

Senate for Legal and Constitutional Legislation Committee

Re: Submission for **Inquiry into the Provisions of the Family Law Amendment (Shared Parental Responsibility) Bill 2005.**

27 February 2006

Dear Committee Secretary,

We write as a group of professionals working in the area of domestic violence in the south-west Sydney area. We would like to raise our concerns about the pending *Shared Parental Responsibility Bill*. We believe that this Bill is seriously flawed and does not fully take into account the serious and debilitating effects domestic violence has on women and children.

Specifically we feel the Committee should take into consideration the following points:

1. Shared Parenting responsibility is not a viable option for families who experience domestic violence.
2. Limiting not extending contact with a violent/abusive parent
3. Women who are victims of domestic violence are already vulnerable by nature, so for them to be told that should their claims of domestic violence be considered 'false allegations' and they will be penalized is only perpetuating an already destructive cycle. You will in effect be turning away the very people you purport to be helping.
4. This Bill should reflect what children *actually need*, not what everyone else *thinks* they need.

This is not to dispute that joint parental responsibility can work however we feel strongly that evidence indicates that it cannot work in situations where children are victims of domestic violence either directly, or by virtue of them witnessing violence perpetrated against their mother. In the best interest of the child 50-50 shared responsibility will only work where the two parents have an amicable relationship and continue to have shared views about raising their children.

Our own extensive casework highlights that men who perpetrate violence against their partners or children do not positively utilise the contact they have been granted through Family Court orders, (i.e they fail to spend quality time

with children as opposed to quantity). In the 50 50 arrangement, the contact that is utilised is frequently used to control, monitor, harass and intimidate the family members. Therefore, we are of the view that the imposition of the 50 50 shared arrangement in this situation compromises the very principles for enforcing it in the first place. Further, we believe this Bill proposes to award violent men an amount of time with their children, which is not usually enjoyed by non-offending fathers.

In our case experience, children may voice a desire to see their fathers (or non residency parent), but do not necessarily voice an overwhelming desire to live with that parent. In cases where domestic violence is an issue, we do not consider telling a child that they have to spend an equal amount of time with a parent who has perpetrated this behaviour, to be in the best interests of that child. We would suggest that the on-going trauma of enforcing such an order would have a detrimental effect on that child's development.

This Government frequently highlights its concerns for the demise of the family. However if we have real concerns about the family and the society in which we live, we should consider what evidence exists to sustain the view that a child needs to have contact with a violent father. By comparison, it has been shown that any positive male role models introduced into a child's life will have a significant and beneficial effect.

In cases of domestic violence, the balance of power that exists between the two parties is already unevenly distributed, so to suggest that mediation is a reasonable expectation for dispute resolution is not appropriate considering the basic premise of such resolution is equal power. It is also important to note that very few men make attempts or seek assistance to change their abusive behaviour. Unfortunately men who are abusive will always minimize and deny their violence and/or blame others for it.

It has been noted in current research by Greg Yee that

All perpetrators of domestic violence are similar in that they use abusive behaviours to control their families. They do so deliberately, consistently and with intent. The types of behaviours may vary but the impact on those affected is the same.

"Domestic violence occurs when a man sets up a relationship so that it operates the way he wants it to: so that he can do what he wants and not do what he doesn't want to do, so that his wife will do what he wants and not do what he does not want her to do, so that his children will do what he wants and not do what he does not want them to do. His abusive behaviours are what he does in order to set this up and maintain it. Every other member of the family are not free to be themselves." *Greg Yee, 2003, LifeCare training package.* We can not emphasise this point enough.

Understanding this cycle, we have to wonder how requiring parents who are already adversarial to undergo further mediation is going to encourage a more favourable outcome.

We urge you to ensure that these concerns are debated rigorously before the bill is passed. If this is about the 'best interest of the child' then you are their advocates!

Yours faithfully

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