Family Law Amendment Child Safety and Disclosures Policy 2026 — FLCS-P 2026/01

Safety first. A disclosure is evidence to be weighed, not a tactic to be punished. Alienation labels are not a residence switch.

Companion instruments: Family Law Amendment (Child Safety and Disclosures) Bill 2026 and Explanatory Memorandum EM-FLCS 2026/01.

1 Policy statement

Australia's family-law system must protect children from family violence, abuse, sexual harm and neglect. Parenting proceedings are not a forum in which a child's disclosure is presumed to be a tactic, and they are not a forum in which an unverified alienation label can be used to switch residence while safety remains unresolved.

This policy elevates safety as the primary element of the child's best interests, requires Independent Children's Lawyers to investigate and put safety material properly before the court, permits the protective use of disclosure recordings with privacy and harm safeguards, and restrains reliance on Parental Alienation Syndrome and equivalent labels as a residence-transfer ground where safety allegations are live.

Family life matters. Articles 23 and 24 of the International Covenant on Civil and Political Rights recognise the family as the natural and fundamental group unit of society and require protection of the child. Those articles do not authorise contact-at-all-costs, belief-management, or the silencing of a child who reports harm. Articles 3, 9, 12, 19, 24 and 34 of the Convention on the Rights of the Child bind the same analysis: best interests, continuity of care where safe, the child's right to be heard, protection from violence and sexual exploitation, and health.

This instrument is operative Commonwealth policy. The companion Bill gives it legal effect.

2 Purpose

The purpose of this policy is to establish a clear national framework for the administration of Part VII of the Family Law Act 1975 in cases involving child safety. It is designed to ensure that:

2.1 the child's safety from family violence, abuse, sexual harm and neglect is the primary consideration where allegations remain unresolved;

2.2 a child's views are heard and given due weight consistently with Article 12 of the Convention on the Rights of the Child;

2.3 disclosure recordings made for a protective purpose may be admitted or considered, subject to fairness, privacy and harm safeguards;

2.4 a person who records a disclosure in good faith for a protective purpose is not punished in parenting proceedings merely for doing so;

2.5 Independent Children's Lawyers investigate and put safety evidence properly, and do not rubber-stamp residence or contact outcomes that ignore unresolved sexual-abuse or serious-violence allegations;

2.6 Parental Alienation Syndrome and equivalent unverified labels are not used as a residence switch where safety allegations are live;

2.7 sexual-abuse allegations trigger Magellan-style case management and timely information sharing; and

2.8 courts give written reasons when residence changes despite safety allegations.

3 Policy objectives

3.1 Protect children in Australian parenting proceedings from unacceptable risk of harm.

3.2 Ensure disclosures of abuse are weighed as evidence, not dismissed as tactics.

3.3 Prevent alienation labels from overriding unresolved safety risk.

3.4 Strengthen Independent Children's Lawyer duties so that safety material is obtained and put before the court.

3.5 Permit protective use of disclosure recordings while preventing misuse, harassment and unnecessary retraumatisation.

3.6 Align Part VII practice with CRC Articles 3, 9, 12, 19, 24 and 34 and ICCPR Articles 23 and 24.

3.7 Improve accountability through written reasons and periodic review.

3.8 Preserve fair process for all parties without collapsing fairness into contact-at-all-costs.

4 Scope

This policy applies to parenting order proceedings and related case management under Part VII of the Family Law Act 1975, including interim and final hearings, the work of Independent Children's Lawyers, family consultants and single experts, and information-sharing with prescribed child-protection and policing agencies where sexual abuse or serious violence is alleged.

It applies to judges, registrars, Independent Children's Lawyers, family consultants, report writers, and Commonwealth officials responsible for administering or advising on the legislative framework.

This policy does not override a criminal conviction, a child-protection order of a State or Territory court, judicial independence, or any mandatory requirement of Australian law. It does not create a private right to damages. It directs how Commonwealth family-law powers and duties are to be exercised when the companion Bill is in force.

5 Core policy principles

5.1 Safety first

Where a safety allegation is unresolved, protection of the child from harm outranks maximising contact. Contact that exposes a child to unacceptable risk is not in the child's best interests.

5.2 A disclosure is evidence

A child's disclosure of abuse or harm is material to be assessed. It is not presumed to be coached or tactical merely because it arises in a parenting dispute.

5.3 Alienation labels are not a residence switch

Parental Alienation Syndrome and equivalent unverified diagnostic labels must not be used to change residence or to force unsupervised contact while safety allegations remain live. Evidence of influence or coaching may be considered in ordinary factual terms after risk is addressed.

