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House of Representatives Standing Committee
on Family and Community Affairs
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House of Representatives Standing Committee on Family and Community
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Parliament House
Canberra ACT 2600

Essie Women's Refuge welcomes this opportunity to state its concerns to the Committee in regard to the Enquiry into Joint Residency Arrangements in the Event of Family Separation. Essie Women's Refuge believes that the Committee must take into account the danger women and children face after separation from a violent relationship. Essie Women's Refuge would clarify that the area of concern is where there have been established cases of domestic violence or child sexual assault.

This service was established in 1979 to provide supported accommodation to women and children escaping domestic violence. In the 24 years this service has been operating it has been shown clearly that domestic violence does not cease on separation. It is also an established fact that in the case of domestic violence the most dangerous period for women and children is at the point of separation and after separation.

The proposed amendments are very disturbing from the aspect that children appear no more than property to be shared by both parents - regardless of the best interests of the child. It could also be seen that this suggested amendment devalues children with the assumption that regardless of their well being the parents demands are seen to be paramount.

We believe there is no justification for the suggested amendments as it has been demonstrated in the current Family Court decisions that shared Residency is welcome when both parents view this is the best option for their children.

Shared Residency takes a strong commitment from both parents and will not work in the best interests of the child unless both parents are willing, co-operate, communicate, compromise and arrange their lives to make it a viable arrangement for children. Most importantly it needs to be recognised that Shared Residency will not work if there has been a history of domestic violence from a partner.

It is our experience that in cases where domestic violence occurs this co-operation, communication, compromise and sacrifice is not possible. Decisions about medical treatment, social activities, even basic questions such as clothing and day to day care will cause further aggression and further violence. Children will continue to be witness to this conflict and violence therefore it will inhibit their sense of safety and effect their development emotionally and socially. Shared Residency arrangements are unlikely to ease children's fear of further harm to their mother or themselves with the risk of continuing violence when both parents are required to consult and agree on all aspects of day to day needs of children.

Our experience is that most children coming into a refuge are fearful that their father will find them and they are convinced their mother will be killed. These fears interfere with children's ability to function in a healthy, positive way. Their education suffers, as do their relationships with the people in their lives. For a significant number of children who are concerned about their father after separation it is our experience that this concern generally disappears when children realise that their father can take care of his own physical needs.

The issues for children who have experienced domestic violence are immense and the longer they suffer from this violence the more they are affected. We would insert here extracts of case studies of children who have been subjected to horrendous experiences of ongoing domestic violence in their young lives after separation. Children certainly deserve Legislation that takes into account the impact of the violence that can continue in their lives after their parents have separated.

Children suffer fear and I don't think it could be shown more clearly than by 4 year old Allen. He always loved to draw his home. He drew trees and flowers, the clouds and his dog but Allen never drew windows or doors. At first I did not notice this and I would tell him they were lovely drawings. One day I looked properly and asked why there were no windows or doors. Allan was very clear that without windows or doors his daddy couldn't get in with his knife. Allen at 4 years of age had seen terrible violence perpetrated against his mother and he had often witnessed the rape that followed these terrible attacks. This violence continued after his parents separated and Allen, as a four-year-old, had no other method of dealing with the violence in his life other than to dream of a secure home.

No less telling is the fearful statement from 6-year-old Maria who told a worker who was trying to settle her for the night "I never go to sleep until I can't help it". She would lie for hours with her eyes wide open too scared to go to sleep in case her mother needed her to intervene in the violence. She witnessed the terrible violence inflicted on her mother and at 6 was the one responsible for finding assistance for her mother during these attacks.

Then there is the responsible child who must protect the adult. A small 6-year-old girl found the telephone book and gave it to her mother saying, "It's time to find somewhere to go Mum". This had a profound effect on her mother and motivated her to seek assistance. Role reversal of a parent and child is often seen by refuge workers and one has to wonder about the dynamics involved in a child putting aside her own fears and placing the needs of the parent as paramount. It also needs to be explored how far this child would go to placate her father in her attempt to keep her mother safe.

Then there was the little boy who told me that he had stood on a chair behind his father and hit him on the head with a tomato sauce bottle. He said "I tried to kill dad but I couldn't. He was too big". He had a view that his violence was justified and he was quite sure he would do this violent act when he was bigger. Given that statistics show that 49% of boys experiencing domestic violence will themselves inflict violence on their families we have to wonder if this child will be a perpetrator in the future?

Brian is 7. Brian rarely did an activity by himself but he would ask me to draw a picture for him every day. It was always the same picture with various small differences each

time. I would draw his family, his mother and his two sisters but never his father. In these drawings Brian would always be crying. On some particular days he would tell me that his mother was crying too. Sometimes he would tell me it was raining and insist that I put rain into the picture. His sisters were always smiling. On really sad days Brian would ask me to draw him as a baby in his mother's arms. Brian at 7 years of age attempted to kill himself by drinking bleach and attempting to cut himself with broken glass."

Data collected by the Australian Bureau of Statistics in 1996 in its National study of violence against women reported data on over 6000 Australian women physically or sexually abused or threatened in ways prosecutable under Australian law. It was found that 1 in 5 Australian women had experience violence from a male partner during their lifetime. This rate was higher (42%) among separated or divorced women, compared with the 8% of those in current relationships. This being so, one must question the wisdom of any amendment that puts added emphasis on shared Residency as the right of parents.

This service supports many women through the process of Family Court matters and believes that the current legislation is not biased in favour of women. It is fact that of the small numbers of unresolvable matters, (less than 3%) that proceed to trial in the Family Law Court some 40% are cases where fathers gain Residency. Given all cultures have operated for centuries with the belief that mothers are the primary care givers of children these statistics show no bias against fathers.

Children should not be subjected to power and ownership struggles rather viewed purely from the best interests (including safety) of the particular child.

Domestic violence has been recognised as a significant issue in the Family Court. This service applauds this recognition and asks that the Committee continue to take the issues for children experiencing domestic violence with the seriousness they deserve. These suggested amendments would have serious implications for both women and children.

Yours faithfully

Sally Steele
On Behalf of Essie Women's Refuge Inc.