Men's Confraternity WA Inc
www.mensconfraternity.org.au

Submission to the Senate Standing Committee on Community Affairs

(Hereafter referred to as the Committee)

Re: Child Support Legislation Amendment (Reform of the Child Support Scheme. New Formula and Other Measures) Bill 2006
(Hereafter referred to as the Bill)

Men's Confraternity has a number of concerns with the proposed changes to the Child Support Legislation and assessment formula. First and foremost though, we must stress our great distress over the grossly inadequate time given for people and organisation to respond to this Bill. Our organisation is staffed entirely by volunteers who donate every spare moment trying to help and assist men / fathers, their partners and their children. We do not receive any government funding or support and we do not have exhaustive resources or staff to allocate at the drop of a hat to respond to such important legislation; legislation that we have campaigned for, for a great many years.

We are also greatly concerned about the lack of an opportunity to be afforded our organisation to give an oral presentation to your Committee. The two locations offered by the Committee, namely Melbourne and Canberra, are both on the opposite side of the country and prohibit our attendance. The review of the Child Support Legislation headed by Professor Parkinson, also denied us the ability to make a personal presentation which only exacerbates our concerns about the legislation and the level of and time frame given for community input.

The required changes that we have been able to identify up to this point are as follows:

1. Probably the most important amendment that needs to be revised by the Committee is the removal of non-residential parents (with less than 35% residency) right to claim a proportional percentage of the Family Tax Benefit. Family Tax Benefit is a supplement

offered to those parents with low to middle incomes based upon the cost of children, a cost that does not suddenly disappear if the percentage of care is less than 35%. In reality, providing two households, with duplicate rooms, duplicate toys, duplicate clothes, and duplicate family size cars …etc, is much greater for separated homes.

The fact is that a separated parent with 34% care currently receives no other income support in recognition of their costs of providing primary care to their children. Removal of the FTB would leave them receiving no additional assistance whatsoever if the FTB is taken away. The parent is not able to claim any percentage of the Single Parent Pension, which currently goes in entirety to the parent with the greater percentage of care. An unemployed single parent with 34% residency of 5 children would receive the basic Newstart allowance only. This would be an intolerable situation.

Economic modelling needs to be conducted to ascertain the exact amount in real terms these changes will have on low and middle-income parents. Under the proposed changes to the legislation the minimum amount of payable child support is to be increased from $5 to $20 per week per child, allied with the loss of family Tax Benefit, most if not all low income parents will be effectively paying more in child support, under these changes. Given that one objective of these changes was to offer genuine relief from excessive child support liabilities for parents effectively living on or below the poverty line, we need to determine how these changes would affect them in real terms.

2. 'Division 4 - Restrictions on publication of review proceedings - 110X Restrictions on publication of review proceedings' is a whole unnecessary section of this Bill. It is a very concerning trend invading our legislation to prevent media and community scrutiny of government and judicial organisations and their administrative decisions. Problems with the system will never be stopped simply by hiding them from the public and we strongly petition for the complete removal of this section from the Bill. Media scrutiny is essential for good governance and there are many ways of protecting the privacy of individuals without imposing prohibitive scrutiny provisions such as this.

3. The new formula for assessing child support liability is claimed to be based upon the cost of children, but this is not strictly correct. The proposed new formula is in fact based upon research into the costs of children in intake households, when in reality the costs are quite different in separated households. Maintaining two households with the same income as prior to the separation and attempting to maintain the same standard of living for both households is naive and the cause of much of the angst.

It is our believe that the complex formula proposed for determining child support liability does not adequately recognise the disparity between the cost of maintaining each individual house and the clear disparity in the level of income support offered to each parent. If the current system of offering virtually no income support to separated parents with the lesser amount of residency, (soon to become no support under these proposed changes) then the assessment formula needs to reflect this lack of financial support from the government to better assist the parent with the lesser amount of residency adequately provide the essentials for their children whilst in their care.

Recognition of both parents responsibility to provide equally towards the cost of their children is an excellent addition to the child support assessment formula. However, it needs to go further in recognising that the government offers less financial support to separated parents with the lesser amount of residency and the formula should reflect this to help them in providing for their children.

4. There are multiple changes that take place due to separation, including changing work, living and care arrangements. The sad reality with the Family Court and their interpretation of the best interests of children is their interpretation of a father's commitment to work and providing financially for his family as being a parental deficiency. Many fathers when faced with the reality that their work ethic is a liability in the Family Court and used as a reason to deny them reasonable and frequent contact with their children, make the decision to reduce their workload and/ or change jobs, often taking a lower pay packet in order to do so. This sacrifice should be applauded but instead the CSA views these fathers who reduce their workload to ensure availability to exercise contact or primary care as a 'tactic' to reduce child support.

