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To: Committee, LACA (REPS)  
Cc: Horne, Nicholas (REPS)  
Subject: family law amendment bill - our submission

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BY:.....

SUBMISSION FROM DADS ON THE AIR

ON PROPOSED DRAFT FAMILY LAW AMENDMENT BILL 2005

The Dads On The Air team is greatly disappointed in the proposed Family Law Amendment Bill, which we believe fails children, fathers, second families and the broader Australian community in its current form.

While making an initial and vague pretence, the failure of this bill to treat both parents as equally important in their children's lives means that the disaster of family law in Australia will continue unabated. If this legislation is passed in its current form it will ensure that the Relationship Centres the government wishes to establish will be another waste of time. They will immediately become discredited organisations along the lines of NSW DOCS and Human Services in Victoria; subject to repeated public scandals and hated by the community at large.

The notion of "shared responsibility" is so vague as to be not just meaningless but dangerous.

We have had the Attorney General Phillip Ruddock on our program and not even he was able to explain what on earth it means.

What it means in reality is that fathers will continue to be ostracised from their children's lives and lawyers will continue to have a field day at the expense of separated families.

We believe this draft bill is so bad it should be rejected outright. Indeed we find ourselves astonished at just how poorly drafted and how contrary to the interests of children it is.

Our position can be summarised from our previous submissions as follows:

"The Government proposal to make equal shared parental responsibility the starting point under the Family Law Act just simply does not go far enough in ensuring joint custody or shared parenting arrangements are the norm post-separation. Indeed to think that a nebulous concept, which not even the politicians can explain, will suddenly promote an outbreak of cooperation and defuse the bitterness and hatred currently being directed at the family law system is preposterous. The government should immediately legislate for shared care and responsibility to ensure that joint custody outcomes are the norm post separation and that conflict between separating couples is eliminated as much as possible. This would truly be in the best interests of the children."

As a result of this legislative failure the government and Australia as a whole will continue to reap the whirl wind. An ever growing body of disaffected fathers, second families and others will continue to criticise and protest against the government. Ever larger numbers of damaged children will continue to be abused and become dysfunctional adults; at great cost to the taxpayer.

The legislation as it is now framed will do nothing to ensure shared parenting outcomes. As we all know, the Family Court of Australia has been historically opposed to shared parenting despite the enormous community support for this common sense outcome. This legislation guarantees that the court will continue to do exactly as it pleases:

Even on the vague and incomprehensible notion of joint responsibility the Court finds itself under no real obligation:

"(4) The presumption may be rebutted by evidence that satisfies the court that it would not be in the best interests of the child for the child's parents to have parental responsibility for the child jointly."

As anyone who has been through the Court knows, what the court considers to be "evidence" and what a lay person considers to be evidence are entirely different matters.

The Family Court, in secret, will continue to destroy families with impunity. Make no mistake about it; this institution is not complying with its legislative obligations to act in the best interests of children. It is continuing to this day to perpetuate its sole custody model and continuing to treat fathers like dirt. The court has always operated on the simple and dishonest premise that anything the mother says is to be taken seriously and anything the father says is to be treated as the words of a patriarchal oppressor.

We believe the culture of this disgraced and discredited institution is beyond repair and as such it should be abolished.

The government's proposed legislation does nothing to change the conduct of this secretive court; from the outrageously leisurely conduct of its senior judges - former Chief Justice Alastair Nicholson for instance spent more of the year on junkets at overseas conferences than he ever did hearing cases - to the sloppy and incompetent judgements where judges don't get even basic details like trial dates correct.

There is a growing body of evidence over the disgraceful conduct of this court for the past 30 years. Partly due to the power of the net, these scandals will continue to be exposed and will continue to bring discredit to the legal profession.

The legislation does absolutely nothing to guarantee the reasonable and widely supported outcome of shared parenting after separation.

Stated, and laudable aims, that "children have a right to spend time on a regular basis with, and communicate on a regular basis with, both their parents and other people significant to their care, welfare and development" are undermined by many other sections of the proposed legislation.

The proposal for instance that "parents should agree about the future parenting of their children" is simply preposterous will be used to ensure that there are no shared parenting outcomes achieved.

