, assisted and supported in our response so that relationships that involve children are always positive. I do find it difficult that the opposition have brought forward an amendment that really does not relate to this bill; that is outside the ambit of the bill. They certainly attempt to divide people. I would say, though, that the Australian public are not divided on their attitudes to relationships and marriage. The majority think they are something that we should stay out of. I stress that I agree with them.

It is very important that we have a regime in place that does not discriminate against people for the relationship that they have chosen to pursue. Our government is committed to policies of non-discrimination on the basis of sexuality. That is why we have also passed legislation in this place to give partners in same-sex relationships equal treatment in the area of superannuation. Unfortunately, that legislation is currently being held up by opposition senators, who have sent it to a committee for review.

Because these are important first steps in implementing the government's election commitment to remove discrimination against people in same-sex relationships from a wide range of Commonwealth laws it is appropriate that this legislation be given speedy passage. I would hope that a bipartisan spirit would prevail on this very basic principle of treating all people as equals at law. So I am pleased that this legislation covers both opposite-sex and same-sex de facto couples. I am pleased also that it gives them access to the same regime that currently applies to married couples. Looking a little closer at that regime, we can firstly note that the reforms apply to a de facto relationship that has lasted for two years or to shorter relationships if there is a child of the relationship or if a party to the relationship made a substantial contribution to that relationship and it would cause serious injustice not to grant an order. That definition will apply to de facto relationships, and I think it is a very sensible one.

The bill also extends to couples whose relationship both satisfies the definition of 'de facto relationship' in the references of power and is registered under state or territory relationship registration legislation. It is the primary objective of the bill to allow de facto couples to access the federal family law courts on property and spouse maintenance matters. This will give greater protection for separating de facto couples and simplify the laws governing them. This is because we are creating a Commonwealth regime for handling the financial matters of de facto couples on the

breakdown of their relationship. The current state and territory de facto property settlement and spouse maintenance laws are far from uniform, giving de facto couples different rights and different procedures depending on which part of Australia they live in. New South Wales, Queensland, Victoria and Tasmania have all referred to the Commonwealth their powers over financial matters arising from the breakdown of de facto relationships, so this new regime will apply in those states as well as in the territories. At this stage, Western Australia and South Australia have not referred their powers, so de facto couples in those states will not be covered by the new laws—but this is still progress.

One important aspect of the law will be changed by this legislation. Currently, separating de facto couples who have children can find themselves with the issues relating to their children in one of the federal family law courts and their property issues being dealt with separately in a state court. As you can imagine, this creates additional stress during what is already a very stressful time for people, so being able to have all these issues of property, maintenance and child support dealt with by one federal court system, particularly one that has such a specialised practice and track record, will help to reduce some of that pressure—and the costs as well.

We also know that the federal family law courts have a great deal of experience in handling relationship matters and have procedures and dispute resolution mechanisms more suited to handling litigation between family members. Having the federal family law courts handle the financial and property matters arising from a relationship breakdown does make sense and, we hope, can provide a more sensitive environment for those matters to be heard in. The government understands that these measures confer additional jurisdiction on federal courts, and additional resources to deal with the increased workload, therefore, were provided to the courts in the 2007-08 budget. The government will also, in consultation with the courts, monitor the impact of the new jurisdiction created by this bill.

I am pleased we will be doing this as, just last week, I chaired a hearing of the inquiry of the Joint Committee of Public Accounts and Audit into the impact of the efficiency dividend on small government agencies. Among those we heard from last week were the Family Court of Australia and the Federal Magistrates Court. It was interesting to note that one of the issues raised by witnesses last week was their struggle to service the expansion of their roles while meeting the efficiency dividend each year. In cases like this legislation, where the government is clearly asking an agency to take on a new jurisdiction, that fortunately has been recognised and resources provided in addition to existing resources.

I also note that the Attorney-General has a review underway into the delivery of family law court services by the federal courts. The Attorney-General has stated that he wants the Family Court and Federal Magistrates Court to be completely externally focused on assisting people to resolve their differences as quickly and cost effectively as possible. I understand that the review is to be completed shortly and I look forward to the government's consideration of any changes that should be made to the structure of the federal family courts to better promote access to justice for family law litigants—after all, it is the clients who have the highest need. In family law we are trying to achieve

the most effective and efficient way of helping families to resolve some of the most difficult issues they are ever going to face. We want to see every effort and support going into maintaining relationships, and the government is providing various programs in this area.

