

11th April, 2011

The Senate Committee

Proposed Family Violence Amendments

I am writing to express my support for the changes to the *Family Law Act* proposed in the draft Family Law Amendment (Family Violence) Bill 2010. This is a matter I have corresponded with the Attorney General's Office (as well as the previous Government) on for some time. These proposed amendments are essential to place safety and protection of children and family members at the forefront of the *Family Law Act*. I still believe however, that the removal from the Act of the presumption of shared care is required in order to better protect children.

It is my experience in the family law system that it 'enabled' abusive behaviour. Abusers use this often misinterpreted legislation as leverage to exert power (and fear) to gain extended contact with children. (If successful, reduced child support payments were an added bonus). Furthermore, with a starting point of the presumption of shared care, I felt that there was no onus on the applicant to prove that shared care was in the best interests of the child rather, the onus was on me to prove why it was not. This left me perplexed to say the least.

With regard to the proposed changes, I strongly support:

- Broadening the definition of 'family violence' to include a wider range of behaviour and removing the objective test of "reasonableness" so that family violence can be properly considered whenever the victim actually fears for their safety. However, the definitions of family violence should not be limited to behaviour included on the list as individual experiences and cases need to be considered.
- Taking children's rights, views and opinions into account.
- A broader definition and understanding of child abuse, including psychological abuse.
- Prioritising family violence when considering what is in the best interests of the child.
- Removing the friendly parent provision.
- Repealing section 117AB about costs orders relating to false allegations or denials of violence.
- The inclusion of the Convention of the Rights of the Child.
- Strengthening Adviser obligations.

On a personal level, I wish to ensure that within the definitions of 'family members' in the Family Violence provisions, individuals such as myself who were never in a relationship with the father of their child are included. Section 60B (2) of the Family Law Act states: "Children have a right to know and be cared for by both parents, regardless of whether their parents are married, separated, have never married, or have never lived together". Yet on reading the definitions of 'family' it is not obvious that I would be protected under these changes if alleging domestic violence. This could leave me, and others in my situation disadvantaged. I propose that under this definition, individuals who were never in a relationship and/or never lived together, or anyone with parenting plans should be more clearly defined.

Furthermore, I have spent the past 5 years learning how to manage and resist the psychological abuse I experience. I am concerned that my resistance could be used against me to make it look like I am an antagonist. I argue that a primary aggressor should be recognised by the FLA.

There are a number of further changes, resultant from the evidence based reports commissioned by the Rudd/Gillard Government which have not been addressed in the Bill and I urge the Government to consider amendments to:

- The presumption of equal shared parental responsibility. Importantly this presumption should not apply at an interim stage if a matter cannot be properly determined.
- The concept of equal shared parental responsibility.
- The link between equal shared parental responsibility and equal time/substantial and significant time arrangements.
- The "one size fits all" approach in which it is assumed that equal time and substantial and significant time arrangements are best for children.
- Cases where there is entrenched conflict need to be considered on merit.

I urge the Federal Government to act now in response to the research commissioned over the past 18 months and the promises you made to address the serious problem of family violence in the family law system. .

Yours sincerely,