

CENTRE FOR CHILD & FAMILY DEVELOPMENT

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BY: LCA

NH
The Secretary
House of Representatives
Standing Committee on Legal and Constitutional Affairs
Parliament House
Canberra ACT 2600

Dear Madam,

Comments on draft legislation: Family Law Amendment (Shared Parental Responsibility) Bill 2005

As a child and family therapist I support the principle of joint parent involvement in the lives of children following separation. However I have some concerns about the way in which this legislation may be interpreted at times and in ways that may not be in the best interests of children. I hope that the following examples from my practice will illustrate the problems associated with making simplistic legalistic assumptions about the needs and requirements of children in complex situations.

I was approached by a mother of a three year old child who had been separated from the father of the child for almost the entire period of the child's life. There had been minimal contact between the father and the child or the father and the mother in that time. The mother informed me that the father having established a new partnership insisted on having contact with his child and wanted the child to spend weekends at his home. The child's mother was extremely concerned about this as the child was terrified of staying overnight with a father who had become to all intents and purposes a stranger. The child also suffered from a chronic illness that was exacerbated by stress. The most worrying aspect of this case was that the mother had been instructed by the father's lawyers to seek psychotherapy for her child in order to "prepare" the child for the meetings and overnight stays with the father which were scheduled to commence within a three week period.

On a subsequent occasion in another case I was approached by a solicitor to similarly effect the "preparation" of a child to have contact with a father in almost exactly the same circumstances. I had to point out firstly that I did not consider such an intervention to be therapeutic and secondly that such an intervention on the part of a psychotherapist could be considered to be both unethical as well as unprofessional.

Director: Ruth Schmidt Neven Consulting Child Psychotherapist B.A., Dip. S.W.S.
Assoc. Brit. Assn. Child Psychotherapy. Reg. Vic. Psychological Council.

Despite attempts to ensure that parents are able to reach agreement about parenting arrangements which are in the child's best interests without legal intervention it appears on a day to day basis that the adversarial system still predominates (even outside of the court system). The adversarial system in this regard has major limitations because it leads to a literal interpretation of the legislation in which the parent's needs and rights (because they employ the legal team) take precedence over that of the child.

Finally one of the most problematic aspects of legal intervention in decision making regarding access arrangements is that the knowledge and understanding of many members of the legal profession in this area is woefully inadequate. This is particularly the case when it comes to understanding the developmental and attachment needs of the child.

Any change in legislation in an area as complex as that of child and family relationships after separation, must go hand in hand with increased levels of training and education for all professionals involved in this area as well as education in terms of raising public awareness and understanding. In order to "promote the benefit to the child of both parents having a meaningful role in their lives" it is essential to make a child centred approach the cornerstone of training for professionals as well as the cornerstone of public awareness and education programs.

I would be glad to discuss any of the points raised in this letter and can be contacted by 'phone or email as above.

Yours sincerely,

RUTH SCHMIDT NEVEN
DIRECTOR