

Submission No.....
Date Received.....

SUBMISSION

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regarding the Exposure Draft of

**Family Law Amendment (Shared Parental Responsibility) Bill
2005**

Which is the Government's Response to the Report of the House of Representatives Standing Committee on
The Family and Community Affairs Inquiry into

**Child Custody Arrangements in the Event of Family Separation, June
2005**

Submission No..... 66
Date Received.....

**Presented to this House of Representatives Standing Committee
on Legal and Constitutional Affairs**

by

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[Consistent Advocate for the Protection and Stability of the Australian Family]

**Writing as Chief Executive Director of the
Rona Joyner Life & Liberty Literature Centre.**

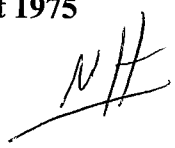
This Submission on the Proposed Changes to Family Law Act 1975

is today emailed to

Committee Secretary,

House of Representatives Standing Committee
on Legal and Constitutional Affairs

Parliament House
Canberra ACT 2600 Australia



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Dated 18th July, 2005

Signed Rona Joyner

**This Submission from Rona Joyner Life & Liberty Literature Centre
to the**

**House of Representatives Standing Committee
on Legal and Constitutional Affairs**

**addresses the *Terms of Reference*, announced in regard to the Exposure draft of the
Family Law Amendment (Shared Parental Responsibility) Bill 2005**

Preface to Submission:

Our National "Death-wish": Let me say at the outset that **separations/divorces/remarriages** are becoming far too common in Australia and are rather like a national "death-wish". Having been **constituted** a Christian nation, under inherited Christian Common Law, through the legally unchangeable Preamble to our Commonwealth Constitution, Australia and its children deserve **better** than the present Federal Laws.

The Government should bring to Parliament amended laws that are aimed at reducing the popularity of separation and divorce, **NOT** laws that condone and encourage such popularity by making the dissolution of families **easier, cheaper, and even D.I.Y.**

For the sake of future generations of Australians, this "runaway" divorce must be curbed, and reined in, **not** spurred on, and I wholeheartedly believe that our Federal Government must **reflect** in its Marriage Act and Family Law Act, Australia's Christian status. We are a constituted a **Christian** mono-cultural nation, under a Christian Monarch, who swore on the **Bible**, in a Christian Cathedral Service, her Coronation Oath that she would reign under the Kingship of Christ, the King of kings.

The fact that we have become over time a country with a **multi-racial** mix of people does **not** alter in the slightest degree the unchangeable **mono-cultural** nature of our Constitution under God.

That Coronation Oath and all that it implies and guarantees to us as the subjects of the Queen, is the essence of the inherited **life and liberty** that we have been able to enjoy in Australia under our original State and Federal Constitutions. Our Parliament is opened each day with prayers to our One Christian God, and the Bills our Parliament passes are **not** laws unless and until they are given Royal Assent by the Queen's representative, our Governor-General, who as such has the role of defender of **the basic unit** of society, the family.

A Truly Informed Decision: Encouraging divorce does **not** strengthen God's institution of "family", but rather weakens it, and sends to Australians an anti-Christian message. Therefore, in light of the following clear statements from the Bible on which Oaths in Australia are generally sworn, including all types of Oaths of Office, I feel bound to include in this Submission a recommendation for provision of information to ensure that informed decisions can be genuinely made by those seeking to divorce:-

Luke 16.18 - "Whosoever puts away his wife, and marries another, commits **adultery**: and whosoever marries her that is put away from her husband commits **adultery**." [i.e. showing that even if an ex-husband marries again, God does NOT see that as a valid excuse for his ex-wife to marry someone else.]

Luke 6.46 - "Why call Me Lord, Lord, and **do not** the things that I say?" [i.e. showing how important is our **obedience** to Christ's sayings. Lip service is **not** enough.]

Luke 12.4,5 - "And I say to you, My friends, Be **not** afraid of them that kill the body, and after that have no more that they can do [i.e. showing that violence in God's opinion is **not** an excuse for divorce and/or remarriage]. But I will forewarn you Whom you shall fear: Fear Him, which after He has killed, has power to cast into **hell**; yea, I say unto you, **FEAR HIM**." [i.e. that is a saying of Christ's to be **obeyed**.]

Luke 1.50 - "And **His mercy** is on them that **fear Him** from generation to generation." [spoken by **Mary**, the mother of Jesus, as her inspired interpretation of Exodus 20.6]

1Cor.6.9&10 informs us that [unrepentant] **adulterers** are banned from the Kingdom of God. [it makes no difference to the reality of it whether people believe in Christ or hell or not.]

