

# WAA

House of Representatives Standing Committee on Family and Community Affairs
Submission No: 964
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Secretary: .....

Submission to: The Standing Committee on Family and Community Affairs

Re The Inquiry into custody arrangement in the event of family separation

From Women's Action Alliance (Australia) Inc

Date 12<sup>th</sup> August 2003

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*Women's Action Alliance is a national women's group, established in 1975 which has active representation in each State and Territory of Australia. Our aims are twofold*

- 1. To raise the status of women in the Australian community*
- 2. To strengthen Australian families as the basis of our society*

*To further these aims we encourage women to be well informed, to analyse issues and to participate in areas where opinions are formed and where decisions are made.*

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We congratulate the House of Representatives and the Standing Committee on tackling this important and sensitive matter which causes so much stress and unhappiness in families. We appreciate having the opportunity to contribute to this inquiry and apologize for our submission being late. This is due to our National Executive Meeting, at which we took the opportunity to consider the Terms of Reference, being held after the nominated closing date for submissions.

Women's Action Alliance supports the four principles on which the Family Law Act is based

1. The overriding importance given to the best interests of the child;
2. Use of non-judicial processes to resolve issues of family conflict and transition;
3. To ensure safety from family violence; and
4. The responsibility of families to provide financial support for their children

**We believe that another principle should be enshrined in the Act to recognise children's fundamental right to maintain frequent and continuing contact with both their mother and their father following parental separation or divorce**

**We also support the inclusion of a rebuttable presumption of shared parenting in the Act but we do not support a presumption of equal, or any other stipulated proportion, of shared parenting time being specified in the Act.**

**We fear that this would create a rigidity within the law that would have the potential to obstruct the Family Law Court from exercising discretion in the best interest of the child in every instance. Family circumstances differ and the Court needs to retain a substantial level of discretion in the matter.**

## **Grandparents.**

In a satisfactory shared parenting situation grandparents are more likely to retain contact with the children of a separated family. However the Court is always acting in the best interest of the child and may also need to consider grounds for rebuttal in these circumstances.

### **Grounds for rebuttal**

We see the following as grounds for rebuttal

- violence
- a level of substance abuse affecting capacity to parent
- extremely poor quality parenting
- moral danger- e.g. children living in a household where casual sexual relationships, theft etc are common practices
- children's preferences at an appropriate age
- other serious grounds that may pertain to particular individual relationships.

We support the idea of **mandatory mediation** being made a condition of application to the Court. The late Senator the Hon Lionel Murphy, then Attorney General, in his Second Reading speech p.28 stated: *"There are important provisions in the Bill for helping people to achieve reconciliation where possible, and for helping persons for whom reconciliation is not possible to resolve their differences with the minimum bitterness and hostility. The reconciliation provisions extend to all proceedings under the Bill, not just divorce proceedings."*

We also recommend that **mandatory attendance at an approved parenting education course** could be included in the conditions that the Court could apply within orders. This may be of some value when the quality of parenting being provided by the other partner is the grounds for the rebuttal application

We wish the Committee well in its deliberations on this important matter. We have attempted to be concise as requested!

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