

## **SUBMISSION RE: FAMILY LAW LEGISLATION AMENDMENT (FAMILY VIOLENCE AND OTHER MEASURES) BILL 2011**

The proposed further amendments to the *Family Law Act (2006 Reforms)* are pitted with qualitative opportunities to undermine the intent of the Act which was to enable shared parenting to continue after a 'spousal' relationship has ended. The proposed amendments will enable, through manipulation of its powers, the reduction or termination of some parental contact; this, simply through merest allegation of some 'form' of 'family violence'.

There has been no reliable statistics or studies, nor other evidence supported by such as the police and medical records since the introduction of the 2006 Family Law reforms, which show any significant upsurge in actual family violence. Nor have there been any studies on the affect on children of curtailing contact with a parent who has had a caring, loving relationship with the child but has been subjected to allegations by the other parent. Experience indicates that the higher income earner (normally the male) correlates to higher IQ, and produces a more socially productive and contributing child. When these shaping individuals are denied custody on the basis of false allegation or some sacred deference to 'motherhood', the child is condemned to adopt the values of the falsifier and the welfare bludger, and who can claim to have hoodwinked/used the court (on Legal Aid too).

### **Note: Schedule 1. Item 3, subsection 4(1)**

The definition of "family violence" will not be limited to physical or mental abuse but will be more broadly interpretable to include any behaviour a party claims makes them feel threatened 'irrespective of whether that behaviour causes harm', or to feel unsafe. Such fears need not be rationale or reasonable but may be totally subjective, in keeping with the complainants claimed state of mind. It will also be subject to exaggeration and falsification in order to gain child support and welfare benefits, as custody is still inextricably linked to financial gain. The normal legal standard of the reasonable person test will not apply. Thus, it will be almost impossible for an accused to refute such claims.

### **Note: Schedule 1. Item 43, Section 117AB**

The Family Court does not have criminal penalties for perjury despite false testimony having the potential to create enormous wrongs, injustice and damage. The Family Court cannot mitigate or remove this potential – which has become increasing reality (it is already notorious as 'A Liar's Castle'. This, in conjunction with the previously outlined item, will only exacerbate the situation where false statements and claims will prevail to gain custody and benefits.

### **Note: Schedule 1 Items 18, 19 and 20 "Section 60CC"; and Items 26 and 27 (Note 1)**

The situation is further exacerbated by removal of the "friendly parent provisions". This will prohibit the Court from consideration of the extent to which each parent has fulfilled their obligation to encourage a healthy relationship between the children and the other parent. The Court should examine all the issues central to the welfare of the child. As the parties before The Court are in dispute, the Court should be able to investigate and assess all issues directly relevant to the merit or otherwise of each of the parties.

## **Overall Effects of proposed amendments**

The amendments will encourage the making of totally false or grossly exaggerated allegations by one parent against the other in cases before The Family Court. The benefits provide the motive, and the amendments provide the means. Whether a normally innocent person is tempted to make false witness, or on advice of legal representatives, or simply as maliciousness, these instances will increase – and not serve children well. The honourable parent will not be well served either.

Without the normal legal protections, the chances of success for the vexatious, manipulative, inflexible, vindictive, dishonest, or mentally unbalanced parent will be greatly increased. Parents with these and similar attributes will readily take advantage of the “free kick” being offered by the proposed amendments. This parent will then become the primary or sole parental role model for the children. Note these parents are normally the unemployed, or low income parents who require the maximum child support and welfare benefits that maximum levels of child custody brings them.

Faced with the prohibitive cost of pursuing a right of contact, and the associated psychological stress, many non resident parents will simply withdraw, leading to a great increase in the numbers of the ‘family law stolen generation’ children wrongfully alienated from a non resident parent (typically the father). This will amplify the well documented higher rates of negative outcomes for children brought up in fatherless environments.

This will also:

- Greatly increase the number of children whose relationship and contact with their non resident parent is terminated, postponed, reduced or otherwise curtailed due to false or grossly exaggerated claims of “family violence”.
- Greatly increase the amount of friction between the parties as one or both take advantage of system’s multiple invitations to make allegations of “family violence” against the other.
- Hamper the Courts and welfare agencies the ability to identify real and acutely dangerous situations as it is flooded with vexatious, false or grossly exaggerated allegations.
- Greatly increase the potential for *actual* violence between (naturally anxious and stressed) parties where previously there would have been little or none. This will occur as non resident parents find the system has committed a foul, dramatically affecting their contact and relationship with the children and all the associated consequences.
- Greatly increase the level of suicide and deterioration of mental health for non resident parents (typically the male). Respected studies have shown that separated males are six (6) times more likely to suicide than attached males. Further, this rate was even higher amongst younger males (thus more likely to have younger children). Moreover, the highest rates occurred during the divorce phase.

## **Summary**

The 2006 reforms took family law in a better direction even if they did not go far enough to recognise all the skills and characteristics a good parent should possess. These are generally more important than simply being a biological mother (I appreciate this sacred status, and the protection it has for political and protest groups in current society).

The amendments will undermine previous progress in family law. Violence (where it genuinely

exists) should be dealt with under the normal criminal codes which apply. Perhaps each parent should be subject to mental examination, and intelligence test scoring to better determine the better parent. This would alleviate some of the propensity for violence as a more just outcome may be established in the first instance.

I vigorously oppose the amendments.

Thanking you for fullest consideration on behalf of those who play fair.

Yours faithfully

*(Name withheld from public viewing)*