I would like to make mention of some of those programs that demonstrate the government's commitment to family support services and which are available in my electorate of Newcastle. In July, the Minister for Families, Housing, Community Services and Indigenous Affairs announced that a mobile playgroup specifically for Indigenous families would be funded and based out of Newcastle. Support for parenting is an important way of strengthening family relationships. The government is committed to supporting the work of the family relationships centre in Newcastle, which helps couples try to resolve disputes before they end up in litigation. In May of this year, we announced a one-off funding boost of over \$80,000 to the Hunter Community Legal Centre in Newcastle to assist in its service delivery, which includes assistance to people in the family law area.

We are also trying to support families so that disputes and breakdowns do not occur. We are providing non-legal dispute and relationship services and we are providing services to help those who have got to the point of litigation. We provide this support because we understand that supporting families, particularly when they are going through difficulties, is one of the most important things we can do. One very important issue for users of family law services in the electorate of Newcastle is the need for better facilities for the federal courts in our city. Along with legal practitioners and the fraternity involved, I have been lobbying for and talking about the need for improved facilities for federal courts since long before I became the member for Newcastle. I am pleased to say that we are gradually inching much closer to a better Commonwealth court in Newcastle. Our current facility is inadequate to cater for the growing population which it serves. The population extends from Newcastle and the Hunter to the North Coast and to New England. A strategic review of the current court accommodation in Newcastle, commissioned by the Family Court and Federal Magistrates Court, recommended that a full, separate Commonwealth court facility be established. There was jubilation in the city of Newcastle at this fine recommendation.

Many problems with the current accommodation were raised within the review. First, the court building is too small. It only has four courtrooms. With two judges and three federal magistrates based in Newcastle, it certainly does not fit. The Federal Magistrates Court regularly has to use state court facilities for its divorce list. Given the geographical size of the area serviced by Newcastle, there is also latent demand from more Commonwealth matters which cannot list there because of space constraints and the lack of facilities. With the expansion of jurisdiction outlined in the bill before us today, it is therefore even more important that the Newcastle court be given room to grow. In addition to the size of the building, its layout also compromises its functions, with security being made difficult by the building being spread over many floors. The problem is further exacerbated by the slow and erratic lifts in the building. The configuration of public spaces and waiting areas is not optimal. In fact, it is one of the contributing factors to security risks and to the tensions and frustrations experienced by litigants, who are often forced to wait side by side and with their respective legal teams

in very cramped areas. Private meeting areas and briefing rooms are also inadequate to allow all who need to prepare before hearings to do so in a decent space. The general presentation of the court was found to be well below the acceptable standard, given the status and prominence that courts have within our system of government.

All in all, the review found that the Newcastle Commonwealth courts were deficient in size, layout, facilities and presentation—a rather damning summary. It was a review that confirmed what we had been saying for a long time: upgraded facilities for Newcastle are long overdue. I put on the record my appreciation to the Attorney-General for being very accessible to me on this issue. As the shadow Attorney-General, he last visited the courts several years ago. He acknowledges this, and nothing has improved since then. He has certainly been accessible not just to me but to the users of the facility since he took office last year. He met with stakeholders in June when he came to Newcastle. I know that discussions are ongoing and thorough on a proposal for a new dedicated court facility and that all these things will take a certain amount of time and process. I also thank the Family Court and the Federal Magistrates Court for funding, from their own budgets, the scoping studies that are underway right now.

We are considering a \$60 million project. When we look at big projects like this, it is imperative that we ensure that the government invests its resources where they are most needed, where we know from evidence they are demanded and will provide the most benefit to Australian families. We will continue to enjoy putting forward the case for the urgently needed upgrade of facilities in Newcastle. Comparative figures actually show that filings in the Family Court registry and the Federal Magistrates Court in Newcastle are up to 10 times higher than those at other facilities in the country and that the completion of applicants' matters can take up to 12 months longer due to capacity constraints. The emotional difficulties faced by people before these courts suggest that frustration and aggravation from prolonged delays should be avoided. I think people should be able to have their matters heard in an environment in which they certainly feel safe and secure and so can give their attention to trying to resolve these difficult family law matters. So I look forward to ongoing discussions with the Attorney-General, his staff and officials, the courts, court users and the community of Newcastle on this issue. I am hopeful that we will be able to progress this through future budget processes and give the people of Newcastle and the wider region some comfort that we understand the need for improved facilities in this area.

To conclude by returning to the specifics of the bill, there are three key things that we are trying to do in this legislation and that should certainly be supported by the opposition. We are allowing de facto couples to access federal family law courts on property and spouse maintenance matters; we are making the laws in this area simpler and more consistent across state boundaries; and we are removing discrimination on basis of sexuality, as the bill applies to both opposite-sex and same-sex de facto couples. I conclude by congratulating the Attorney-General for bringing this legislation forward within our first year of government. I commend it to the House.