

Submission No. 1340

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Hunter Domestic Violence Court Assistance Scheme

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House of Representatives Standing Committee
On Family and Community Affairs,
Parliament House,
Canberra
ACT 2600

Submission to Parliamentary Inquiry into Joint Residence Arrangements in the Event of Family Separation

The Hunter Domestic Violence Court Assistance Scheme is opposed to a legal presumption of joint residence for separating families and we ask the Inquiry to consider the following:

A presumption of shared residence

- Privileges the rights of the parents over the rights of the child by over-riding the principle of the 'best interests of the child' currently entrenched in the Family Law Act.
- Will place women and children who are victims of violence at increased risk of further violence. The presumption will force some children to live with violent fathers and will force mothers to have to regularly negotiate with and be in the presence of violent ex-partners. It provides opportunity for abusive men who wish to control their partners after separation to do so.
- Ignores the factors listed in the *Family Law Act* which must be considered by the Court in deciding parenting orders, such as children's wishes, family violence, capacity of the parent to provide for the needs of the children and maintaining children in a settled environment.
- Provisions already exist in the *Family Law Act* to allow for shared residence where it is in the child's best interests.
- Reduces families abilities to make their own decisions about parenting arrangements depending on children's needs, parent capacities, geographical distance between them, parent's work patterns, finances and housing.
- Ignores the reality that the level of cooperation required to establish and maintain shared residence suggests parents who have that capacity will most likely have made these arrangements without resorting to the Family Law Court.
- Will present practical difficulties for many separated parents and children and the burden of running two households suitable for housing children will be too great

for many families.

- Will result in a reduction in child support payments for single mothers who will still need to provide for their children. This will force them further into poverty which will also increase the number of children living in poverty.
- Does not reflect current caring practices in intact families where mothers are still predominantly the primary carers of children and undertake most of the domestic work. Shared residence would mean post-separation may be significantly different for the children from pre-separation arrangements.
- May result in an increase in litigation as parents who do not want shared residence will feel they have to go to court which in turn will add to the burden of the already overstretched resources of the Family Court and Federal Magistrates Service.

We strongly urge the Inquiry to consider the above points and recognise that **the presumption of shared residence is inappropriate in representing either the rights of the child or the best interests of the child.**

We also urge you to consider that the appropriate emphasis should be one of **shared responsibility** rather than shared residency.

Yours faithfully,

P. A. Lorimer

- Coordinator, Hunter Domestic Violence Court Assistance Scheme