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House of Representatives Standing Committee on Family and Community Affairs
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Delvena Womens and Children's Shelter welcomes the opportunity to state its concerns to the committee in regard to the Enquiry into Joint Custody Arrangements in the Event of Family Separation. Delvena believes that the consideration of the research that indicates a higher incidence of violence occurs at the time of separation and continues to be extremely dangerous for women long after the separation. It is also necessary to consider the research around the incidence of child abuse occurring in 40% to 68% of domestic violence situation.

Delvena has been providing accommodation to women and children escaping domestic violence for 16yrs. The problems associated with residency arrangements has always been a serious and frightful issue for children and their mothers. Among the most potentially damaging parenting choices that perpetrators can make leading to an array of unhealthy family dynamics, is the involvement of children as arms in efforts to control or to abuse their partners. Erikson & Henderson, 1998; Peled, 1998 McMahon & Pence, 1995). Such a tactic proves to be highly effective against women and this is perhaps why it is so commonly used.

This use of children as weapons is played out again in the family court. This is a serious matter for domestic violence service providers women and just as importantly if not more so the children. It seems that this notion that children have the right to relationship with both parents only serves to suit the parent and not in the best interest of children at all. There is some belief that as the father is not abusive unless in the presence of the mother. This thinking implies yet another response of victim blaming asserting to the child and all involved that it is in fact the fault of the mother. Feminist perspective places responsibility for the violence, impact and its effects directly on to the perpetrator. One could not be blamed for taking the view that the proposed amendments are very disturbing from the aspect that children appear to be no more than property to be shared by both parents – regardless of the best interest 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 to be seen as paramount.

Anne Morris has highlighted Maternal Alienation as a deliberate strategy used by perpetrators to destroy the trust and therefore the relationship the mother has with her children. She outlines clearly the issues surrounding the family court proceeding for mothers and their children. (Morris, 2000).

We believe that 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 to co-operate, communicate, compromise and arrange their lives to make it a viable arrangement for children. It is our experience and the knowledge of researchers that in cases where there is domestic violence occur these factors are absent.

It seems highly contradictory and a complete invalidation of the impact of domestic violence that women who have risked their lives often and sought the assistance of the legal system to protect

herself and her children by taking out an AVO, that suddenly she should no longer be fearful of her ex-partner in order to theoretically breach her order and make contact for exchange of children for residency orders.

Many children have expressed their fears of seeing their fathers and are fearful for their mothers' lives. The issues for children are immensely disturbing and widely documented. Such research has indicated that the longer children remain in the presence of violence the deeper the affectation.