Jonathan Curtis,
Committee Secretary,
Senate Legal and Constitutional Committee,
Department of the Senate,
Parliament House,
CANBERRA. ACT. 2600.

Dear Sir

Re. The Family Law Amendment (Shared Parental Responsibility) Bill
Submission to the Senate Legal and Constitutional Affairs Committee

The proposed bill as it stands will not achieve the good intentions of the Attorney-General.

If the intention is to redress the appalling statistic that fewer than 2% of parenting orders arising from the Family Court provide equal access for children to both of their parents then there needs to stronger, more directive language in the Bill.

The history of the Family Court judgements has shown that Justices will exercise their discretion to avoid the intention and neuter the amendments. Citing 'in the best interests of the child' with no reference to statistical evidence in the public domain (which the committee has had access to) which show the benefits for children of sustained and quality normal, routine, day to day time with mothers AND fathers, Justices will continue to issue judgements containing the phrase 'I have considered . . and find in the best interests of the child . . . that the standard arrangements should apply' automatically consigning one parent (almost invariably the father) to 'second weekend Disneyland/Movieworld' status and their children to a impoverished relationship with that parent.

1. The legislation would be improved if a standard was explicitly inserted in the bill that must be refuted with evidence-based reasons. That standard should be 'equal time and responsibility unless the following circumstances have been determined' with an explicit list of circumstances which would cause one of a set of lower standards to be appropriate (ie substantial time, significant time, no time etc). Judgements should refer to these circumstances and state the reasons supporting the judgement against the evidence presented. The terms equal, substantial, significant should also be explicity stated in terms of the number of nights per annum.

2. All Judgements should be published (with anonymity) for public appraisal to improve accountability of the Family Court to the community and with the aim of reducing the inconsistency which makes the Family Court such a lottery, and improve its consistency and alignment with community standards and expectations.

3. The legislation should also include a direction that basic Statistics should be collected about judgements relating to numbers of days care awarded in each case/parenting order/plan and that these statistics should be reported to Parliament annually so that the community can establish if the Court decsions are in or out of step with what the community expects.

4. In the light of the above, the amendments proposed by the Labor party should be rejected. They are completely at odds with what the committee (including Labor party members) recommended and seek to entrench the existing informal biases in the system rather than improve the outcomes for children. The overwhelming majority of fathers are not violent to their children and not to ther former partners. Properly conducted studies bear this out. It is not justice to allow allegations / apprehensions of violence to have the effective

status of fact when it comes to dealing with the delays inherent in the system, leading to biased interim orders and arrangements which then become established as a status quo justifciation when much later the allegations are withdrawn or refuted or the accused party is financially exhausted. There should be clear/effective sanctions in the law if allegations are found to be false. At present there is an incentive for poor behaviour by one party in a custody dispute because there is no sanction to effectively prevent it.

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