



SPARK

RESOURCE CENTRE INC.

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Phillip Bailey Australian
Senate Legal and
constitutional References
Committee Legislation
Committee Parliament
House Canberra ACT 2600

28 June 2004

Dear Mr Bailey

Re: Inquiry into the Family Law Amendment Bill 2004

Given the short time frame (your letter 18/6/04) for our response I'll keep my comments brief (see attached submission).

SPARK began as a self-help group in 1971, and for the past 30 years has worked with thousands of sole parents:

- separated (from marriage and de facto relationships)
- never married
- widowed
- female and male
- alt age ranges (teenage parents - grandparents raising children)
- multi cultural backgrounds (45% - 52% p.a. of our clients are Indigenous Australians).

We have supplied a wide range of services from 1:1 counselling, educational classes (including parenting), advocacy, support, emergency relief and goods etc.

The SPARK Board is committed to educating sole parents and the general public to improve the awareness and challenges facing sole parent families - I have been requested to respond to your inquiry.

Yours faithfully

Kath Silard OAM BA SRN PRN
Director
Senior Counsellor / Adult Educator

Submission from SPARK Resource Centre Inc with respect to aspects of the Family Law Amendment Bill 2004

Our primary recommendation concerns the genuine welfare of children remaining paramount: that safety for all infants, children and adolescents be taken seriously when an amendment is made: at the present time – even when there is clearly documented evidence of violence (police and medical records) little consideration is given to the child's right to safety vs the parents' rights to contact (especially the male parent: the usual perpetrator of violent abuse).

The Victorian Age (16/6/04) reported that the "single greatest risk factor associated with death, disease and disability ... for women" (D Gough 2004) "is domestic violence". In 2000 – 2001 21,618 incidents of domestic violence were reported - 19,993 children were present during incidents of domestic violence. 10% of the deaths of women (15 – 44 years) were due to violence by partners (or ex-partners). Children are totally traumatised: directly by being the victims in the violence or "indirectly" by being unwilling witnesses.

Children's rights for safety (and life) are totally negated when the law makes no attempt to ensure their safety: each year children are murdered whilst "visiting" their father. These mentally disturbed fathers are not checked. There is currently no requirement for parents to show a commitment to respectful behaviour towards their child(ren) and ex-partner before being granted access.

We remain concerned that groups of male partners are agitating for "rights of fathers" without considering the impact of violence and excusing the violence as an effect of trauma. In our experience women who flee marriages do it as a desperate bid for safety and survival. I have had clients verbally abused at police station hand-overs where their ex-partner has loudly cursed them out (in front of scared children). When, appealing to police for support the mother was told "We didn't hear anything" and on another occasion "Well, if he had touched you we would have stopped him". SPARK strongly recommends that if there are issues around intimidation, violence, stalking or abuse of any nature that **contact be immediately suspended** (or better still never commenced) until there is clear evidence of honest change in the abusing parent: attendance at support groups re domestic violence with counsellors trained in domestic violence and its impacts; anger management and parenting class attendance as well as 1:1 counselling and detailed reports from all of the above. Only when issues of the child's safety have been fully investigated should a cautious process of contact be commenced.

Similarly, if there are any attacks on the mother and or other family members then again the child's well being is at high risk: safety for all needs to be maintained not just given lip-service to ... (consistently for the past 15 years 72% of our clients have experienced domestic violence, including a high number of murder attempts: only one of these abusive ex-partners has had to undergo counselling and classes prior to being allowed supervised access).

The collapse of / or unrealistic contact orders are a huge problem for sole parent families in SA and other states. It would be useful if this serious problem was thoroughly explored when amendments are being considered.

Regarding child support payments: there is HUGE pressure for mothers to

nominate the father and we recommend that if there is a challenge to paternity that an immediate DNA test is ordered to resolve paternity.

I've only counselled three women and one man where paternity was an issue in the past 5 years:

Case 1: The woman (32 years) had been in an "on / off" relationship for a little over two years when she became seriously involved with a new partner. She broke it off permanently with the first man – it was an amicable and emotional parting and they had unprotected sex.

Seven weeks later she realised she was pregnant, had some counselling and decided "to keep the baby". She told both men of her decision. Her new partner broke it off with her. After the baby's birth her first partner underwent DNA testing – he was the father. He has taken minimal contact and provided minimal support of his son.

Case 2: A man (mid forties) came for counselling as his daughter wanted to live with him and he was concerned about being able to offer her a "good home". She was the child from his second marriage and his only daughter. However, he had had a vasectomy prior to his second marriage.

He explained he did NOT want to know if he was "his daughter's biological father – I've been the only father she knows" ... She lived with him from 9 years – 14 years: having regular contact with her mother. It was clear that both parents put her well being first.

Case 3: After the breakdown of a long-term de facto relationship, which resulted in three children, the father left the relationship. The oldest children were over 18 years of age and he initially paid maintenance for the youngest child (a boy – 8 years old).

However, when he married, he denied paternity even though his son was physically like him and his parents (paternal grandparents) continued to acknowledge the child as their grandchild. Paternity test proved he was, indeed, the father.

Case 4: Similar to case 3 except it was the oldest son of two children who was denied paternity ... again paternity was proven.

In fact, paternity is proven in 70% of challenged cases. It appears there is a strong desire to deny paternity for economical reasons. The impact on the children is devastating in those instance where the child has previously known their father. This type of cavalier behaviour totally ignores the "best interests of the child" concept.