5.4 The child has a right to be heard

Article 12 of the Convention on the Rights of the Child requires that the child be given a genuine opportunity to express views and that those views be given due weight. Hearing the child is not optional window-dressing.

5.5 Independent Children's Lawyers must investigate

An Independent Children's Lawyer is not a rubber stamp. The role requires active enquiry into safety, putting relevant material before the court, and reasoned opposition to unsafe interim arrangements.

5.6 Protective recording is not, of itself, misconduct

A parent or carer who records a disclosure in good faith to report harm or to put safety evidence before the court must not be treated, for that reason alone, as abusive, alienating or contemptuous in the parenting proceeding.

5.7 Privacy and harm safeguards

Disclosure recordings must be handled so as to restrict access, prevent publication, reduce repeated interviewing, and avoid harassment of the child or a protective carer.

5.8 Family without belief-management

ICCPR Articles 23 and 24 support family life and child protection together. Family preservation is not a licence to manage a child's beliefs, silence a disclosure, or prioritise an adult's contact claim over the child's safety.

5.9 Accountability

Residence changes despite safety allegations require written reasons. Case-management delay in sexual-abuse matters is a failure to be remedied, not a reason to prefer the alleged abuser's contact.

6 Best interests and safety primacy

Decision-makers under Part VII must treat as primary considerations the need to protect the child from harm, the child's views, the child's relationships, and parental capacity to keep the child safe. Where an unresolved safety allegation exists, protection from harm receives greater weight than other considerations.

The court must not treat a parental alienation claim as outweighing, displacing or curing an unresolved safety allegation. The court must not change residence, or substantially increase unsupervised time with a person who is the subject of an unresolved safety allegation, solely or primarily because of such a claim.

A finding that a safety allegation is not proved to the civil standard does not, of itself, prove alienation or justify a residence switch. Safety-first interim arrangements—including supervised time or suspended contact—remain available and often necessary pending adequate investigation.

7 Disclosure recordings

7.1 When a recording may be considered

A disclosure recording may be admitted or considered in a parenting proceeding if it was made for a protective purpose, is relevant to a safety allegation or to best interests, and can be received without unfair prejudice having regard to privacy and harm safeguards.

A recording is not shut out merely because it was made without another party's knowledge, by a parent who is a party, or in circumstances where general surveillance law would otherwise restrict private

recording, provided the protective-purpose and safeguards tests are met for use in the Part VII proceeding.

7.2 Weight

Weight depends on the circumstances of the disclosure and recording, the child's age and development, any indication of leading or contamination, consistency with other material, and the child's right to be heard. A recording can be powerful evidence. It is not conclusive. Fabrication or material alteration remains open to be found on the evidence.

7.3 Safeguards

Courts must restrict access, prohibit unauthorised publication, reduce unnecessary playback and re-interviewing, and prevent use of the recording as harassment. Closed-court viewing, limited-access directions and transcript alternatives should be used where they reduce harm without hiding safety evidence from the decision-maker.

7.4 No adverse inference from protective recording alone

Making, retaining or seeking to tender a disclosure recording for a protective purpose is not, of itself, proof of poor parenting capacity, family violence by the recording party, abuse of process, or alienation. Deliberate misuse remains sanctionable.

8 Independent Children's Lawyer duties

An Independent Children's Lawyer must form an independent best-interests view, make reasonable enquiries about safety allegations, and put relevant safety material—including qualifying disclosure recordings—before the court unless doing so would cause unacceptable harm that cannot be mitigated.

The Independent Children's Lawyer must not endorse residence or contact outcomes that ignore unresolved sexual-abuse or serious-violence allegations without reasonable investigation. If supporting a residence change or a substantial increase in unsupervised time despite an unresolved safety allegation, written reasons must explain the investigation, the risk assessment and why the outcome is nevertheless in the child's best interests.

The child's views must be fully put before the court. Acting in best interests is not a licence to bury the child's voice. Nor is the role a licence to rubber-stamp a family report, a party's case plan, or an alienation-based transfer proposal.

9 Expert evidence and alienation claims

Parental Alienation Syndrome and equivalent unverified diagnostic labels are not an acceptable scientific basis for changing residence. Where an alienation claim is advanced and a safety allegation is unresolved, an evidence-based risk assessment directed to safety must come first. Opinion evidence that assumes alienation as the explanation for a disclosure, without addressing the disclosure on its merits, should be excluded or given no weight.

Family consultants and single experts must identify safety allegations considered, state the investigation undertaken, record the child's views, and must not recommend a residence transfer on an alienation claim while safety remains unresolved. Ordinary factual evidence about relationships, resistance to contact or adult influence remains available—after risk is addressed.

