

Submission No.	9
Date Received	

RECEIVED
11 JUL 2005
BY: LACA

SUBMISSION TO EXPOSURE DRAFT:

**FAMILY LAW AMENDMENT (SHARED PARENTAL RESPONSIBILITY)
BILL 2005**

'Ron Baker

Committee Secretary
House of Representatives Standing Committee on
Legal and Constitutional Affairs
Parliament House
CANBERRA ACT 2600
AUSTRALIA

Dear Sir/Madam

In making this submission I note the following statement from the terms of reference:

The Committee should not re-open discussions on policy issues such as the rejection of the proposal of 50/50 custody in favour of the approach of sharing of parental responsibility.

Nonetheless, I wish to note that there remain problems in the concept of shared parental responsibility that do not specifically address issues of shared parenting. These issues have been discussed in a submission to the Attorney General's Discussion Paper (Baker & Bishop, 2004). However, in respect of the terms of reference for the Amendment, these issues will not be repeated in this submission.

The substance of the current submission relates to two principal issues:

- (1) Parental responsibility as it relates to schools,
- (2) Parenting Plans in relation to school involvement.

In making this submission reference will be made to the Explanatory Statement, circulated by the Attorney General, the Honourable Philip Ruddock.

Parental Responsibility:

The Explanatory Statement outlines the operation of joint parental responsibility, which covers 'major long-term issues,' covered under item 6 [Subsection D (1)]. A child's education is such a major long-term issue and includes which school a child attends. The Explanatory Statement gives the following example in relation to communication over major long-term issues:

When a decision about a major long-term issue is communicated to another person (who does not have joint parental responsibility) by a party with joint parental responsibility, that third party is entitled to assume that a decision has been made jointly and they are not required to establish that the decision has been made jointly. It is the responsibility of parents to ensure that appropriate consultation occurs. *For example, schools should be able to rely on information from a (sic) one parent* (p.5, italics added).

Based on my PhD research and professional experience as a school psychologist, there is potential for significant problems to arise on such a proposal in terms of schools. For example, my research and professional experience has shown that at times the resident or custodial parent may change the child's name on school enrolment documentation, or change schools, without knowledge or agreement by the

other parent. The assumption or expectation that ‘...schools should be able to rely on information from one parent,’ has led to many noncustodial parents being excluded from schools in the past because the custodial parent (for example) simply chose to ignore court orders to pass on school communications to the other parent. This is likely to continue on such an assumption. Other concerns arise from a child’s behavioural problems, accidents at school or prolonged absenteeism, of which the noncustodial parent may be unaware if schools only communicate with one parent.

To properly support the goal of both parents remaining involved in caring for their children after separation, there needs to be some requirement inserted in Subsection D(1) or elsewhere, by which schools ask whether the other parent (or other person) has joint parental responsibility, and for parents to notify schools if this occurs. While schools may act on the information from one parent, in cases where joint parental responsibility exists with the other parent, schools need to accept responsibility to keep both parents informed of any significant issues affecting a child’s schooling.

Parenting Plans:

The concept of parenting plans originated in the 1995 reforms but was not widely utilized. The intent of the submission here is to ensure that if parenting plans are to be reinvigorated that school involvement is specifically built into these frameworks. In that sense, the submission is not so much to change the Amendments but concern as to how parenting plans will operate. The Explanatory Statement discusses parenting plans under item 14 [14 Section 63DA], which is substituted with 63DA Obligations of advisors. The Explanatory Statement states that the intention of the provision 63A is to ensure parties are aware of and understand what is entailed in a parenting plan. This section [63DA (1) (b)] describes the responsibilities of advisors to the parties:

(b) inform them where they can get further assistance to develop a parenting plan and the content of the plan

Research has shown (Baker & Bishop, 2002) that there are significant barriers to school involvement for the parent who does not have the major role of caring for the child¹ (i.e., the noncustodial parent). Parenting plans potentially offer a mechanism by which to specifically outline the noncustodial parent’s school involvement. A sample School Involvement Plan, which could be appended to the broader parenting plan, is appended (Appendix A).

As noted, the concern is not the Amendment but how will the intention of this section be achieved? The Explanatory Statement describes the role of the adviser to parents:

The adviser must also inform them of the matters that can be included in a parenting plan including the form of consultations, the process for resolving disputes and the process for changing the plan. This is to help parents avoid future conflicts over changes or misunderstanding in the form of the plan”(p. 6).

