

Our Ref: QM:FTP.08.11

Reply to: Head Office

Your Ref:

1 September 2011

'Failure to Protect' Laws Consultation
Department of Justice
GPO Box 4356
MELBOURNE VIC 3000

By email: criminal.law@justice.vic.gov.au

Dear Sir or Madam,

RE: Proposed Introduction of 'Failure to Protect' Laws Consultation

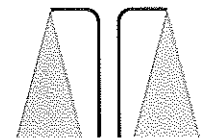
Peninsula Community Legal Centre (PCLC) is a not-for-profit organisation that has been providing free legal services to its community for over 30 years, with a mission "To empower and support disadvantaged community members of the South East and Westernport Region to use the law and legal system to protect and advance their rights and broaden their awareness of their rights and responsibilities."

PCLC's staff and volunteers provide clients with free and accessible legal services, particularly the most disadvantaged and marginalised members of our community who may otherwise be unable to access legal assistance. PCLC's client's life circumstances can be severely affected by their legal problems and they are often not able to access other legal services. Being able to obtain free legal assistance can often help our clients move on with their lives and become active participants in their local communities.

In particular, PCLC provides duty lawyer services in the specialist family violence intervention order program at the Frankston Magistrates' Court and in family law matters at the Federal Magistrates' Court at Dandenong. A Family Law specific program is operated by the Centre to address the obvious need for family law services identified by the level of demand for family law advice from PCLC each year. Complementing the family law program, PCLC also operates programs in Child Support and Tenancy and Consumer Advocacy.

The most requested area of assistance for PCLC is in the area of family law and family violence. Within Victoria, PCLC's head office is located in Frankston, which has the highest per capita level of family violence incidences in the metropolitan region.¹ PCLC therefore has extensive experience in assisting and advocating on behalf of victims of family violence, through both casework service provision and community education and law reform activities.

¹ Victoria Police 2009/2010 Crime Statistics: Recorded Family Violence Incident Reports, <http://www.police.vic.gov.au/content.asp?a=internetBridgingPage&Media_ID=59800> at 27 April 2011



Peninsula Community
Legal Centre Inc

Registered No. A8T
ABN 23 591 244 622

Head Office
Chatsworth House
Suite 1-4
431 Nepean Highway
Frankston Vic 3199

Tel 03 9783 3600
Fax 03 9770 5200
Free Call 1800 064 784
DX 19953 Frankston
Email pclc@pclc.org.au
Website www.pclc.org.au

Bentleigh Branch
82 Brady Road
Bentleigh East Vic 3165

Tel 03 9570 8455
Fax 03 9570 8466

Cranbourne Branch
Bella Centre
Suite 12
33-39 High Street
Cranbourne Vic 3977

Tel 03 5995 3722
Fax 03 5995 3799

Pines Branch
2A Candlebark Crescent
Frankston North Vic 3200

Tel 03 9786 6980
Fax 03 9785 3582

Rosebud Branch
1375 Point Nepean Road
Rosebud Vic 3939

Tel 03 5981 2422
Fax 03 5981 2488

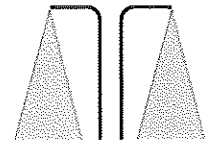
We gratefully acknowledge
the financial assistance of:

- Commonwealth Attorney-General's Department
- Department of Justice (Vic)
- Consumer Affairs Victoria
- Victoria Legal Aid
- City of Casey
- City of Glen Eira
- City of Kingston
- Frankston City Council
- Mornington Peninsula Shire

Donations over \$2.00
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Community
since 1977*





Peninsula Community
Legal Centre Inc

Whilst PCLC agrees that the rates of child abuse are unacceptably high in Victoria and therefore action is required to protect vulnerable children, PCLC opposes the introduction of 'failure to protect' legislation and endorses the joint submission of the Federation of Community Legal Centres and Victorian Family Violence Justice Reform Campaign partner agencies. This includes, but is not limited to the following positions:

- The Discussion Paper does not include evidence demonstrating that 'failure to protect' offences are effective in reducing levels of child abuse or numbers of child deaths, nor evidence that introducing such offences is likely to increase reporting of child abuse.
- Research clearly demonstrates the co-occurrence of family violence and child abuse. Where there is abuse of children it is very likely that there will also be violence against the mother.
- 'Failure to protect' legislation can be unfairly detrimental to women experiencing family violence. Overseas jurisdictions who have these laws demonstrate a significant number of cases where mothers being charged with 'failure to protect' offences are victims of family violence and not in a position to protect their child.
- The proposal does not reflect the dynamics of households in which family violence is present, and the disproportionate impact of that violence on women.
- 'Failure to protect' laws can be detrimental to the children of women experiencing family violence. There has been great investment in strengthening mother/child relationships and working with non-abusing parents to support these relationships which enhances the safety of vulnerable children. Professionals working with vulnerable children have raised considerable concern that 'failure to protect' laws will undermine these support efforts, by encouraging mothers to withdraw from services and other supports.

Thank you for the opportunity to provide comment.

Yours faithfully,

HELEN CONSTAS
CHIEF EXECUTIVE OFFICER
PENINSULA COMMUNITY LEGAL CENTRE INC.