

Dear Senate Inquiry - Shared Parental Responsibility Bill 2005

This is a my submission to the Senate Inquiry into the provisions of the Family Law Amendment (Shared Parental Responsibility) Bill 2005

Dear Committee Members,

I wish to make the following submission to the Inquiry:

1. That the presumption of Equal Shared Parental Responsibility and Equal time or substantial significant time with each parent, approximating near to 50/50 percent according to circumstances, be adopted. This must be accompanied by a Rebuttable clause where positively proven Child Abuse exists.

2 Current A.V.O's must be considered, in conjunction with any past orders that even though they are no longer current, could indicate a pattern of behaviour, this should also include any unfavourable past behaviour of a step-parent which could affect the safety and well being of children.

3. Claims of domestic violence must be investigated immediately by the relevant Government agencies to ensure the safety of all family members. This should be attended to in a lesser time frame of eight weeks, as the present Act requires documentation to be raised in not more than eight weeks.

4. Any false claims of domestic violence, child abuse, or inuendo, or statements made by members of the legal profession to gain financial leverage for their client, or for any other purpose must be deemed a serious breach of the law attracting severe penalties.

Litigants in the proceedings should be subject to changes in Parenting Orders in favour of the defamed party to reflect the seriousness of the allegations if they are found to be false.

5. In the case of children spending substantial and significant time with each parent, if it is determined that one parent moves a significant distance away from the usual surroundings of the children, and it is found that it has been done for no good reason, then that parent through Parenting Orders must be made to bear the significant costs of visitation. This of course would take in to consideration the need for a person to follow proven work-related relocation due to employment needs.

6. Substantial and significant visitation time with each parent should also take in to account the children's need to retain an ongoing relationship with grandparents and other relatives, or extended family in the case of indigenous populations.

7. Penalties must be introduced where it is found that one parent consistently, against public warnings, coerces children in to perceiving wrong impressions of their other parent. Whether it is practiced for financial gain by manipulating court perceptions, or just to spite the other parent. This behaviour known as P.A.S, (Parental Alienation Syndrome), must be stopped by whatever means, as it is a form of Child Abuse.

8. Child Support must not be indexed to the payer's income, but be calculated on a realistic figure on the costs of rearing children, with adjustments made according to their ages. The Child Support Agency, (C.S.A.) possesses far too much power and is totally autonomous, it appears, its members are able to make totally fictional assessments concerning what payments their victims are required to pay, and possess the power to garnish citizens' pay-packets without any warning or reason. The department is able with reckless abandon, able to access any private information about any citizen, and be answerable to no one. The unfortunate citizen possesses no avenue for redress under the present law.

This scandalous situation begs for a Royal Commission to investigate the department thoroughly and rectify this blatant misuse of bureaucratic power. This scandal is responsible for at least three suicides daily nationally in Australia and begs an urgent re-structuring of the C.S.A.

9. That either parent must not hinder the right of any child to communicate by telephone, electronically, or by any other means, with the parent that they are not residing with if they make it their wish. This will ensure an ongoing relationship with both parents which is a child's legal right. This directive should be written in to Parenting Orders.

10. If a presumption of Joint Parental Responsibility, and Substantial and significant time with each parent is adopted in cases involving children, then the Child Support Agency must cease to have a financial involvement in the child support payments, (With attendant crippling penalties). The Court and the Family Centers can then broker agreements with parents as to the financial costs of rearing the children through the mediation process. This mediation can then take in to consideration the earning capacity of both parents, and their financial commitments, particularly in the case of second families.

11. Family Court proceedings must be made more transparent, i.e. there should be no more behind closed doors consultations and swapping of information by legal representatives without the litigants being present. This gives rise to a perception of secrecy and deception, and could be seen as "Kangaroo Court" procedures.

12. If a parent has gained through Court procedures a greater quantity of custodial or residence time share of children, then places the children in to child care institutions for considerable periods of time, or employs Baby-Sitting services, so that careers can be pursued, this must be looked at. The corresponding parent, or for that matter, concerned family members, e.g. Grandparents Etc, should then have the right to request a more significant time for their children to be in their care. If they show the Court that they desire this, are available for the greater period of time, and above all else, if the children are of an age that they are able to voice their wishes for this to be the desired outcome. This surely would be in the better interests of the children to grow up in the continuous care of a parent, or relative, rather than in the care of strangers.

13. Current practices of the police and Government Departments stating that "It is Current Policy or practice" of that department, must cease, and only be enactable if the action is backed by "Law" and not "Policy". For instance if a woman has decided that she is disenchanted with family life, an attending member of the police force should have no right under the law to order the husband to hand over his children to the departing mother, stating that it is "Police Policy" that the children should depart with the mother simply because some police superior has deemed that the children are better off with their mother.
I have personally been subjected to this.

14. In cases where the parentage of children in partner separation is in doubt as to who the father of the children, or child as the case may be is, a law should be put in place to acknowledge this increasingly difficult problem. Because very considerable financial costs may be incurred by fathers who have been deceived into believing that they are the biological father of the child/children, provision must be enacted in law that doubting fathers nationwide be permitted to have D.N.A testing done, subsidized by the federal government. If it is found that deception has been involved, all costs of these tests, and any child support money paid by the deceived father to be then transferred to the deceiving partner.

15. The Law Council of Australia and the Federal Court of Australia have developed jointly The Expert Witness Practice Direction. This, I trust will also be applied to State Law Courts. However, whilst expert witnesses have an over-riding duty to assist the court and not be directed in their findings by other parties in delivering their findings to the Court, there has to be in place provision for either parent to challenge or question in a non-vexatious manner, their reports. In many cases in the past very angry parents have found many of these reports to be a gross misrepresentation of the real situation and the Court is given false views of the real state of affairs of the family. I venture to say that no Court Expert can come to an accurate finding after a two hour consultation with a child or a family compared with the opinion of the parents who have spent a greater period of time studying their children and their own situation.

16. Court procedures and Family Center paperwork, and the manner in which proceedings are carried out must be in common language rather than in legal phrases. The litigants mostly have never had any contact with the court system and find themselves thrust in to a strange legal world full of legal documentation and the overpowering awe of court proceedings. This can be a terrifying experience for them at possibly the most difficult period of their lives, especially when they feel caught up in the destruction of their family. This process must be made more user friendly.

17. The proposed new Family centres, must be staffed, within reason, by a balanced-gender staff to instill a feeling of trust and fairness in a system that has gained in the past a reputation of gender bias in favour of the female population, men also need employment in our fair-minded society.

18. I applaud the setting up of these Family Centres where it can be seen that by allowing families to sit down and iron out their differences will limit the costly loads applied to the Court System. It will allow family members to feel that in some way they are still in charge of their destinys. However, in the past, families have been subjected to crippling legal costs during the most traumatic period of their lives which in no way can be perceived as being in the best interests of the children. Free legal advice must be made available to all customers of the Family Centres, especially with respect to Property Settlements. In the past it has been the case that legal aid stops at this point in proceedings, and the legal profession appears to take financial advantage of the families during this very stressful phase. I submit that in continuing the ability for members of separating families to be able to financially support themselves in a more dignified manner will enable them to re join the work force and continue to be productive members of our society.

I thank the members of the committee for allowing me to submit this input and urge all members of Parliament to seriously consider the serious long term effect that bad laws are going to have on our society, therefore we all owe it to future generations to put in place good, fair and workable laws.

Yours Sincerely

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Thank you for reading my submission

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