

19 August 2022

Committee Secretary
Senate Education and Employment Committee
PO Box 6100
Parliament House Canberra
ACT 2600
By email: eec.sen@aph.gov.au

Dear Secretary

Thank you for the opportunity to respond to the Fair Work Amendment (Paid Family and Domestic Violence Leave) Bill 2022 (**the Bill**).

About JobWatch

1. JobWatch Inc (**JobWatch**) is an employment rights, not-for-profit community legal centre. We are committed to improving the lives of workers, particularly the most vulnerable and disadvantaged.

2. JobWatch is funded by the Fair Work Ombudsman, Victoria Legal Aid and the Victorian Government. We are a member of Community Legal Centres Australia and the Federation of Community Legal Centres (Victoria).

3. JobWatch was established in 1980 and is the only service of its type in Victoria, Queensland and Tasmania. Our centre provides the following services:

i. Tailored information and referrals to workers from Victoria, Queensland and Tasmania, via a free and confidential telephone information service (**TIS**);

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- ii. Community legal education, through a variety of publications and interactive seminars aimed at workers, students, lawyers, community groups and other relevant stakeholders;
- iii. Legal advice and representation for vulnerable and disadvantaged workers across all employment law jurisdictions in Victoria; and
- iv. Law reform work and advocacy aimed at promoting workplace justice and equity for all workers.

4. Since 1999, JobWatch has maintained a comprehensive database of the callers who contact our TIS. To date we have collected more than 240,000 caller records, with each record usually canvassing multiple workplace problems, including contract negotiation, recovery of wages, discrimination, harassment, bullying and unfair dismissal. Our database allows us to follow trends and report on our callers' experiences, including the workplace problems they face and what remedies, if any, they may have available at any given time across State and Federal laws.

5. JobWatch currently assists approximately 12,000 callers through the TIS per year. The vast majority of our callers are not union members and cannot afford to get legal assistance from a private lawyer. In order to become clients of the legal practice, workers must have an employment law matter that has legal merit and their cases must satisfy the requirements of our funding agreements (which typically focus on client vulnerability and public interest issues).

JobWatch's comments on the Bill

6. JobWatch is pleased to support the passing of the Bill, subject to our brief comments below.

7. We agree with the comments of The Hon Tony Burke MP, when he presented the Bill to Parliament, that "[N]o worker should ever have to choose between their safety and their income" and that "[i]t is unacceptable that millions of workers in Australia still face this impossible choice." We also strongly agree with Minister Burke that "...This bill sends a clear message that family and

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domestic violence is not just a criminal justice or social issue, but an economic and a workplace issue...”

8. In relation to the contents of the Bill, we agree with the proposal that all employees, including permanent and casual employees, should be entitled to 10 days of paid family and domestic violence (**FDV**) leave in a 12-month period and that this entitlement should be available in full upon commencement of a person’s employment.

9. We do not, however, agree that the entitlement should not accumulate from year to year and we urge the Committee to consider whether the entitlement could be one that accumulates in the same way that paid personal leave accumulates for permanent employees (but is not paid out upon termination of employment).

10. We welcome the expansion of the definition of FDV, in the proposed s106B(2) of the *Fair Work Act 2009* (Cth) (**FW Act**), as we agree that employees should be entitled to take paid FDV leave if they are subjected to violent, threatening or other abusive behaviour by a *member of their household*, even if that person is not a close relative, as well as *current or former intimate partners*. However, we consider that the definition of *close relative* in proposed s106B(3) should be expanded to include certain people beyond the immediate family, as defined in s12 of the FW Act, including uncles, aunts and cousins. We have certainly had people call JobWatch’s TIS who have been affected by violence perpetrated by a family members that do not fit within the definition of immediate family. ***For example: one caller told us that they worked for their uncle. They said the uncle had underpaid them and assaulted them, resulting in an intervention order.*** Employees in similar situations should be eligible for paid FDV leave.

11. In relation to the notice and evidence requirements in s107 of the FW Act, we consider that, if the employer is not satisfied with the evidence produced by the employee in relation to the FDV leave, it should suffice for the employee to provide the employer with a statutory declaration about the fact that the leave is or was required in order to deal with the impact of FDV.

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Please do not hesitate to contact us with any queries: gabriellem@jobwatch.org.au.

Yours sincerely,



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JobWatch Inc

This submission is endorsed by:



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