

April 4, 2011

To the Honorable Members of the Senate Committee

We are writing to express our support for the changes to the Family Law Act proposed in the draft Family Law Amendment (Family Violence) Bill 2011. We strongly support the Federal Government's moves to provide better protections for people who have experienced family violence within the family law system and believe that the proposed amendments are essential to place safety and protection of children and family members at the forefront of the Family Law Act.

In our experience the Family Law system as it stands, leaves in particular mothers and children vulnerable to ongoing abuse well after relationships have ended. This is because an abusive parent needs only to apply to the Family Court to have contact arrangements put in place, to engage former partners in a system for which contacts with both parents are generally treated as mandatory. The recent Darcey Freeman case, in which a father has been found by a court of law to have killed his young daughter, demonstrates the power that abusive ex-partners are given over protective parents and children, by Australian Family Law as it now stands.

In some cases, it appears that children die as a result of the 'friendly parent' provisions of the Family Law Act. The mother of Darcey Freeman might have been prepared to talk about a possible risk of child abuse, had she not been informed (and all protective parents dealing with Family Law are repeatedly warned) that she would need to appear, to the court, as 'friendly' to her ex husband's relationships with his children. In our view this is a phenomenal cruelty. In Australia today we not only countenance handing children into the care of abusers, we expect parents of these children to be 'friendly' toward it.

We strongly support a broadening the definition of 'family violence' to include a wider range of behaviour, and removing the objective test of "reasonableness" so that family violence can be properly considered whenever the victim actually fears for their safety. The Family Law Act as it stands defines abuse so tightly as to relegate many of the more common experiences of tyrannical ongoing domestic violence to something other than 'domestic violence'. It also requires a level of 'proof' that is often impossible for victims to furnish. Abused persons spend many years being warned by their abusers, about the horrible things that will be done to them and their children, if they 'tell'. Therefore they do not tell. When they escape, there is often little 'proof' of the kind the Family Court will take seriously. Many women, including our daughter, are advised that unless the child is likely to "end up in hospital", judges will order unsupervised contacts. But a great deal of harm is not physical and the law and its organs needs to reflect an understanding of this reality. We believe that Family Violence issues need to be prioritised when considering the 'best interests of the child'. Australian law needs to adhere properly to the requirements of the UN Convention of the Rights of the Child.

We also believe that there are a number of other changes that are needed immediately that have not been addressed in the Bill. We urge you to

consider amendments to the presumption of equal shared parental responsibility, the concept of equal shared parental responsibility, the linking of equal responsibility and significant time arrangements and in general the assumption that shared equal time approaches are the best for all children. In retrospect and given the results of the research requested by the Attorney General McClelland, these are simply not adequate assumptions.

Conclusion

We urge you and the Federal Government to act in response to the evidence-based research that has been presented to the Federal Attorney General, and to honour the promises that have been made to address the serious problem of family violence in the family law system. We strongly recommend that you pass this Bill expeditiously with our suggested amendments.

Yours sincerely,

Ruth F. Evans

Rev. Philip J Evans