

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 1.1

Question No. 11

Senator Stott-Despoja asked the following question at the hearing on 31 October 2005:

The focus on strengthened enforcement in the Bill seems to reflect a notion that resident parents are gratuitously denying contact to non-resident parents with impunity. In fact the far greater problem seems to be with resident parents being brought back to court frivolously to 'enforce' contact orders. The Rhoades, Graycar & Harrison research shows that in the years 1996-1999, 45 per cent of contravention applications were dismissed and a further 17 per cent were considered trivial.¹ Is the Department addressing this problem in any way?

The answer to the honourable senator's question is as follows:

The Shared Parenting Bill inserts new provisions into the Act which seek to deter one party from making repeated contravention applications designed to harass or inconvenience the other party. Sections 70NCB, 70NDC and 70NEB(7) enable the court to order that the person who brought the contravention proceedings to pay some or all of the costs of the other party. In making such an order the court must consider if the person has previously brought contravention proceedings in which the court was not satisfied that a contravention had been committed, or was satisfied that a contravention had been committed but did not make an order dealing with the contravention. These provisions implement recommendation 40 of the Committee's Report.

¹ Rhoades, Graycar & Harrison (note 2) at page 9.