



**THE LAW SOCIETY  
OF SOUTH AUSTRALIA**

THE VOICE OF THE SOUTH AUSTRALIAN LEGAL PROFESSION

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18 June 2009

C70, 65.16  
JG;rp

The Honourable Dennis Hood MLC  
Family First Party  
Parliament House  
North Terrace  
ADELAIDE SA 5000

Dear Sir

**Requests for Intervention by Families SA in Family Law Litigation**

I refer to your letter of 11 March 2009, addressed to the Family Law Committee. The Family Law Committee has considered the questions you raised in your letter and has prepared the following response, which has also been considered and endorsed by the Society's Children and the Law Committee.

1. Your letter was considered by the Family Law Committee at a meeting in March 2009.
2. Subsequent to that meeting the Chair of the Committee, Ms Penelope Kari, and Barrister John McGinn, a Member of the Committee met with the Honourable Justice Burr of the Family Court to discuss the issues that you have raised.
3. By way of background:-
  - (a) The vast majority of matters involving children who are "at risk" become part of the Magellan programme operating in the Family Court;
  - (b) Justice Burr has been the pioneer of the Magellan programme in the Family Court; not just in Adelaide but on a national basis;
  - (c) Justice Burr has also been responsible for hearing the majority of Magellan matters that come before the Family Court in Adelaide;
  - (d) Justice Burr regularly holds "stakeholder meetings" with the various agencies and bodies that deal with families in need and that ultimately feed into the family law system including members of not only the Family Law Court and the legal profession, but also Families SA, the Police, Child Protection Services, and the family law court counselling section;

- (e) As part of those stakeholder meetings the Minister for Families and Communities (most recently The Honourable Jay Weatherill MP) has also been invited and attended.
4. Justice Burr has advised:-
- (a) That to the best of his recollection there has been no interventions by Families SA as a result of requests pursuant to section 91B of the *Family Law Act*.
  - (b) That as part of the Magellan programme in this state an agreement was reached in about 2007 between the court and Families SA that the approach in Magellan matters should be:-
    - (i) that at the first hearing the court would order Families SA to prepare a short form report as opposed to making a routine section 91B Request for Intervention Order; and
    - (ii) that if it becomes apparent during the currency of the proceedings that consideration be given to the child/ren being taken into care then an Order is made for the Minister to be represented at the next hearing.
  - (c) That Orders for the Minister to be represented:-
    - (i) Are not often made; and
    - (ii) If made, are always complied with and the Minister has always been represented at the hearing.
  - (d) That a direct result of the Magellan programme has been a strengthening of the relationship between Families SA and the family law courts resulting in excellent and timely information being provided by Families SA particularly in Magellan matters.
5. In relation to the statistical information you have been provided (presumably by the Minister) I make the following comments:-
- (a) That the statistics during the 2007 year would reflect the position prior to the agreement reached between the Family Court and Families SA as outlined above;
  - (b) That the information during the 2008 year is indicative of the current approach of making an Order for a short written report at the first hearing as opposed to making an Order Requesting Intervention pursuant to section 91B.
6. Should you wish to discuss this matter further Justice Burr has advised that he would be happy to meet with you. Ms Kari is more than willing to arrange a meeting with barrister John McGinn, the Honourable Justice Burr and herself.

7. I also trust that you are aware of the recent review of the family law system entitled "Future Governance Options for Federal Family Law Courts in Australia" prepared by Mr Des Semple and in that regard the committee members:-
- (a) are conscious that there are likely to be quite significant changes to the family law system in the near future; and
  - (b) that if there is to be combining of the two Courts (Family Law Court and Federal Magistrates Court) as recommended by Mr Semple then in all likelihood the issue of the different approach in these difficult children's matters in each Court is likely to be addressed.

Yours sincerely

A handwritten signature in black ink that reads "John Goldberg". The signature is written in a cursive style with a large, stylized initial "J" and "G".

John Goldberg  
**PRESIDENT**