Therefore, to give everyone the chance of making a truly informed decision, the Government owes it to those contemplating divorce to provide, in the amended Family Law, counselling from the Gospel of Luke to **fear God**

and understand the folly of divorce and remarriage, and the necessity to give more than lip service to the marriage law in Australia, which seeks to have citizens **obey Christ, and marry for life.**

Introduction

Terms of Reference -Main Points Summarized:

**parents to reach agreement on parenting arrangements after separation
both parents to have a meaningful role
need to protect children from family violence and abuse, and
court process to be less traumatic for the parties and children.**

Our National “Death-wish”: Where is there any attempt in those terms of reference to legislate to discourage separation/divorce/remarriage – in short, there is **nothing to deter the dissolution of the basic unit of society, the family?**

Therefore I am adding in this Submission a suggestion which might be one way of **detering** what I believe is the national death-wish of our once great country – the dissolution of the family unit. Family Law should surely encourage the keeping of our Marriage Act, which basically defines marriage as a **union between a man and a woman, freely entered into for life, to the exclusion of all others.**

Proposed Family Law Act Changes: In a News release dated 23/6/05, the Attorney-General, the Hon. Philip Ruddock, MP, said “Parenting continues, even after a relationship ends” and therefore the proposed changes to the Family Law Act 1975 will recognize the right of children to know both their parents, as well as to be protected from harm. To this he added that these changes will also:-

require parents, advisers, mediators and courts to consider substantially sharing parenting time where appropriate;

introduce a new presumption of **joint** personal responsibility to promote parents consulting together on important parenting decisions;

better recognize the interests of children in spending time with **grandparents** and other relatives;

require parents to attend dispute resolution and develop parenting plans before taking a parenting matter to court (with exceptions including situations of child abuse and violence);

improve enforcement of parenting orders.

These proposed amendments to the Family Law Act 1975 are announced as part of the Government’s bold **new** reform agenda in family law, and it is obvious that the overall effect will be to make separation/divorce even **more popular**. We are told that this legislation is a key component of the package of family law reforms that was announced by the Prime Minister in July 2004, that it will underpin the package of measures announced in the **2005 Budget**, which will cost altogether an estimated **\$397 million over four years**.

“These initiatives represent a generational change in family law and aim to bring about a cultural shift in how family separation is managed: away from litigation and towards cooperative parenting.” So reads the Ministerial statement [my emphasis added]. The Committee is now looking at the provisions of this draft Bill.

But Haven’t We Heard All This Before? I have in front of me a cutting from the Brisbane Courier-Mail dated Saturday 13/1/96 [nearly 10 years ago], headed **“\$5m to keep marriages intact”**. It features a photo of Attorney-General Michael Lavarch, Chief Justice Alastair Nicholson and Deputy Chief Justice Alan Barblett, and reads in part [with my emphases]:-

“Federal Attorney-General Michael Lavarch will launch a \$5 million package aimed at keeping marriages together. The package, to come into force next month, is the second part of a reform programme unveiled yesterday at the Brisbane Family Court, when Chief Justice Alastair Nicholson announced simplified rules and procedures for the court.”

“Under the changes to the Family Court, **do-it-yourself divorce** will be **cheaply and easily** accessible.”

“The Family Court will deal with all divorce cases by assuming they can be settled without the need for a judge’s ruling.”

“Settlements for the division of property and access to children will **not** have to be decided in a courtroom. Couples will have the choice of sorting out their affairs in managed counselling session, in conciliation sessions or at a final courtroom hearing. Both parties will be expected to attend an information session on legal issues

involved and to be in court when their application is heard. A group of about 20 people protested outside the Brisbane court yesterday against the jailing this week of a Sunshine Coast man for breaching access orders and to call for the Family Law Act to be scrapped. Justice Nicholson said that the new court rules would make family law **simpler, more available and less expensive.**” [i.e. in other words, even **more popular**]
“Mr. Lavarch said that the reforms gave greater focus to affordable justice and resolving matters outside the courtroom. ‘The court doesn’t break up families,’ Mr. Lavarch said.” [But it certainly aids in the dissolution.]

I see little, if any, difference between these supposedly new Liberal Party proposed amendments and those of the Labor Party ten years ago.

This Submission in Brief:

This Submission presented on behalf of the **Rona Joyner Life & Liberty Literature Centre** advocates amendments that I believe will significantly **reduce** the present upsurge in marital breakdown.

