

Submission to the Senate inquiry - Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011

I am making this submission as a step-father with grave concerns for the safety of my wife and her children.

The Family Law Act in its current format is unable to offer my wife or her children any protection and it is my belief that the current Family Law Act is the most dangerous piece of legalisation in this country. I urge that all politicians to not only support the Family Violence Bill but that they then work together to ensure that further necessary changes are made.

The 2006 reforms to the Family Law Act have been a disaster for countless children and women. The only people to really benefit are fathers and particularly those fathers who under the previous legislation would not have for good reason been given the same level of access to their children. The pre-2006 family law legislation afforded women and children a certain amount of protection which they are no longer given. The door has been opened for fathers who pose a risk to their children and ex-partners to be given equal parenting rights. This risk comes in many forms including physical, psychological, emotional, and financial abuse.

The 2006 reforms were made in the father's best interests not for the sake of the children. Shared parenting responsibility is not enforced or even encouraged pre-separation in Australia. However it is enforced post-separation. Fathers who have previously not been involved in the parenting of their children (usually by choice) are now being given shared parental responsibility and 50:50 shared care. Tens of thousands of fathers who spent their spare time pursuing their own various interests and who chose not to be involved in their children's lives decide that when the relationship with the children's mother breaks down then they are entitled to shared parental care and shared parental responsibility. I not only question their motivation for seeking these things but I also question their skills and experience in this role. Shared parental responsibility is a misnomer because the current Family Law Act treats shared parenting as a right not a responsibility. An example of this is the fact that fathers are able to refuse to pay child support or contribute to the children's expenses however this in no way impacts upon the time they are 'awarded' or their right to equal decision making.

Three inquiries were commissioned by the Federal Government to report on the 2006 reforms and how the family law system deals with violence. These reports identified that there are significant problems in how family law legislation and its' processes respond to cases of family violence and that significant reforms are needed. Recommendations for changes to better protect the safety of women and children appeared in these reports.

The arguments against reform put forward by the men's groups rely on emotional rhetoric and baseless assertions. They often refer to findings such as some of those from the AIFS report on the 2006 reforms. What they fail mention is that these reports focused on parents

who were in non-conflict situations. Such findings are irrelevant because the Family Law Act and the family courts deal primarily with parents who are in varying degrees of conflict. Non-conflict parents are usually able to implement property settlements and parenting plans without significant (or any) input from the family law system. Therefore the legislation and how it is interpreted by the judiciary needs to rely on the research which has been done on parents who are in conflict situations. This research identifies that shared parenting is not a suitable (or safe) option in situations where the parents are in conflict. These researchers include Chisholm, McIntosh, McInness, Flood, Laing, and Fehlberg.

The men's groups and other opponents of this Bill also argue that altering the definition of family violence will lead to an increase in vexatious allegations of child abuse. Research on this issue, such as that by Dr Michael Flood indicates that false allegations of child abuse in the pre-2006 family law courts was very rare and that such allegations were made equally by men and women. The Bill opponents also argue that the proponents for legislative reforms are academic ideologues. These "ideologues" have conducted extensive studies involving people directly impacted by this legislation ie: the children and parents. A five minute discussion with any of the practitioners who work in the family dispute resolution centres will support what the academics are saying. The laws need to be changed.

Violence towards women and violence towards children is inter-connected. This has been proven in countless studies including those by Dr Lesley Laing (University of Sydney). However, this fact is ignored by the family law legislation in its' current form. Men who are violent and/or abusive towards their partners are more likely to be violent/abusive towards their children. The legislation needs to reflect this.

The current Family Law Act enables men to continue to threaten, bully, intimidate, and harass their ex-partners. Women are obligated by this law to expose themselves to violence and abuse. Under the principle of shared parental responsibility women are being forced to engage with their ex-partners.

Research indicates that many women being pressured to agree to shared care. This pressure is often applied by solicitors, report writers, and magistrates. The current legislation makes it extremely difficult for women to oppose shared parenting arrangements even when there is a history of violence and abuse.

This Bill is a very small step in the right direction. Far greater reforms of family law legislation are needed and are needed urgently. The system is not working and it is failing those who are most vulnerable.

I support the broadening of the definition of "family violence". I believe that this definition needs to be even broader in order to offer children and women a greater degree of protection. Women are far more likely to be at risk of family violence in the family law context. The removal of the "reasonableness" element is essential.

I also ask that there should be no presumption of equal shared parental responsibility. I would like to see "equal" removed and replaced with "shared parental responsibility". The

children's best interest needs to be paramount and there is ample evidence that suggests equal shared parental responsibility is often not in the child's best interests.

The reliance upon single experts to prepare family reports is flawed. More extensive assessment is required. Family report interviews are viewed as nothing more than job interviews which enable parents with even the most basic of parenting skills to put on a suit and "give them what they want".

I also believe that problems exist with how the legislation is interpreted and not just with the legislation itself. Much more training and education is needed for magistrates and solicitors who work in the family law area.

Family law literature is littered with the use of warm and fuzzy terms such as shared parenting, shared parental responsibility, and meaningful relationship. After spending four and half years in the family law system I have found that there is nothing warm and fuzzy about the reality.

I thank you for the opportunity to make this submission. Please make the necessary changes to ensure the future safety of children and women.