A specific school involvement plan, such as the example appended, has the potential to help achieve this goal of the parenting plan in terms of keeping both parents involved in caring for their children after separation, by involving both parents in children’s education.

¹ It appears unclear from Schedule 5 on the removal of references to residence and contact as to what the new terminology for separated parents will be. That is, what replaces ‘resident’ and ‘nonresident’ parent?

References:

- Baker, R. J., & Bishop, B. (2002). *Nonresidential parents: the forgotten partners in children's education*. Retrieved: 12th February, 2003, from <http://www.nuancejournal.com.au/documents/4/toc4.html>
- Baker, R. J., & Bishop, B. (2004). Shared parenting and the language of reform. Submission to Attorney-General's Department Discussion Paper: A new approach to the Family Law system [unpublished]. Perth: Curtin University of Technology.

Appendix A

SAMPLE SCHOOL INVOLVEMENT PLAN

Relationships Australia has provided a model Parenting Plan, published by the Family Law Council in 1994, which includes a section on Education. A school involvement plan such as this example, offers parents the opportunity to specify in detail the agreed involvement of the noncustodial parent, in accordance with the needs of the particular family. Such a plan could then be appended to their Parenting Plan. (Parents may prefer a separate school involvement plan for each child).

We, the undersigned,

Mother.....

Father.....

Parents of the following child/children:

.....

.....

attending

.....School/s,

have agreed to include this **School Involvement Plan** as part of our **Parenting Plan** under the heading EDUCATION, and we agree that this plan is subject to the responsibilities agreed to in our Parenting Plan.

The following list outlines the type and extent of involvement we are to have in our child/children's schooling. For some/all occasions we would prefer to have separate contact/meetings with teachers and other school personnel, and these situations are listed below. We have written in the spaces provided our particular requirements.

1. FINANCIAL

Contributing to school fees, extra fees (e.g. music lessons, camps, outings)

.....
.....
.....
.....

2. COMMUNICATION FROM SCHOOL

This covers all information from the school concerning our child/children's education; for example, school newsletters, child's school/progress reports, notices, brochures, merit awards/certificates, and communication regarding discipline/behaviour, **illness or accidents.**

.....
.....
.....
.....
.....

3. CONTACT WITH CLASS TEACHER

This includes informal contact; before/after school, phone calls, parent-teacher meetings/conferences.

.....
.....
.....
.....

4. CONTACT WITH OTHER SCHOOL PERSONNEL

School Principal/ Deputy, specialist teachers, student services (school psychologist/social worker, nurse) registrar, and others.

.....
.....
.....
.....
.....

5. VISITING SCHOOL

Class visits, sharing activities with child/children, parent-helper, attending assemblies, special days; sports days (fetes, concerts, sports days, religious ceremonies).

.....
.....
.....
.....

6. HELPING HAND

This includes such things as serving on Parents and Friends Committees (P & C) or School Based Decision Making Groups; as parent helper on camps or outings, coaching/supporting sports events; as canteen & library aides, or busy bees.

.....
.....
.....
.....

7. ATTENDING OUT OF HOURS FUNCTIONS/EVENTS

Attending parent-teacher evenings, information nights, involvement in extra curricular activities, family evenings.

.....
.....
.....
.....

8. DAY TO DAY ACTIVITIES

Transporting/accompanying child/children to school, drop-off, pick-up, going to school to collect child/children in case of illness, specialist appointments.

.....
.....
.....
.....
.....

OTHER ISSUES

(For example, parents may wish to specify times and circumstances when the other parent is to collect the child/children from school).

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

PROVISIONS FOR CHILDREN WITH LEARNING DISABILITIES, SPECIAL NEEDS (EDUCATION SUPPORT/SPECIAL EDUCATION), REFERRAL TO SCHOOL PSYCHOLOGY SERVICE

Parents should discuss this section, if relevant, with support personnel, such as special education or remedial teachers and student services professionals to ensure the particular needs of their child/children are met.

.....
.....
.....
.....
.....
.....
.....
.....
.....

We have discussed this plan with our child/children in the way we think they can best understand and express their wishes, and we agree to review this plan/...../.....(date), or (in the event of our child/children changing schools) to review it with the new school.

(Note: A copy of this plan is to be retained by each parent and a copy lodged with the child/children's school records. In the event of specialist referral (School Psychology Service/Special Education) additional copies may be made available for confidential files).

Signed (mother).....date.....

Signed (father).....date.....
