

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

Output 1.1

Question No. 9

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

The *Every Picture Tells a Story* Report recommended against a presumption that children should spend equal time with both parents after separation. Can the Department assure us that the *Shared Parental Responsibility Bill* will be clear that it seeks to promote sharing of parental *responsibility* in appropriate cases and not sharing of time with children?

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

The Shared Parenting Bill provides for a presumption of equal shared parental responsibility. This means that equal shared parental responsibility will be a starting point that the court must take into account when making a parenting order. The exercise of equal shared parental responsibility under an order involves parents making joint decisions about major long-term issues for the benefit of the child.

The presumption will not apply if there are reasonable grounds for the court to believe that a parent of a child, or a person who lives with a parent of a child, has engaged in child abuse or family violence. The presumption may be rebutted where its application would not be in the best interests of the child.

The Shared Parenting Bill also contains a new provision (section 65DAA) detailing the circumstances where the court is required to consider children spending either equal and if not equal, then substantial and significant time with both a child's parents. This provision implements recommendations 4 and 5 of the Committee. It requires that the court consider making an order that a child spend equal time with each parent, if a parenting order provides or is to provide the parents with equal shared parental responsibility for the child. The court must consider whether it is in the best interests of the child and reasonably practicable for the child to spend equal time with the parents. This is not a presumption of equal shared parenting time.