

Submission to Senate Inquiry into the Family Law Amendment Bill
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Q Why the existing control of division of parenting by courts is not considered adequate?

A Existing law and practice under the current *Family Law Act* ensures that after separation a custodial parent is given primary responsibility for the care of the children, while the other parent is relegated to secondary status in the children's lives. There is overwhelming evidence, both research and anecdotal, that this is not in the best interests of children. This evidence shows that after separation, children hunger for involvement with both parents, and do better if they have close relationships with both. Maintaining a healthy and involved relationship requires time. The normal fortnightly/weekend contact is not adequate to effect this. The amending Bill goes a long way to rectifying this situation.

Q Will the Bill see parents' interests take precedence over children's?

A No. This suggestion is often used by opponents of the Bill without any reference to the actual provisions of the Bill. In the Bill there is an expanded list of matters that the courts must consider in deciding on the best interests of the children. Where circumstances demonstrate that joint parental responsibility or shared time is not appropriate, the courts have clear power to make different arrangements.

Q The effect of introducing shared parenting as a starting point for custody arrangements particularly on victims of violence.

A A reading of the Bill reveals that if the court is satisfied that violence or abuse seriously affects the parents, a parent, the children, or parenting capacity, the courts will not make orders for shared parenting. Indeed, the courts will retain the power to limit or curtail contact between a parent and child.

Q The risk that this Bill will jeopardise the safety of some children and their family members.

A The risk will not come from the Bill. Given the repeated attention to violence and abuse in many sections of the Bill, it is clear that great emphasis has been placed on ensuring the safety of children and parents. The Bill gives courts the power to make proper and sensible orders taking all safety issues into account.

Q How the new system will provide proper support for indigenous communities.

A There are specific provisions in the Bill for indigenous families. However, one of the Bill's great achievements is the increased emphasis on counselling, mediation and other non-adversarial strategies. This will be of particular benefit for indigenous persons.