Intact couples do not agree on many issues and it is ridiculous to impose this requirement on separating couples. Nor is the fact that separated couples do not agree on many issues - they would not be separated if they did - is no reason to deny a child the right to live and be cared for by both parents. Disgracefully, this requirement will be used as an excuse by lawyers and judges for fathers not to be given joint custody.

The legislation's perhaps well intentioned pandering to the ideologically based domestic violence industry will also prove to be a disaster.

While we can of course accept that children need to be protected from harm, the current hysteria over domestic violence and the epidemic of false allegations during litigation will ensure that rather than being protected they are more likely to be harmed.

We do not believe the following should be in the Act not because we disagree with the sentiments but because it will further encourage an epidemic of false allegations: "children need to be protected from physical or psychological harm caused, or that may be caused, by: (i) being subjected or exposed to abuse or family violence or other behaviour; or (ii) being directly or indirectly exposed to abuse or family violence or other behaviour that is directed towards, or may affect, another person."

As the history of the court clearly indicates, with previous judges praising the domestic violence industry, this will be used solely against fathers.

Violence and assault, of which both genders can be equally guilty, are a matter for the police or in genuine cases for therapists, not a matter for a bunch of self serving lawyers in a secretive court.

By writing this into the Family Law Act the government will ensure that the current rash of false and exaggerated allegations of domestic violence which have become a standard part of family law will further increase.

What on earth, for instance, is "psychological harm", particularly when it gets into the hands of the discredited family report writers and the extreme anti-father bias of many Family Court judges.

It should also be remembered that these domestic violence provisions are being written into the Family Law act at a time when the government is running multi-million dollar advertising campaigns which portray men as the sole perpetrators of domestic violence. These campaigns, criticised as blatant villification by every fathers and mens group in the country, are being conducted despite the total lack of evidence that they actually work and despite numerous academic and scientific studies from Australia and around the world which demonstrate clearly that both genders are guilty when it comes to domestic violence.

Also, specifically writing in to the act that an Aboriginal child has a right to enjoy his or her culture is in itself discriminatory against every other ethnic group in Australia and should be taken out. It should read that every child has a right to a continuing relationship with their culture and the cultural backgrounds of BOTH parents

Nor does this legislation reform the very conduct of family law itself. It does not wipe out the appalling body of precedents which ensure that fathers and their children and second families are treated with contempt. Nor does the legislation ensure that the systemic abuse of psychiatric evidence that characterises family law is reformed.

It has been an easy matter for a biased and discriminatory court to rely on a select body of psychiatrists and family report writers to come up with the findings that fit the agenda of the court. The family report writers are notorious for their anti-father bias and broad level of incompetence - and this government intends to let them to continue to operate with impunity!!! There is no proper complaint mechanisms to keep them honest and the state health care complaint units regard the Family Court of Australia as the best place to hear complaints about their conduct. In reality the court is the last place that should be hearing these complaints.

The process of consultation has in itself been entirely flawed.

The rushed nature of the so-called inquiry is in itself a matter of serious concern. So, too, is the ridiculous locations of the public hearings.

In Sydney, Melbourne and Brisbane these are being held in remote parts of the city without any proper advertising - purely in order, we assume, that Canberra bureaucrats can claim there has been a process of public consultation when there has been nothing of the kind. In Sydney this is being held in an obscure public housing enclave in far western Sydney called Cranebrook - a suburb the vast majority of Sydney siders have never heard of. That this location is almost impossible to get to for anyone without private transport is a disgrace.

The narrow range of views being sought by the committee is also a matter of serious concern.

In Sydney for instance, the committee heard from the Law Society of NSW and Legal Aid, but was somehow incapable of finding a single father's group in a city of more than four million people.

The groups interviewed were all supporters of the status quo, from which they have benefited greatly and grotesquely. The rushed nature of this latest inquiry, after years and years of dilly dallying, also meant a narrow range of views was being heard.

A number of leading father's groups, including ourselves, were not invited to give evidence; although we have worked hard, and unlike the groups from which you are so willing to hear without pay, to make submissions throughout the process.

