

**SUBMISSION TO SENATE LEGAL AND CONSTITUTIONAL LEGISLATION
COMMITTEE**

**ON BEHALF OF THE FAMILY LAW PRACTITIONERS' ASSOCIATION
(QLD) LTD**

**RE THE FAMILY LAW AMENDMENT (SHARED PARENTAL
RESPONSIBILITY) BILL 2005**

1. The Family Law Practitioners' Association of Queensland Ltd. ("FLPAQ") represents approximately 400 family law practitioners throughout Queensland, including social workers, accountants, barristers and solicitors.
2. On Monday 25 July 2005, Mr. Donald Leembruggen, solicitor, appeared before the House of Representatives Legal and Constitutional Affairs Committee and made some oral submissions with respect to the proposed Bill on behalf of FLPAQ .
3. Points he made were:-
 - Generally, any initiative that seeks to reduce the reliance of parents on litigated solutions to issues arising from their marriage is to be applauded.
 - That before a parenting plan should be able to make unenforceable a prior parenting order, such parenting plan should be subject to a cooling off period or, if not supervised by the court, should be certified by a legal practitioner.
 - Appropriate accreditation of family dispute resolution practitioners.
 - The need for the family relationship centres to respond to the needs of regional Queensland.
 - The complexity of the proposed contravention provisions
 - The complexity of the bill and the need for a sequential numbering system.

4. It is the intention, in this submission, principally to deal with those matters raised then on behalf of FLPAQ. Otherwise, FLPAQ endorses the submission of the Family Law Section of the Law Council of Australia of which many of FLPAQ's members are also members.

Parenting Plans

5. FLPAQ remains concerned, particularly having regard to the proposed new section 64D (inserted by item 25) that provides for a parenting order to be subject to a parenting plan subsequently entered into by the child's parents, that parenting plans that merely require signing and dating by the parents to be a parenting plan pursuant to the proposed section 63C(1) will, in some circumstances, be inappropriately used by some parents to make parenting orders that they are not happy with unenforceable.
6. There are often power imbalances between separating parents and there are often circumstances that arise during parental conflict that might result in one parent entering into a parenting plan against his or her better judgment. It is FLPAQ's submission that the witnessing signature of a family counsellor, a family dispute resolution practitioner or a lawyer who has advised the relevant parent should be required for a parenting plan to have the effect of making a prior parenting order unenforceable.

Approval, Funding and Accreditation of Service Providers

7. The proper approval and funding of the organizations which are to be providing services under the amended *Family Law Act* and the appropriate accreditation of the individual providers of those services is something that FLPAQ submits is a

critical factor in the proper and efficient working of the alternative family dispute resolution process that the amendments are creating. Ideally, the accreditation standards should be publicly in place before the amendments come into effect. There must be serious consequences for organizations or individuals who make false or misleading representations about a person's accreditation status. That should be dealt with in the legislation not the subordinate legislation.

Resourcing the Regions

8. Clearly, proper resourcing of regional Queensland to deal with the amended legislation is a matter for executive Government as opposed to the legislature. FLPAQ welcomes current expressions of Government commitment to servicing the needs of regional Queenslanders (and other Australians living outside the major population centres) with the appropriate allocation of resources for the alternative family dispute resolution processes to work effectively for them.

The Complexity of the Contravention/Compliance Provisions

9. The contravention provisions in Schedule 2 of the bill remain relatively complex. The thrust of the amendments is to ensure that children are able to have a meaningful relationship with both parents. That is welcome. The greater range of options available to the courts to better enforce parenting orders is welcome, as is provision for the courts to amend existing parenting orders at the same time as determining contravention proceedings.
10. There is a rapidly growing number of parents in conflict who bring or defend their own contravention proceedings before the courts. Simplification of the

legislation as well as the process is vital to the effective operation of the enforcement provisions in these circumstances.

The Need for Re-numbering the *Family Law Act*

11. FLPAQ submits that it is time for the *Family Law Act* to be completely renumbered so that the complexity of working through the various parts, divisions, sections and subsections of the Act is reduced. This would make it much more accessible to individual members of the public and even less a province of lawyers.
12. FLPAQ is appreciative of the opportunity to make this submission to the Senate LACA Committee, particularly at this stage of the legislation's passage through the Parliament.

Family Law Practitioners' Association of Queensland Ltd.

24 February 2006