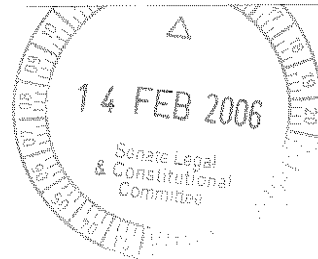


Mark Schwarz

Committee Secretary
Senate legal and Constitutional Committee
Department of the Senate
Parliament House
Canberra ACT 2600

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Submission

Inquiry into the provision of the Family Law Amendment (shared responsibility) bill 2005.

Timing of Introduction

Thousands currently have a case before the family court on parenting. Thousands are so happy that the government is going to amend the legislation to give non resident parents equal time or substantial time with their children. Thousands have not read the fine print and do not realize that if they are in the system the new laws will not, and will never apply to them. Thousands will be disappointed.

I was in Penrith for the launch of the relationship centers, I traveled there from Sydney's east. I shook the Attorney General's hand, I was

so happy and thankful for what he had to say, and I left hopeful that I would spend more time with my son. But now I realize that the changes will not apply to us and that it was all a waste of time.

My case comes before the court in July or August. After reading the memorandum I have learned that the new legislation will only apply to new applications brought before the court in July. How can that be? How can my child and I be judged on the old laws in July when the new laws come in prior to July. Does that mean that the Judges will be judging cases under two sets of laws? The new laws for new applications and old laws for old applications? Does that mean that after spending so much emotion, and time and money that I must now discontinue my application before the court and reapply in July when the new laws will apply to my application and go through the whole process again and wait another year so that I can be judged under the new laws.

Where is the fairness of judging children and families on two sets of laws? The correct thing would be to judge all cases before the court on the legislation that is current on the day the case comes before the court.

It is also difficult to comprehend that I am unable to reapply under change of circumstances. Such a large change in the law that affects so many families is surely a significant change of circumstances.

I have spoken to Dr Tom Altobelli who is the Family Law

Representative on the Law Council of Australia, and he said that he and the Law Council would be lobbying hard to have the new legislation apply to existing cases before the court, he said that it would be possible to lodge an appeal under change of circumstances. i.e. change of law. He also said that it would not be right for Judges to be judging the best interests of children under two sets of laws depending on when they made their application.

I assume the implementation is designed to ease the workload of the court but the court is meant to serve the people not the other way around.

We should be judged on the laws of the day not on the time our application was made to the court.

End submission.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke.