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Committee Secretary
Senate legal and Constitutional Committee

Department of the Senate

Parliament House

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Inquiry into the provisions of the Family Law Amendment (Shared Parental Responsibility) Bill 2005

SUBMISSION DUE 24 FEBRUARY 2006.

Dear Committee Members,

In response for the call for submissions on the provisions of the Family Law Amendment (Shared Parental Responsibility) Bill 2005 I submit the following.

This inquiry will offer an opportunity for those whose original submissions were to oppose changes that have been proven to be needed by a nationwide parliamentary review and pander to their desire to not accept the umpire's decision. It would be a travesty of democracy and an invalidation of the whole process of parliamentary inquiries if they were to succeed in dismissing an extensive public inquiry by the manipulation of this concentrated alternative inquiry.

The issues prompting this particular inquiry where considered at great length by those chosen to sit on the committee and who's finding were reached after considerable assessment. This will not be the case in this subsequent inquiry as the time and exposure have been severely curtailed effectively creating a

condition that will allow only the strongly resourced (and pre-warned) organizations to respond in length and with numbers.

Issues of concern resulting in this additional inquiry include the requirement of courts to consider the time non-resident parents spent with their children prior to separation and a belief that the amendments do not sufficiently address the issues of domestic violence.

For the reasons mentioned in the opening of this submission I have limited my response to the 2 more significant issues raised, these being;- Time spend with the child/ren prior to separation and the other being Domestic Violence considerations.

On the issue of the time non-resident parents spent with their children prior to separation it must be recognized that this is a carefully considered emotional ploy engineered to wholesale discount fathers(in the main)from an equitable outcome. This is based on the reality that most families are structured based on economic needs which sees the father, in the main, being the full time bread winner.

The government has never intervened in the private arrangements of intact families and I surmise they will never resolve do so. Within an intact family it is an expectation and an unquestioned assumption, as it is in with the wider community, that either parent would take responsibility for the raising of the child/ren should the other parent be unable to do so. This includes a parent that works in regional areas, or overseas, or within the armed forces, or may have a long term illness or injury requiring hospitalization or institutionalization, the list is endless and applies to both genders equally.

On these occasions there is no intervention from the courts, nor is there a community expectation that there should be, for the purpose of assessing the capacity of either parent as to his or her capacity to fulfill the other parents' role or the role of carer in general. However this is exactly what the opponents of the proposed legislation are suggesting should be the case if they believe this should take place post separation.

It is transparent that all couples need to arrange their lives in accordance with the specific needs and resources available to them within that relationship at that time, whether this is full-time employment by one or both parents or whether it includes child care or part-time employment or any other mix.

For these reasons the same consideration must be made post separation and within a new unit of time and with considerations to the change of circumstances and the changed needs of the family members both wholly and individually.

To change the proposed legislation as it currently stands would be to apply an assumption that a non-resident parent, usually the father, is unsuitable to parent based solely on his or her status as a significant financial provider of that family. Clearly this would be discriminatory, not to mention unfounded. The proposed changes would also serve to re-enforce the "status quo" discrimination that currently undermines residency outcomes within the family court and lend itself to supporting claims of violence in order to prolong proceedings for the purpose of establishing a new residency status post separation.

This leads to the second issue of violence and the claims that the legislation does not provide enough protection in this area.

The proposed legislation has not in anyway reduced that which was/is in place and available to the victims, police and the courts for dealing with issues of domestic violence, to the contrary, it has been enhanced dramatically.

The proposed legislation is very clear in that where domestic violence is involved then this will bypass the Family Relationship Centres and go to the courts. To legislate for failure is foolhardy; therefore it is just as transparent that some form of evidence must support claims of violence if the spirit and intention of the proposed legislation is to have any chance of success.

The provision of Family Relationship Centres means that a great many of the cases now going before the courts will no longer need to do so and thus will provide the courts with much additional resources to devote to addressing more thoroughly those cases involving domestic violence.

Additionally these same recourses will allow courts to deal more quickly with domestic violence cases which have been concerning for those within the profession for a great many years. Early resolution of these difficult cases will in itself reduce the occasions of violence.

In summary, it's is very discouraging that the original proposal for a "Rebuttable Presumption of Equal Shared Parenting" was allowed to be undermined by emotive and perverted tactics and that the media were allowed to sway the outcome with inaccurate, emotive and manipulative reporting. However I sincerely request this subsequent inquiry does not totally invalidate the substantial personal evidence put forward overwhelmingly supporting the need for the legislative change without any further watering down.

Yours Sincerely

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