

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

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

Dear Committee,

I wish to make comment on the proposed bill.

Firstly, the Family Relationship Centres are likely to solve a lot of problems for people that have from zero to medium animosity levels and the government is to be congratulated for implementing them, albeit, in a limited capacity to that recommended by the "Every Picture Tells a Story" report.

I have been involved in fathers groups and have helped two women through divorce proceedings.

Although my experience with women has been limited, on both occasions, the woman's lawyer (different law firms) blatantly told the women to make up false claims of domestic violence in order to win the case.

If you only believe half of what fathers say, there is still a lot of false abuse claims.

It would appear to me that there is a serious miscarriage of justice occurring through the use of false abuse claims.

This also seriously undermines the valid claims of abuse, as I am sure that the Family Court, while taking precautions on every claim, also understands that the vast majority of claims are simply legal tactics and community resources are taken up by "cry wolf" claims with some valid claims unable to have the attention placed on them that they deserve.

This has a further consequence in undermining the communities' attitude towards domestic violence with the community viewing with suspicion a woman's claim that she is a victim of abuse. You only need to speak to a policeperson "off the record" to realise that the police do not view "AVO's" with any seriousness due to the high rate of false accusations.

What is required, is that the true and correct facts are presented to the adjudicator and the adjudicator can then make a decision on the best interests of the child and other parties.

Misrepresentation of the facts should be viewed as child abuse. This is not currently happening and it appears that no effort has been made by the bill to endorse this sentiment.

The bill appears to assume that all mothers are near perfect and that some fathers are child abusers.

This does not reflect reality. While some mothers are near perfect and some fathers are child abusers, using these statements as generalisations does not act in the best interests of children.

As stated above, "What is required, is that the true and correct facts are presented to the adjudicator".

Unfortunately, the only way I can see to do this is for ONLY substantiated claims of violence to be taken into account by the adjudicator and for situations where the claims can be proven to be DELIBERATELY false, then this must be viewed as child abuse and appropriate actions be taken against the parent making those claims.

Any legal adviser, which can be shown to have played a part in the fabrication of a claim, should be struck off.

The law is also far too complicated.

While the Family Relationship Centres will likely prevent the vast majority of claims ending up in court, where one party is determined to punish the other, then those cases will still proceed to the court.

The only way to prevent this is with simple laws which cannot be interpreted incorrectly. This takes away the need to go to court.

While people shy away from this, concerned that this may cause the best interests of the child to be undermined, they should remember that "The court does not make correct decisions 100% of the time". The court has to distil the facts through blatant lies and innuendo. In many, many cases, only one parent has legal representation. It is impossible in this situation for a court to be presented with the whole truth.

That the court makes a correct decision at any time, is remarkable.

I would suggest that it makes the most sense to accept that while simple laws beyond interpretation WILL result in the best interests of the child NOT being served in some circumstances, that:

- 1.. the court all too often makes the incorrect decision anyway
- 2.. court action causes great stress to at least one party and IS NOT in the best interests of the child
- 3.. court action costs a huge amount of money for parents and IS NOT in the best interests of the child
- 4.. court action costs a huge amount of money for taxpayers and IS NOT in the best interests of the community

Simple, easy to understand legislation is required. I would suggest that something along the lines of:

The child(ren) to spend Monday to Friday with the mother and Friday to Monday with the father.

I'm sure you can come up with something that makes more sense and will provide between 40-60% time with one parent and 40-60% time with the other parent.

The proposed legislation still treats one parent as inferior to the other parent. This does not reflect reality.

Each parent has something different to offer. All mothers do not offer the same things and all fathers do not offer the same things to their children.

Each parent is unique and offers unique benefits to their children. To quote a new saying "Breasts do not a perfect parent make". Each parent should be treated as equal. This is also a fundamental part of creating a society where sexual stereotypes do not exist.

The muslim community has come under fire recently for treating women as second class citizens, yet Australian society treats men as second class parents. There is no valid reason for either attitude.

The "Every Picture Tells a Story" report, was an improvement over the current legislation and I would urge all members of parliament to re-read this report and put into practice the vast majority of this report.

Regards,

Mark Millard (and in support of the above, Mrs Giedre Millard)
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