As the writer of this Submission, I have at all times faithfully considered the best interests of **the child**, but, as well as the child’s interests, I have also taken into account the interests of all those **affected** by parental separation/divorce, including **relatives** on both sides of the child’s family, and also **Society** and the **taxpayer**.

I submit that the Government’s ultimate Family Law Amendment (Shared Parental Responsibility) Bill 2005 must reflect its own faithful consideration of the best interests of the child, together with the equally valid interests of all those significant others who are affected by the separation/divorce, including relatives on both sides of the child’s family, and also Society and the taxpayer.

May we now place before the House Standing Committee on Legal and Constitutional Affairs the following brief comments:

Existing Child Support Formula has Failed Entire Family. [through faulty child support]

It is confidently argued that the existing **Custody arrangements** do NOT work fairly for all family members.

Existing Child Support Formula has Failed Society. [through faulty child support]

It is also confidently argued that the **best interests of Society** have NOT been served in the past.

Child Support Formula Failed both Family and Society collectively. [through faulty child support]

Many failures seen in those from broken homes, foster care and institutions, illustrate the need for change.

Therefore the Amendment Bill must cater for:

The best interests of child, significant others, and society, and also protection for the child who may be at risk during custody access.

Supportive Facts, Beliefs & Arguments

Fact: The child is **not** to blame for the separation/divorce, and so should **not suffer** inconvenience, deprivation, etc., by events that are beyond his/her control.

Beliefs: This Submission is based on strongly-held beliefs that in the separation/divorce situation, the child **needs** the benefits of a **stable place** of residence and living environment, to ensure that he or she, after parents separate, will **not** be deprived in any way by being at times **removed** from his/her home.

Arguments: Let **the children** stay where they are in the **family home** which may be conditionally occupied by parents and significant others in the child’s life (in rotation), unless and until the parents agree to move back home and resume their full marital duties. Let each parent or relative, by turn, come to the child/children in **the home environment**.

Recommendations to Uphold the Rights of the Child, the Family, Society and the Taxpayer

These rights must all be rescued and reinstated, and this we are attempting to do in making this Submission, by emphasizing that upholding the real rights of the Child as we are suggesting, will cause a flow-on of benefits to the entire Family, Society and the Taxpayer. With this in mind, we suggest Court Orders to establish the child/ren as Sole Occupants of the Family Home.

Court Orders: That the child/ren be named as the lawful **Sole Permanent Occupant(s)** of the **family home**, to remain in the normal **living environment**, under the care at all times of either of the parents by rotation, or other significant responsible adult(s), including if necessary an authorized **adult**, as the Court may direct.

The Conclusion in brief is as follows:

The child/ren should be recognized as the **Sole Permanent Occupant/s** of the family home, in order to ensure all arrangements are in the **best** interests of the child, significant others, society and the taxpayer.

Our **Recommendations**, if sincerely and carefully implemented, should work more fairly for all concerned, and should have a **deterrent effect** against divorce escalation, which is the aim of this Submission.

This **Submission** aims to assist in producing better long-term family relationships and in reducing costs to society and the taxpayer, and it is earnestly commended to the Inquiry for consideration and possible adoption.

The proposal to make cost orders against people who falsely allege violence to avoid attending family relationships centres should be reinstated.

Our Submission in Expanded Form:

First of all, it is noted that there will be **public hearings**, community forums and briefings in order to collect further evidence or explanations. The author will be happy to appear for questioning on any aspect of this Submission should such be thought necessary.

The arguments in this Submission are written to support the true welfare of the Family as a whole, and thus it is intended also to have a positive impact on Society as a whole, because what is best for the family unit is always what is best for society, the taxpayer, and the Nation. Our main aim is to deter the escalation of separation/divorce, and thus to counteract Australia's national death-wish to self-destruct.

Having hope that the Government response to this Inquiry should become a step in that direction, we now place before the House Standing Committee on Legal and Constitutional Affairs the following expanded Submission, except that for the sake of ease of reading, we will combine our arguments by combining certain headings.:

Existing Child Support Formula has Failed Entire Family. [through faulty child support]

Existing Child Support Formula has Failed Society, Taxpayer and the Nation collectively.

It is confidently argued throughout that the existing **Custody arrangements** have not worked fairly for all family members, and have been the direct cause of violence, even murder and suicide, and such things must be addressed..

It is also confidently argued that the **best interests of Society, the Taxpayer and the Nation** have NOT been served well in the past either, and such things must also be addressed.

