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BY: LACA

Florance, Laura

From: Macdonald, Jane (D. Hawker, MP) [Jane.MacDonald@aph.gov.au]
Sent: Tuesday, 19 July 2005 13:58
To: laura.florance@ag.gov.au
Subject: FW: Family Law Amendment Bill 2005

Submission No. 71
Date Received

Dear Laura,

As discussed.

Regards. Jane Macdonald - Electorate Officer.

-----Original Message-----

From: brendan [mailto:nadnerb@iprimus.com.au]
Sent: Tuesday, 19 July 2005 12:05 PM
To: Hawker, David (MP)
Subject: Family Law Amendment Bill 2005

<input type="checkbox"/> Priority A (date.....)	<input type="checkbox"/> Reply by Ruddock
<input type="checkbox"/> Priority B	<input type="checkbox"/> Reply by Ellison
<input type="checkbox"/> Priority C	<input type="checkbox"/> Brief required
<input type="checkbox"/> Information	<input type="checkbox"/> Reply by COS
RECEIVED 21 JUL 2005	
<input type="checkbox"/> Reply by AGD	Action Area
	Init
	Date

Dear Mr Hawker,

We at the Non Custodial Parents Party are very enthusiastic to the changes in the exposure draft to the Family Law Amendment Bill 2005, except for the following which align us with the Shared Parenting Council of Australia. Section 68F is the only place we differ from the SPCA as they do not have a position with regards to relocation of children. We would like you to represent our views to the Liberal Party by Friday 22nd of July as on Monday 25th of July there will be a hearing with an assessment committee.

s65DAA

We are arguing strongly that the present provisions, which provide for spending "substantial" time, are inadequate and should be changed.

It is this section coupled with a change to 60B that will implement "as far as we are concerned" (When all the other provisions come together) an effect of "as near as we can get to" a rebuttable presumption that children should spend equal time with each parent that the Government has rejected.

Court to consider child spending equal ~~substantial~~ time with each parent in certain circumstances

(1) If:

- (a) a parenting order provides (or is to provide) that a child's parents are to have parental responsibility for the child jointly; and
- (b) both parents wish to spend ~~substantial~~ **equal time or substantially equal time** with the child;

the court must consider making an order to provide (or including provision in the order) for the child to spend **equal or substantially equal** ~~substantial~~ time with each of the parents.

60B

The objects section in 60B needs to reflect the principal of substantially equal parenting time on a regular basis.

We have requested an amendment in section 60B in 2 (a) (ii) to further add weight to this key principal and to deliver in absolute terms the recommendation 5 paras 3 and 4 of the HORISP committee on Child Custody arrangements December 2003.

The details are shown. The GREEN text are additions by AG's and the BLUE is ours

(2) The principles underlying these objects are:

(a) except when it is or would be contrary to a child's best interests:

(i) children have the right to know and be cared for by both their parents, regardless of whether their parents are married, separated, have never married or have never lived together; and

(ii) children have a right to spend **substantially equal parenting 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 **including Grandparents**

We also need to **add the word Grandparents** into this section; (because Grandparents need to be linked to the new sections in 68F and the objects sets the foundation for the intent and provides such linkage as Grandparents are listed specifically in (29) Paragraph 68F(2)(b)).

The addition of 60B 1 (c) is a new addition to be supported "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."

S60, S61DA, S65DAA, and S65DAB are the pivots of the Bill and deserve special consideration.

They provide for joint parental responsibility, for substantial parenting time, and for parenting plans. In essence they are refreshing and excellent reform measures.

s60 I (8) (b) (iii)

Provides that the court will overlook compulsory attendance at family dispute resolution processes when the court is satisfied on reasonable grounds that there has been "family violence" or a "Risk of family violence". It should be noted that this risk of family violence is applied to several sections of the Bill.

We have argued and will **continue to argue that left unqualified family violence is too wide and vague. We have proposed the addition of the word at the very least the word "serious"**.

s61DA

We are arguing strongly that the language referred to in 65DAA and 61DA, which provides for the presumption of joint responsibility, should be expressed in less negative and less prescriptive language and that **the notes should be moved outside of the Act itself**.

s61DA (1)

The presumption of joint parental responsibility is well crafted and clear. However, the insertion of the cautionary note is unnecessarily negative and restrictive and we argue it needs to be removed.

S61 DA (2) (b)

The word "violence" **requires the addition of "serious"** to "*family violence*" as above, plus an accompanying note or statement making it clear that it is only the type of violence that impacts seriously on children that can displace the presumption.

In **S68F** we at the NCPP want where there is equal or substantially equal parenting time relocation with children not to be allowed for work or family reasons. But if parenting time is less than 30% relocation to be allowed as the main parent has needs & responsibilities that outweigh the wishes of the parent with unsubstantial parenting time. There should not be allowed relocation overseas where there is more than 28 days contact per year as allowing parenting time from foreign countries is far too difficult to achieve. Where there is on the balance of probabilities a belief that to allow children overseas there is a risk of abduction, the right to travel overseas should be withheld unless substantial collateral in the form of property can be put up as surety that they will return. A parent that lives overseas & wishes contact there should also have to put up a similar surety or have their contact in Australia.

We would be very grateful for help in this Bill that will impact social change more than any other in the last 25 years. This Bill will probably have more social impact in Australia in the coming century than even the rise of terrorism & changing balances of religious beliefs. It is important for society to have a social structure that it believes in. We believe the new Family Law Amendment Bill 2005 combined with the above changes will help provide that structure.

Yours sincerely

Hall NCPP