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**MEDIA STATEMENT BY THE SOUTH AFRICAN LAW REFORM COMMISSION
CONCERNING ITS RELEASE OF DISCUSSION PAPER 148 ON ALTERNATIVE
DISPUTE RESOLUTION IN FAMILY MATTERS**

The South African Law Reform Commission (SALRC) hereby releases Discussion Paper 148 for general information and comment.

The project involves the further development of a family justice system that will provide appropriate resolution of all family related disputes. Whereas in the past there has always been an assumption that the courts were best suited to decide family disputes, this assumption has come to be questioned in recent years. The limitations associated with adversarial litigation have become firmly acknowledged, whilst mediation as an effective dispute resolution mechanism is becoming the preferred option.

It has been noted that more people are touched by family law disputes than by any other single area of the law. The quality or adequacy of a family's encounter with the justice system can change their lives and influence their wellbeing for the long term. Long court battles often cause harm to families. South Africa's unstructured, dual and fragmented court system is further confusing and burdensome to users, expensive to operate and fails to satisfy many people. We also see the mounting pressure of unmet family legal needs on the courts where large numbers of unrepresented litigants struggle to use a system designed for highly trained professionals.

Families should be empowered to resolve their disputes without additional emotional trauma. This could be accomplished through skills development and by providing them with access to appropriate services offered in a variety of dispute resolution forums within one unified system. The procedure to be followed should be tailored to meet the needs of a particular dispute.

A draft Family Dispute Resolution Bill, which contains proposals for the regulation of alternative dispute resolution processes such as family mediation, family arbitration, collaborative dispute resolution and parenting coordination are included in the Discussion paper. Proposals to provide parties with the necessary information and education in order to ensure an awareness

of their own rights and obligations as well as insight into how the family law system works, are also included. The proposals therefore include, amongst others, the mandatory attendance by the disputing parties of a standardised information and education programme, as well as a mandatory mediation session, before a court process may be initiated.

The preliminary proposals and draft legislation need to be interrogated thoroughly. The SALRC is seeking feedback regarding all its proposals as set out in the proposed draft Bill. The purpose of the paper is to initiate and stimulate debate and to serve as a basis for further deliberation.

Respondents are requested to submit written comment, representations or requests to the Commission by **31 January 2020** at the following address:

The Secretary
South African Law Reform Commission
Private Bag X668
Pretoria 0001
Tel (012) 622 6348 (Ananda Louw)
Email: analouw@justice.gov.za

Discussion paper 148 is available on the internet at the following site: <http://www.justice.gov.za/salrc/>. Hard copies of the issue paper is obtainable free of charge from the SALRC upon request (please contact Mr Jacob Kabini at (012) 622 6327).

Workshops to discuss the Family Dispute Resolution Bill will be held countrywide at the following venues: Cape Town, George, Mthata, Port Elizabeth, Nkandla, Durban, Bloemfontein, Bushbuckridge, Polokwane, Phokeng and Pretoria. Please contact the SALRC at the email address below should you wish to attend any of these workshops

Contact for enquiries in respect of the media statement: Ananda Louw Tel: (012) 622 6348/ 0798780926/ analouw@justice.gov.za.

ISSUED BY THE SECRETARY, SA LAW REFORM COMMISSION, PRETORIA
DATE: 18 November 2019