Many failures seen in those from broken homes, foster care and institutions, the imprisonment of fathers, all illustrate the need for change, going even beyond the Draft Proposals made in this "Shared Responsibility" Bill, which is why this Submission deals principally with the necessity to provide the child with a **stable environment**.

Stability of Residence and Living Environment for the Child Should Deter Separation/Divorce

Our Committee believe that the above idea could have the effect of deterring divorce, thereby deserving attention.-

Supportive Facts, Beliefs, and Arguments

Fact: The **fact** is that the child is **not to blame** for the separation/divorce, and so should **not have to suffer** inconvenience, disruption, deprivation, depression, grief, worry, fear, yearning and heartache, or any form of abuse or harm as a victim of events that are beyond his/her control.

Beliefs: The principal thrust of this Submission is based on our strongly-held **beliefs** that in the separation/divorce situation, the child needs the benefits of a stable place of residence and living environment, to ensure that he, she or they, after parents separate, will not be deprived in any way by being at times removed from the family home. For example, no child of separated/divorced parents should ever be deprived of -

The continuity/availability of the child's special activities or interests, e.g., piano-practice or other involvement requiring **being at home**;

The time and conveniences for activities set by the school, e.g., week-end homework, assignments, projects, study, etc., that are best done **while at home**;

Childhood enjoyments, e.g., being surrounded by close friends, pets, toys, hobbies etc, that are part and parcel of **being at home**;

The present enjoyable comforts of the **home environment** and all that is associated with that, e.g. residential living with a fireplace, living space, air conditioning, etc., as opposed to perhaps the **discomforts** of a caravan park, a cramped unit, or other **makeshift accommodation**, where a non-custodial parent (frequently the father) may be forced to live, and where there may be **no** access to friends, pets, music, singing round a piano, etc, hobbies or playing cricket with Dad, if such are available **while at home**;

Continued access to **normal living**, e.g., visits to and from paternal and maternal extended families, and friends, extra-curricular team sports, athletics, tennis, horse-riding, or dog obedience training sessions,

and/or interacting with familiar teachers at the normal school, pre-school, or Sunday School, as if still **at home**.

Likewise, to attain this, there must be no such thing as custodial or non-custodial parents, and therefore the parents, **not the child**, should **both** exit the family home because in separation/divorce situations, certain factors strongly indicate that by having to spend **access time** with one parent **away** from the home environment is NOT in the **child's best interests**, nor in the interests of **significant others**, nor of **society**, nor of **the taxpayer**, nor of **our Nation**, viz

That **the interests** of all will probably best be served by the child (as opposed to either one parent) becoming the lawful "**Sole Permanent Occupant of the Family Home**", but **not as its legal owner or tenant**, and only during the separation, as an encouragement for the parents to be reconciled;

That if the family home be mortgaged or rented, then let it be legally arranged that the relevant existing **contracts**, or any future contracts, **mortgages**, or **rental** bonds or agreements, as well as **maintenance** of the children, are to continue to be as they **were** before separation - the responsibility of each parent **not** changing, unless the **court decides** a new arrangement is to be implemented;

That instead of **children** of separated parents being continually **uprooted** from the comforts of their home environments, so as to stay with the non-custodial parent, and suffer possible discomforts of makeshift accommodation, well out of contact with their special and/or educational activities, and their childhood enjoyments, let **the children** stay where they are in the **family home** which must be conditionally relinquished by both parents (in rotation), **unless and until** they agree to move back home and resume their full marital duties. Let each parent, by turn, come to the child/children in **the home environment**;

That it should be the **parents** (not the child) who have to pack up and move back and forth, coming and going alternately **to the family home**, each for whatever lengths of time might be relevant given the circumstances of each case and/or the court's ruling;

That the **departing parent** must always ensure that the child is **not** left unattended. Children must always be supervised by either one of the parents or a suitable adult (perhaps a **grandmother**, as could have been normal in earlier circumstances).

That **children** should be deemed to be the ones for whom **the home environment** is maintained, so as to provide them with continued access to normal living conditions.

Any potential risk to the **child's safety** is a contingency to be dealt with by the Court processes.

Arguments: In separation/divorce situations, because the aim of the amendments is for **Shared Parent Responsibility**, the Amendments must take into account that leaving the child/ren in the Home environment will have the following good results -

There is no provision for custodial or non-custodial parents, which we see as contradictory;
The **child** relied, before the separation/divorce, on one or other parent, to do or to be things for the child;
Inconveniences to the **child** through the lack or loss of one parent are reduced by remaining at home;
No **inconvenience and disruption** to the child's normal routines;
No **deprivation and depression** suffered by the child after parents' separation;
The child's **grief** is alleviated because no parent has left home '**for good**', which thought devastates a child;
Worry and fear that he/she is the **cause** of the separation/divorce is lessened;
The child's **yearning** for the missing parent that is akin to loss through **death** is greatly lessened;
No prolonged **heartache** to make the child desolate, forlorn, and **comfortless**;
The underlying causes of some of the **abuse and cruelty** suffered should also be avoided by this arrangement.

