



House of Representatives Standing Committee
on Family and Community Affairs

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Secretary:

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

Elandra Women & Children's Service 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. Our service believes that the Committee must take into account the danger women and children face after separation from a violent relationship; the area of concern being where there have been established cases of domestic violence or child sexual assault.

Our service was established in 1978 to provide supported accommodation to women and children escaping domestic violence. In the 25 years that we have been operating, it has been proven that domestic violence does not cease on separation and that 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 parent's 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-operative, communicative, compromising 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 or has occurred, that this co-operation, communication, compromise and sacrifice is not possible. Decisions about medical treatment, social activities, even basic issues such as clothing and day to day care will cause possible 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 a child's fear of further harm to their mother or themselves when the perpetrating parent is required to consult and

agree on all aspects of day to day needs of the child. These fears interfere with the child's ability to function in a healthy, positive way. Their education suffers, as do their relationships with the people in their lives. For children who are concerned about their father after separation it is our experience that this concern generally abates when they realise that their father is not a risk to the family or himself.

The issues for children who have experienced or witnessed domestic violence are immense and the longer they suffer from this violence the greater the effects. Children deserve Legislation that takes into account the impact of this violence; violence that can continue in their lives after their parents have separated.

Data collected by the Australian Bureau of Statistics in 1996 in its National study of violence against women reported 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 experienced 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. Statistics have also revealed that 49% of boys who have or are experiencing domestic violence, will themselves inflict violence on their own families in the future.

Elandra Women & Children's Service supports many women through the process of Family Law matters and believes that the current legislation is biased in favour of men. 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.

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

Domestic violence has been recognised as a significant issue in the Family Court. Our 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 sincerely

The Collective
Elandra Women & Children's Service