

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 1.1

Question No. 5

Senator Stott-Despoja asked the following question at the hearing on 31 October 2005:

Can the Department explain how the proposed new s68F (ba) (*the willingness and ability of each of the child's parents to facilitate, and encourage, a close and continuing relationship between the child and the other parent*) will operate in a case where one parent is concerned about violence or abuse and is therefore unwilling to facilitate a relationship with the other parent? And won't such a parent, by definition, be prejudiced by this provision and discouraged from raising concerns about violence?

The answer to the honourable senator's question is as follows:

The willingness and ability of each of the child's parents to facilitate and encourage a close and continuing relationship between the child and the other parent is just one of the factors that the court must consider.

The other criteria to be considered when making a parenting order are set out in subsections 60CC(2) and (3). In cases where there is family violence or sexual abuse the primary consideration of the need to protect children from harm will have particular relevance, as will the secondary consideration of whether there is any family violence involving the child or a member of the child's family.