

Does Family Violence have an impact on the outcome of Property Settlement?

Significant changes have been made to the *Family Law Act 1975 (Cth)* ("**the Act**") which came into effect on 10 June 2025. Of those changes, is a reform to how the law determines property settlement disputes where there is Family Violence.

The definition of Family Violence has been expanded under section 4AB of the Act to more clearly recognise economic and financial abuse. This section of the Act also provides examples of what might constitute economic or financially abusive behaviour.

In assessing the contributions made by each party to the matrimonial assets (or assets of the de facto relationship), the Court will need to assess whether family violence perpetrated by one party has played a role in negatively impacting the ability of the victim of family violence to make financial and/or non-financial contributions.

In relation to the contributions of the parties, the wording of section 79(5)(a) which relates to family violence is as follows:

"*the **effect** of any family violence, to which one party to the marriage has subjected or exposed the other party, on the ability of a party to the marriage to make contributions…*"

In considering the current and future circumstances of the parties, insofar as it is relevant, the Court can also take into account:

"*the **effect** of any family violence, to which one party to the marriage has subjected or exposed the other party, on the current and future circumstances of the other party…*"

Importantly, the word "effect" should be emphasised. The mere existence of family violence is not enough to entitle one party to an adjustment in their favour.

A victim of family violence will need to demonstrate *how* the family violence which has occurred during/after a relationship has affected his/her ability to contribute during the course of the relationship, and if relevant, the current effect of family violence on their current and future circumstances. If successful, a Court may provide for an appropriate adjustment in the favour of the victim.

If you are going through separation, it is important that you seek legal advice from a solicitor who specialises in Family Law. Here at Andersons, we have a team of solicitors who practice in Family Law. If you need assistance please contact our office on **8238 6666** for further information.

The information in this article is general in nature and was accurate at the time of publication. Laws and circumstances can change. For advice specific to your situation, please seek professional legal advice.