The proven history of the Child Support Agency in utilising their ability to 'deem' in this situation based upon 'capacity to pay' is the most obscene practice of the CSA along with their refusal to release statistics on the number of fathers they have driven to suicide (two practices which we believe are directly related). This deeming power needs to be removed or at the very least severely curtailed. Deeming in this situation is no better than legalised slavery.

5. Due consideration needs to be given to the parent with the lesser percentage of care who has children in the upper age bracket (13+) under this new formula. This increase in the assessable rate for teenagers is good in theory as it attempts to brings the child support formula in line with the actual cost of children, but once again, as we believe the formula used for calculating the cost of children is flawed due to it's reliance on statistics generated from intake families, the figures used to generate the formula tables need to be questioned.

The new formula also recognises the unreasonable and excess rate currently being paid for younger children under the current formula. Many parents of teenagers will be expected to pay a greater amount of child support even after up to a dozen years of paying an excessive rate previously. This excessive or overpayment of child support needs to be considered with an exemption from the higher rate for anyone who has been paying under the current formula for younger children for more than 5 years.

6. It is greatly concerning that the Parkinson report recognised the requirement for separated parents to rebuild financially post separation, but the Bill currently before the Committee does not offer the same recognition. The Parkinson report recommended the exempting of overtime and income from second jobs from assessment for a period of 5 years, yet the Bill only recommends this exemption for a period of 3 years.

Our recommendation would be for this not only to be reverted back to bring it in line with the Parkinson recommendations, but it should be extended even further to include all overtime and income from second jobs for all payers under all circumstances. Overtime and second jobs are worked for an innumerable number of ever changing reasons. A person working overtime or a second job to save up for a family holiday pre-separation (or any reason for that matter), should not be excluded or prohibited from working overtime or a second job post-separation in an attempt to re-establish themselves financially. Pre-separation motivation for working overtime does not equate to the same motivation post-separation and a past history of working overtime is no justification to refuse to exclude this source income from assessment.

The implications for these selective exemptions are enormous and immensely ambiguous. It has the potential to cause an administrative nightmare for the CSA, and for the payers themselves. The CSA is already viewed by a large proportion of payers as a hugely intrusive organisation, weighing payers down in piles of paperwork for even the simplest of applications. These selective exemptions will end up being another huge cause of community angst towards the CSA, if they are not applied collective and without exception to all payers. No doing so, denies all the opportunity to re-establish themselves financially post separation. It also traps parents in a never-ending spiral of increasing hours and increasing child support. All child support assessments should be based upon parents standard 38 hours work only.

7. Greater provisions need to be included within this Bill allowing for either parent to opt out of collection and assessment by the CSA. Consenting parents should be able to enter into binding personal agreements without the imposing of punitive financial penalties for payees if they don't pursue collection of child support in accordance with the CSA formula. Additionally, payers who have demonstrated a reliable history of payment should be able to withdraw from CSA collection and enter into private payment with the other parent, giving parents greater autonomy and saving taxpayer dollars for enforced collection in situation where it is clearly unnecessary.

The child support agency is supposed to help parents and facilitate the payment of child support. Where both parents are happy with a mutually agreeable amount of child support, the child support agency should not be creating and stimulating animosity between the two parents by forcing one parent to pursue the other for more money. Stimulating the animosity between the payer and payee in this way is clearly not in the best interest of the children when both parents are clearly happy with their own agreement.

Additionally the Child Support Agency should not be placing themselves in between parents when the paying parent has a clear history of paying their child support without the necessity for collection by the agency. There are many situations that our organisation is aware of where collection by the CSA is used by the payee in a vindictive manner. Private payment offers far more flexibility with payment and irrespective of the wishes of the payee, if the payer not demonstrated a necessity for agency collection, then the agency should not be doing so.

8. It is also the firm believe that the CSA needs to take greater responsibility for the registration of the correct liable parents. Modern DNA technology enables the quick, easy and accurate registration of the correct biological parents and should be used by the CSA to ascertain the biological parentage of all children they claim to be acting in the interests of. This comes down to a basic case of duty of care. This duty of care needs to be taken far more seriously by the CSA as they have shown a total lack of regard for men currently paying child support for children they have proven through DNA testing are not their own. It is the belief of this organisation that all children should be DNA paternity tested at birth in order to avoid all cases of paternity fraud, but in the interim, the CSA should implement a policy of paternity testing all children given that they operate on the basis that biological parentage is the defining factor in determining liability. The CSA needs to accept their duty of care in this situation to ensure the correct parents are registered.

In conclusion, this submission has been made under unwarranted duress due to what we believe are unreasonable time restrictions. Men's Confraternity hopes that our interpretation of the Bill are correct and mistakes, if any, whilst regretted are due to this unreasonable time restrictions. We hope that the Committee will give due respect to our complaint regarding the time frame for submissions, so that we may have more time to make a more thorough submission.

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Child need the love and care of BOTH parents