On the rushed nature of the inquiry and the clear bias against fathers in those being interviewed we find ourselves in agreement with the following letter sent to you by one woman and posted on to our site at

<http://forum.dadsontheair.com/viewtopic.php?t=4081>

Dear Committee,

Re: Proposed Family Law amendments the subject of public hearings in Melbourne & Sydney 20th & 21st July, 2005

The above hearings have just come to my notice, and I am appalled at the unbalanced nature of the groups that are to give evidence at such hearings. Can you please explain why you have sought input from:

1. Legal groups.
2. Womens' interest groups.
3. Childrens' interest groups
4. Indigenous womens groups

But not Fathers' Interest Groups!

I would point out that as well as mothers and children, there are FATHERS involved in Family Law - why has not the Committee ensured equal representation of all groups?

I quote from the "House of Representatives Liaison & Project Office Email Alert Service dated 19th July, 2005" - "The Committee wants to hear as many different viewpoints as possible within the short timeframe for this inquiry," Mr. Slipper said.

Firstly, how can you hear "different" viewpoints when all you have got so far is groups mainly representing women;

Secondly, how can you hear "as many different viewpoints as possible" with only one day allotted to each of Sydney and Melbourne;

Thirdly, I note a hearing will also be conducted over two days in Canberra, but what about the other States and Territories, do they not deserve a public hearing?

Fourthly, why only hearings in capital cities - why not in major regional centres, which would enable many more people to attend and voice their opinions. It may have escaped the Committee's/Politicians' notice, but people have to work - being able to get enough time off, or raise sufficient funds for the necessary travel and overnight stay(s) involved in getting to capital cities is well nigh impossible, especially at short notice. I would have thought that legislation such as this which affects the very fabric of our society, that is the "family" should be given the time, resources and attention it deserves.

I therefore would like to know:

1. Why such a short timeframe?
2. Why the rush?
3. Why were not Fathers/Men's Groups invited to attend the hearings?

It suggests to me that the answer is "to rush it through before the men know what's happening"!

It also suggests a blatant bias towards women, verging on possible collusion, by those involved.

I re-iterate that I am appalled at the situation and demand that further hearing days be allotted, with adequate notification to ALL interested parties, whoever they represent. This should be by way of direct mail to the "groups" who are known to Government, and by way of regional newspaper advertising to notify groups and individuals that are not known to Government and who would otherwise not be aware of such hearings.

The existing Family Law Act is way out of date, out of touch and biased to the detriment of families after separation as a whole, but especially in regard to Dads and their relationship/contact/custody of their children. There is no doubt that it needs fixing, but not before everyone has been given adequate time to express their opinions, and have those opinions taken into consideration.

If the Act is to be reformed, it needs to be done properly and with sufficient attention paid to ALL points of view - if it is not done right, it will fix nothing and will be a catastrophic disaster.

This is Australia - we are supposed to "give a fair go to all". What happened to the fair go for Dads?

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For the past five years we have had a saying on the show:

"If you hear a lawyer use the phrase 'the best interests of the child', there is a 99.99% chance they are lying.

Unfortunately this remains as true today as when we first started using the slogan.

The expression "the best interests of the child" has been entirely bastardised under the current regime.

Our editorial position, while unsubtle, makes the following points:

<http://forum.dadsontheair.com/viewtopic.php?t=4081>

Make no mistake this legislation does not in any way guarantee that fathers will be treated equally before the law and does nothing to properly encourage, far less guarantee, shared parenting outcomes after divorce.

This pathetic legislation, after all these years, is yet another abuse of fathers.

It does nothing to guarantee that the secretive and utterly outrageous conduct of the Family Court is exposed.

It does nothing to stop the corrupt use of shonky psychs that has characterised family law in this country for almost three decades.

It does nothing to ensure that kids have a right to see and be cared for by their fathers.

It will perpetuate the harassment and abuse of fathers by both the Family Court and the Child Support Agency.

Make sure you have your say. Complain to your local member. Complain to the Attorney General's office. Don't let them get away with it.

This is legislation written by lawyers for lawyers and will do nothing but harm to the nation's children.

Until children are guaranteed the right to be parented by both their children it will be ever thus.

The Howard government should hang it's head in shame over its outrageous duplicity and its scummy and contemptuous treatment of dads and their kids.

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