

Nydia's Place

Muswellbrook Women's and Children's Refuge Ltd.

P.O. Box 250, Muswellbrook N.S.W. 2333
Telephone: (02) 6543 4277 Fax: (02) 6542 5788
Email: refuge@hunterlink.net.au

House of Representatives Standing Committee
on Family and Community Affairs

Submission No:.....

201

Date Received:.....

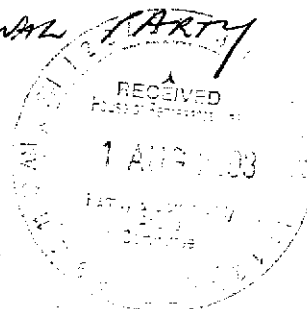
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Secretary:.....

MAIL ROOM
28 JUL 2003

To *MRS Kay Hull MP NATIONAL PARTY*

22.7.2003



The service above would like to express their concerns in relation to the Parliamentary enquiry into Joint Residence Arrangements.

Our concerns are as follows:

It privileges the rights of parents over the rights of children by over-riding the paramouncy of the "childs" best interests.

It ignores factors listed in the *Family Law Act* which must be considered by the Court in deciding parenting orders, such as children's wishes, capacity of the parent to provide for needs of the children, maintaining children in a settled environment and family violence.

Current provisions of the *Family Law Act* already include mechanisms for shared residence being in a child's right where it is the child's best interests.

It will place women and children who are victims of violence at increased risk for further violence and continued abuse. The presumption will force some children to live with violent fathers and will force mothers to have to regularly negotiate with and be in the presence of violent ex-partners. It provides a dangerous tool in the hands of abusive men who wish to control their women partners after separation.

There will be an increase in litigation as parents who do not want 50:50 shared residence may feel the need to go to court. Given the lack of legal aid funding, many people will self-represent, increasing delays and stretching the resources of the Family Court and Federal Magistrates Service.

It may lead parties to re-open finalised cases in the belief that a joint residence presumption law will bring them a different outcome. Community agencies are already reporting contact from women whose former are threatening to take them to court, or back to court, to get new arrangements for the children.

Many men already participate actively in their children's lives after separation. In these families neither fathers nor mothers need the law to tell them to do this. Further, most mothers wish to share parenting duties and responsibilities cooperatively with fathers who were significantly involved with their children prior to separation.

It reduces families' abilities to make their own decisions about parenting arrangements depending on children's needs, parent's capacities, and geographical distance between them, parents work patterns, finances and housing.

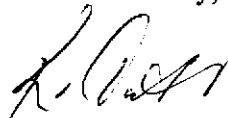
It does not reflect current caring practises in intact families where mothers still predominantly the primary carers of children and undertake most of the domestic work. Shared residence would mean arrangements for some families post-separation would be significantly different from pre-separation arrangements.

It ignores the evidence from research that shared residence works for some families where there has been a history of cooperation, a history of shared care pre-separation and where parents voluntarily enter these arrangements irrespective of the law.

The chills support consequences will force single mothers, already amongst the most impoverished group in the community, to plummet further into poverty and consequently increase the number of children also living in poverty.

It will present practical difficulties for many separated parents and children and the burden of running two households will be too great for many families.

Yours Faithfully,



Karen Truscott

For and on behalf of Muswellbrook Women's and Children's refuge.