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

14 July 2005

Dear Sir/Madam,

Thank you for the opportunity to comment on the draft *Family Law Amendment (Shared Responsibility) Bill 2005*.

As you know, Families Australia is an independent body funded, in large part, through the Australian Government Department of Family and Community Services (FaCS). Families Australia is the only national non-government peak body funded to provide advice and input to government on family related policies.

The area of child custody following family separation is inherently emotional and difficult for everyone involved. The need to protect the physical and emotional interests of the child(ren) involved is clearly paramount. Families Australia strongly supports any measures which promote parental agreement and equity in parental responsibility. Families Australia also believes that, in the absence of any form of abuse or family violence, there are fundamental and long term benefits for children when a meaningful relationship is maintained with both parents. We encourage government to firmly establish the primacy of physical and emotional safety for all family members in the event of a family separation.

In this context, Families Australia would like to make the following comments on the draft Bill.

1. Families Australia commends the Attorney-General and the Attorney-General's Department for the considerable effort that has gone into the draft Bill particularly with regard to implementing the measures set out in the Government's response to the House of Representatives Standing Committee on Family and Community Services inquiry into child custody arrangements.
2. Families Australia supports the objects and principles of the Bill as detailed in Section 60B. We encourage the Government to maintain and promote a simplified set of principles to firmly guide the improvements in this important area.

3. Families Australia strongly supports the rights of children to develop meaningful relationships with both parents in a manner reflecting the child's best interests. Clearly, the physical safety of children is paramount, but the Bill should provide guidance to the judiciary with regard to the emotional interests of the child(ren) involved. This should include factors such as lifestyle stability and ongoing parental conflict.
4. Families Australia supports the parenting plan initiative. A parenting plan provides both parents with the opportunity to identify and promote the needs of the child(ren) and clearly outlines agreed rights and responsibilities of both parents. Where both parents are willing to negotiate and develop a parenting plan, it seems prudent that the plan address all possible components. The parenting plan is discussed in Subsection 63C(2) and states that the plan '*may deal with one or more of the following*'. Families Australia would like to propose that, where a parenting plan is achievable, the plan '*must*' address all of the listed factors in an effort to maximise the potential of the plan to reduce the need for future legal proceedings and thereby reduce further family angst. Families Australia encourages the Government to liaise with key stakeholders on this point.
5. Families Australia strongly supports the benefits of simplifying the processes involved in child custody and separation matters. We commend the simplification of the roles and titles of the various professionals involved in the process. Subsequently, we believe the definitions and roles contained in Schedule 4 will be particularly useful in implementing the new approach contained in the government paper '*Every Picture Tells a Story*'.
6. We recognise that a key goal of the draft Bill is to simplify the legal and dispute resolution processes that may arise during child custody arrangements. Whilst the Bill achieves this to some degree, Families Australia strongly endorses the need for a user-friendly guide to the legal and dispute resolution processes. Due to Families Australia's unique network of family sector and 'grass roots' organisations, we are able to offer assistance in drafting a simple and user-friendly document in collaboration with other key stakeholders and appropriate Department(s).
7. In providing comments on the draft Amendment Bill, we note that the glossary of terms was not included. The phrase 'marriage' appears several times throughout the draft Bill and it is presumed that the current definition included in the *Marriage Act 1961* applies.

On behalf of Families Australia, thank you again for the opportunity to comment on this important draft Bill. We look forward to working with the Standing Committee on Legal and Constitutional Affairs in the future to enhance and develop responsible social policy for all Australian families.

Yours sincerely

Judy Swann OAM
Manager, Policy and Projects