Queensland Government

Premier of Queensland and Treasurer

For reply please quote: *LR04/SocPol/TN86690*

24 FEB 2006

Senator Marise Payne
Committee Secretary
Senate Legal and Constitutional Committee
Department of the Senate
Parliament House
Canberra ACT 2600

Dear Marise

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

I am writing in regard to the above Inquiry. It is unfortunate that the Australian Government has provided an extremely short timeframe to respond to the Senate Inquiry on this matter. While it has not been possible to provide a detailed submission to the Inquiry, the Queensland Government would like to raise a number of concerns regarding the potential impact of the Bill on our State's statutory child protection system and the Family Relationship Centres.

The objects and principles of the Bill regarding the protection of children and promoting joint parental responsibility for children (except in cases of family violence, child abuse and neglect) are supported. The development of parenting plans has the potential to address key requirements for children's short and long term care and development. In addition, amendments to enable courts to consider the best interests of the child as the paramount consideration in making an order to provide for a child to spend substantial time with each parent are welcome, as are a number of positive changes responding to the impact of family violence on the mediation, court and parent planning processes.

However, I would like the Committee to note the following concerns.

Information- sharing provisions between Commonwealth and State jurisdictions

The proposed section 69ZW will allow the Family Court to make an order requiring a prescribed State or Territory organisation (such as child protection agencies) to provide the Family Court with documents or information about notifications of child abuse or family violence affecting the child. The aim of enabling the Family Court to have as much relevant and timely information available for determining the best interests of the child is supported.

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However, while eight (8) weeks is specified as the maximum period available to the Family Court to make such orders, the Bill needs to specify a minimum timeframe for State and Territory child protection agencies to comply with the request to provide the Family Law Court with relevant documents, particularly should State officers be required to report to the Court regarding a child protection matter. Specification of a minimum timeframe is required to enable State Child Protection agencies to concentrate resources on the collation of material and its appropriate presentation to the Family Court (eg in report form). The authors of such a report will also require time to prepare for the potential requirement to give evidence on the contents of the report.

The proposed changes to the *Family Law Act 1975* aimed at improving information-sharing provisions between Commonwealth and States systems for the benefit of children are supported. It is understood these will complement a section 91B order under the *Family Law Act 1975* requesting the Department of Child Safety to intervene, as well as mandatory reporting by the Family Court when a party makes an allegation of child abuse or when there has been a suspicion that a child has been abused or is at risk of abuse (section 67Z *Family Law Act 1975).*

However, clarification is required about how the two different provisions would interact. Under section 91B the court can request that the chief executive (eg of a State child protection agency) becomes a party to proceedings. However, such requests do not have the force of a Family Court order. In contrast proposed orders for documents or information must be complied with under the new regime. This is problematic as the proposed provision clearly implies that the Family Court will be able to use the chief executive as an instrument for gathering evidence without conferring on the chief executive the status of a party. Queensland's Department of Child Safety is concerned that the amendments could have significant additional resource implications for the department's work program.

Family Relationship Centres

Further processes need to be determined for the screening of family violence and dispute resolution at Family Relationships Centres (FRCs). The compulsory nature of mediation will only work if there are adequate safeguards to deal with family violence.

Family Relationship counsellors need to be sufficiently trained to address dispute resolution - this will require specific core competencies to be developed for FRC dispute resolution practitioners.

It is important that the performance of FRCs is based on an assessment of whether the arrangements might be best for the child/ren rather than on rates of agreement. The measures should be amended to include a requirement that FRCs are able to demonstrate that the arrangements are in the best interests of the child. (Family Relationship Centres – Information Paper 22 December 2005).

Further consideration of how mediation services will be offered to rural and remote families, Indigenous and culturally linguistically diverse communities is also required as telecommunications linkups for dispute resolution are neither appropriate nor effective.

Thank you for considering Queensland's concerns in relation to this Bill.

Yours sincerely

PETER BEATTIE MP
PREMIER OF QUEENSLAND