

Public Consultation: Family Violence Bill
Family Law Branch
Attorney-General's
Department
3-5 National Circuit
BARTON ACT 2600
By Facsimile: (02) 6141 3248
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Dear Sir/Madam

Family Law Amendment (Family Violence) Bill 2010 - Exposure Draft – Submission

Thank you for the public invitation to submit to this Exposure Draft.

I wish to acknowledge the importance and relevance of this Bill and the impact changes will have upon the safety and well-being of thousands of women and children exposed to continuing family violence, as a result of the previous changes to the Family Law Act (1975) Cth as introduced by the Howard federal government in 2006.

I have experienced family violence both in my personal life, and in my professional capacity as a . I have seen the often tragic results of the 2006 changes to the Family Law Act, including but not limited to the deaths of children such as Darcy Freeman. The changes brought about by the Howard Government have allowed violent spouses to continue their reign of terror(...), because the changes were misinterpreted both by the judiciary and the legal fraternity as putting children in so-called “50/50” parenting arrangements and unsupervised contact arrangements, regardless of previous violence. Previous violence has heretofore been represented as being physical violence and the impetus has been on the victim to prove such violence. The so-called “friendly parent” clause in the Act, has had a devastating impact upon women who are too frightened of losing their children and being financially sanctioned, to report any form of violence to the court. Further, intimidation and threats, including psychological violence and verbal abuse have been allowed to continue(...)

, as there has been no provision in the Family Law Act to stop a woman having to expose herself and her children to ongoing violence during handover for contact. This intimidation also occurs during the making contact arrangements with her former partner, discussion regarding ongoing responsibilities of parenting and the general well-being of the children involved. Often the children are used as pawns by the violent parent, dragged through the court system, as a means of continuing to control the victim parent for an infinite amount of time.

Harassment and verbal intimidation have an ongoing mental and physical impact upon a woman dealing with this on a regular basis. Threats to take the children, threats to harm the children, threats to cut off child support payments, implications about the mother's mental health, demanding that the mother live where the father deems convenient (even when there is a clear lack of support), demeaning the mother to the children, constant phone calls to the mother and using stand over tactics are all acts of family violence. Further, limiting contact with the mother when the children are in the father's care, and refusing to give details of travel arrangements or residential arrangements during contact are also acts of family violence.

The mental health impact can result in stress, depression, and constant fear on the part of the victim parent. The physical impact can include weight loss or gain, hair loss due to

stress, and a constant stream of the stress hormone, cortisol into the system which can have the long term impact of nerve damage.

All of these symptoms can occur without the violent parent ever physically laying a hand on the victim parent. Further, these acts of violence will impact upon children in such a way as their future relationships may tend towards violence, as a learned behaviour.

Over three quarters of reported family violence is committed by men against women and this means that girls may tend towards violent men and boys may emulate the violent behaviour they have witnessed from the father. Violence against women (mothers) by men (fathers) is an act of child abuse as well as an act of abuse against the woman.

The definition of domestic violence is:

Domestic Violence occurs when a family member uses violent and/or abusive behaviour to control another family member or members.

“Domestic Violence can include physical, verbal, emotional, economic or sexual abuse. For example: hitting, kicking, punching, choking, damaging property, yelling, insults, threats, bullying, withholding and controlling finances, unwanted sexual acts, forced sex. Women and children are the majority of those who are subjected to abusive and violent behaviours in the home from their male partners, or fathers and stepfathers. Domestic violence cuts across all sections of the community. For people who use violence, a useful definition of violence is any action which is experienced by your partner as intimidating or causing fear and therefore having the effect of your partner limiting what they say or do.”

The definition includes all of those acts perpetrated by a violent partner, which will cause fear and intimidation, placing limits on a woman and how she and her children live their lives.

Women cannot be expected to continue to live in fear because of poorly drafted amendments to the Family Law Act, which have an enormous negative impact on children, the results of which we are only likely to see within the next 10 years or so as the children from these situations grow into adulthood and try to make sense of what they have been through. Mothers of children need to be supported. They do not need to be exposed to constant and ongoing fear of losing their children because their violent ex-partner is (...) as an ongoing instrument of abuse.

Children are not safe when they are put in contact or “shared care” arrangements with a perpetrating father. Any form of violence at all, be it physical or “non”-physical should be taken into account when making decisions about the long term care and well being of a child. Forcing a mother into an arrangement where she is constantly intimidated, is unhealthy for the mother and for the child.

Whilst mothers are forced into these arrangements, including shared parental responsibility and shared care (a concept which does NOT appear at all in the Family Law Act but which is a misinterpretation of the notion of shared “parental responsibility”), family violence will be allowed to continue with the endorsement of the Family Law Act and the Australian Federal Government.

Please do not hesitate to contact me should you wish to discuss the contents of this submission further.

Yours sincerely

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