Stable Relationships with Parents, Extended Families and Others adds up to **“No Deprivation”**, and therefore our Committee has concluded that the child should **not** have to suffer as a result of their parents’ separation. Therefore, may we now place before the Standing Committee the following **additional arguments** based on the strongly-held **beliefs** already mentioned -

That in the separation/divorce situation, the child **needs** the benefit of **stable two parent and extended families relationships**, as much after parental separation as before, in order that the child might still be able to experience equivalent circumstances with each side of the family **in the family home**.

That after parents separate, it is very necessary for the **child** to be under the care of first one **parent**, then the other, each living temporarily in the family home for a stated period of time, **in rotation**, in order to **ensure**, among other things, that the **child is not deprived of** -

Personally knowing his/her biological roots and **family identity** and future connectedness;
Equal maternal and paternal association, comfort, attention, guidance, interest and loving influence;
Being able to know and enjoy having close association with **maternal and paternal relatives**;
Socializing with maternal and paternal significant **friends of the family**
Being given every opportunity, not only to socialize with his/her grandparents and other relatives and family friends, but also to have easy **contact** with his/her **own friends** and easy **access** to the usual family doctor, dentist, hospital, naturopath, chiropractor, etc.

That in the separation/divorce situation, **the child’s interests** will usually be best served if the **needs** of parents, grandparents, extended families and friends are also addressed and catered for.

That the children should stay where they are in the **family home** which may be conditionally occupied by parents and significant others in the child’s life (in rotation), unless and until the parents agree to move back home and resume their full marital duties. Let each parent or relative, by turn, come to care for the child/children in **the home environment**. Let it be the **parents** (not the child) who have to pack up and move back and forth, coming and going alternately **to the family home**, each for whatever lengths of time might be relevant given the circumstances of each case and/or the court’s ruling.

And finally, that the real rights of the child are first and foremost to be allowed to **live their lives in the family home** without interruption, disturbance or disruption. To achieve all this ought to be the main aim of the Federal Government when determining these forthcoming Amendments.

A. **Supportive Recommendations in Line with our Beliefs**

1. **Court Order:** That the child be named as the lawful **Sole Permanent Occupant(s)** of the **family home**, but not as its legal owner or tenant, and only during the period of separation/divorce, so to remain in the normal **living environment**, under the care at all times of either of the parents by rotation, or other significant responsible adult.
2. **Court Order:** That, if after investigation, the **child’s safety** is found likely to be in jeopardy, a responsible or authorized **adult**, a casual **Guardian** or a fulltime **Access Supervisor**, be specially appointed as the Court may direct.

B. **Supportive Recommendations in Support of Arguments for Shared Parenting**

1. **Court Order:** That the **child** in a separation/divorce situation, be **not deprived** of the enjoyment of meaningful access time with **each parent** and their extended **families**, and **friends**, in the child’s own home environment, in rotation as arranged.
2. **Court Order:** That the **child** in a separation/divorce situation, by remaining in the family home, be **not deprived** of contact with significant **friends** and easy access to his/her usual **health professionals**.

Conclusion [accidentally omitted]: Truancy, running away, delinquency, drugs, sex, abortion, rape, cruelty, violence (even murder) by the young, deteriorating behaviour and education skills, we believe can be reduced by the improved benefits to children of separated parents that can be achieved if children remain in the family home.

Below are Our Comments on SCHEDULE 1 – Shared parental responsibility

Section 60B Repeal section, substitute: 60B Objects of Part and principles underlying it

- (1) The objects of this Part are:

- (a) to ensure that children receive adequate and proper parenting to help them achieve their full potential; and
- (b) to ensure that parents fulfil their duties, and meet their responsibilities, concerning the care, welfare and development of their children; and
- (c) to ensure that children have the benefit of both of their parents having a meaningful involvement in their lives, to the maximum extent consistent with the best interests of the child.

Comment: We agree with these sentiments but believe that unless arrangements are made for the child/ren to remain in their own environment, the interests of all concerned will be much more difficult to achieve.

We believe that what we have already said in this submission adequately covers this part.