10 Magellan-style case management and information sharing

Sexual-abuse allegations require intensive early case management. Where a Magellan-style or equivalent list is available, placement on that list should be actively considered. Early information sharing with child-protection authorities and police, timely risk assessment, and early interim protective dates are the operational standard.

Delay is not neutral. Delay in investigating sexual-abuse allegations is a case-management failure. It is not a reason to prefer contact with the person who is the subject of the allegation.

11 Written reasons and accountability

If the court changes residence or substantially increases unsupervised time with a person who is or was the subject of an unresolved safety allegation, written reasons must identify the allegation, the investigation, findings on unacceptable risk, treatment of any alienation claim, the child's views, the Independent Children's Lawyer's role, and why the order is nevertheless in the child's best interests with safety given primacy.

Failure to give those reasons is a failure to observe a requirement of the Act and may be relied on in an appeal. Templates and judicial education should make the mandatory elements express.

12 Human rights alignment

This policy advances Australia's obligations under the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights as they apply to parenting proceedings.

CRC Article 3 — best interests of the child as a primary consideration, applied with safety primacy where risk is unresolved.

CRC Article 9 — separation from parents only when necessary for the child's best interests; necessity includes protection from abuse.

CRC Article 12 — the child's right to express views and to be heard in judicial proceedings affecting the child.

CRC Article 19 — protection from all forms of physical or mental violence, injury, abuse, neglect and maltreatment.

CRC Article 24 — enjoyment of the highest attainable standard of health, including protection from harmful practices and trauma.

CRC Article 34 — protection from all forms of sexual exploitation and sexual abuse.

ICCPR Article 23 — protection of the family as the natural and fundamental group unit of society, without converting family into a shield for harm.

ICCPR Article 24 — every child's right to protection as a minor, without discrimination.

Limitations on parental contact that are necessary to protect a child from unacceptable risk are lawful, necessary and proportionate. They are not a breach of family-life rights; they are the condition on which family-life rights remain compatible with the child's protection.

13 Implementation plan

On Royal Assent, commence preliminary provisions and establish an implementation liaison group with the federal family-law courts and legal-aid Independent Children's Lawyer programs.

During the 28-day implementation period, update case-management protocols, disclosure-recording handling guides, Independent Children's Lawyer duty checklists and expert-report templates.

Within 60 days after commencement, issue or update practice directions giving effect to Magellan-style triggers, written-reasons requirements and expert-evidence restraints.

Within 90 days after commencement, publish operational guidance on privacy and harm safeguards for disclosure recordings.

Within 18 months after commencement, commence the statutory review required by the companion Bill and report to Parliament.

14 Performance measures

Performance must be measured by child-safety outcomes and decision quality, not by the volume of shared-care orders. Monitoring should include:

14.1 the proportion of sexual-abuse allegation matters placed in intensive case management within early listing targets;

14.2 timeliness of information sharing with child-protection and police;

14.3 Independent Children's Lawyer compliance with safety-enquiry and reasons duties in audited files;

14.4 the number of residence changes made despite unresolved safety allegations and the completeness of section 60DJ reasons;

14.5 appeals raising failure to apply safety primacy, disclosure-recording safeguards, or alienation restraints; and

14.6 feedback from child-representation programs and child-protection agencies on systemic gaps.

15 Expected outcomes

15.1 Fewer residence transfers driven by unverified alienation labels while abuse allegations remain live.

15.2 More consistent admission and careful handling of protective disclosure recordings.

15.3 Stronger Independent Children's Lawyer practice on safety investigation and evidence.

15.4 Faster Magellan-style responses to sexual-abuse allegations.

15.5 Clearer written reasons when the court moves a child despite safety concerns.

15.6 Better alignment of Part VII outcomes with CRC and ICCPR child-protection obligations.

16 Legislative alignment

This policy corresponds to the Family Law Amendment (Child Safety and Disclosures) Bill 2026. It is to be read consistently with Schedule 1 amendments to the Family Law Act 1975 concerning sections 60B, 60CA, 60CC, 60CH, Division 1AA (sections 60DA to 60DE), 60DI, 60DJ, 62GA, 67ZBB, 68LA and 68LB, and with the application and transitional provisions in Schedule 2.

Where a provision of the enacted legislation differs from the Bill, this policy must be updated so that operational guidance, templates and training accurately reflect the enacted law.

17 Sources and references

Family Law Act 1975 (Cth). Convention on the Rights of the Child, Articles 3, 9, 12, 19, 24 and 34. International Covenant on Civil and Political Rights, Articles 23 and 24. Human Rights (Parliamentary Scrutiny) Act 2011. Companion Bill; EM-FLCS 2026/01; FLCS-P 2026/01.