



**Labor's Proposal  
to remove the  
Family Law  
provisions for  
shared parental  
responsibility and  
the inclusion of  
fathers in  
children's lives**

*Daddy don't go  
I love you*

### **A Submission to the Senate from Men's Rights Agency**

A non-profit Australia-wide organisation providing assistance for 28 years for men/fathers, and their children when they are faced with family separation, child support problems, property settlement, domestic violence, shared parenting, discrimination, false allegations or any other concerns.

P.O. Box 28 Waterford Qld 4133  
Email: [admin@mensrights.com.au](mailto:admin@mensrights.com.au)  
Web: [www.mensrights.com.au](http://www.mensrights.com.au)

23<sup>rd</sup> June 2023

At the end of February 2023, the Labor Party unexpectedly introduced changes to the Family Law Act, without any pre-warning or discussion. We were allowed less than a month to draft and submit

<sup>1</sup> <D:\OneDrive\Men's Rights Agency\Admin\Photo license\Proof of License.pdf>

our response. How can that time frame allow for due consideration of proposals to virtually remove fathers from their children's lives?

Certainly, this issue was not presented as a policy change prior to the last election. We question whether Labor would have achieved enough votes to become the party controlling the Australian Federal Parliament if they had declared their intention to change the focus of the Family Law Act to remove the shared parenting concept. We doubt it!

Many fathers, grandparents, other relatives and supportive friends have advised us of their extreme disappointment and devastation that their children/grandchildren, nieces and nephews will not be able to have a good continuing relationship with those closest to them.

However, we have been given a second opportunity to present our views to the Senate Committee assessing the Labor Party's Family Law Reform legislation, which intends to completely roll back the concept of shared parental responsibility and shared parenting amongst other damaging proposals.<sup>2</sup>

Our first submission<sup>3</sup> which is now belatedly available on the Family Law Reform Department pages deals with the ongoing affects and benefits of shared parenting to the Australian community i.e. reduced number of marriages and births, increasing numbers of false allegations, many men leaving for overseas countries, youth violence attributable to living in fatherless homes and increased suicides of men deprived of their ability to parent their children. I say belatedly, because officialdom decided to censure our submission and redacted two photos used to emphasise the points we are making. The front page with the heading, "Bye Daddy, I Love you" was of a young girl being hugged goodbye by her father with his suitcase by his side and the mother looking on. The second photo on page 7 related to the murder of children, one group of 3 children and their mother (not shown) killed by their father and the second 4 children killed by the mother. I advised the FLR Department that we held a licence for the front-page photo and the other was widely available on Facebook. After a 6 week delay our submission was re-published with the front-page photo displayed; the page 7 photo was still redacted.

Another submission from the [International Council on Shared Parenting](#)<sup>4</sup> was also not published online until much later. We can only assume this was because their comments contradicted Labor's presumptions. The government relied on the findings of the ALRC and the Joint Select Committee on Australia's Family Law System as the basis for the proposed repeal of the presumption of Shared

---

<sup>2</sup> [Summary of FL reforms 2J.docx](#)

<sup>3</sup> [finished version 48 years of family law 2 -JA.docx](#)

<sup>4</sup> [..\Labor's proposed Family Law changes\ICSP RESPONSE TO AU EXPOSURE- released version .pdf](#)

Parental Responsibility. In point of fact, neither organisation supported this proposal. The ALRC Report recommended clarification of the presumption<sup>5</sup> noting Shared Parental Responsibility had sometimes been conflated with a presumptive entitlement to equal shared care<sup>6</sup> notwithstanding explanatory notes in the Act. This misunderstanding was a result of the media interpreting the changes as automatically granting shared parenting time.

We now ask the question why these radical changes are thought to be necessary. Certainly, the Explanatory Memorandum<sup>7</sup> for Lionel Murphy's 1975 Family Law bill detailed the basic principle "*that both parties are guardians of their children under 18 and have the joint custody of the children*" and "*the court shall regard the welfare of the child as the paramount consideration*" as specified in the current Family Law Act as the "best interests of the child".

Senator Missen (Lib) had this to say on 29 October 1974: "*It would create the concept of Joint Custody under the law.*"

Twenty years later, during the debate for the 1995 Family Law Reform Bill, the Hon. Peter Duncan MP (Lab), in his role as the Parliamentary Secretary with responsibility for carriage of the Bill, in his telling clarification of the intent of the legislation said the following in his second reading speech:

*"The original intention of the late Senator Murphy was that the Family Law Act would create a rebuttable presumption of shared parenting, but over the years the Family Court has chosen to ignore that. It is hoped that these reforms will now call for much closer attention to this presumption and that the Family Court will give full and proper effect to the intention of the parliament."*<sup>8</sup>

Clearly, there was bipartisan support for this bill in 1975 and continued through to the addition of Shared Parental Responsibility in 2006.

As Geoffrey Greene from the Shared Parenting Council of Australia wrote:<sup>9</sup> "*For decades we have been led to believe that our country's system of administration and management of families*

---

<sup>5</sup> noting ESPR had sometimes been conflated with a presumptive entitlement to equal shared care

<sup>6</sup> 19 Ibid, p.39 Family Law Amendment Bill 2023 [Provisions] Submission 21 7 Joint Select Committee divided on removing presumptive ESPR

<sup>7</sup> [Family Law Bill 1974 \[No. 2\] explanatory memorandum \(aph.gov.au\)](#)

<sup>8</sup> [Joint Custody - Article - Family Matters - Publications - Australian Institute of Family Studies \(AIFS\)](#)

<sup>9</sup> [Joint Custody - Article - Family Matters - Publications - Australian Institute of Family Studies \(AIFS\)](#)

*experiencing separation and breakdown is low-cost, just, equitable, and dignified. The Parliament has told us, the people, that it would be based on **a shared parenting presumption**, and that these would be the expected outcomes from the Family Court.*

*Despite the modest reforms that the Howard Liberal government implemented in 2006 to reinstate the will of Parliament **over recalcitrant agencies and the opposing family court**, it is obvious that **nothing has changed**, and this is a problem that is occupying the electorate offices of Federal MPs across our country.*

*As a Prime Minister, John Howard was most unusual in his passion for social issues, his famous "barbecue stoppers" and his willingness to speak about the role of fathers in families are examples.*

*What we are seeing in Australia is not the failure of shared parenting but rather an ideological struggle far removed from children's best interests and analogous to a needless courtroom squabble between husband and wife."*

Once the 2006 proposal for Shared Parental Responsibility leading to shared parenting time, where possible, became a reality, the women's groups were galvanised into action when a father threw his daughter off the Westgate Bridge<sup>10</sup>. No mention was made of the mother who 12 months prior had strapped her 22-month-old child to her chest and jumped off the same bridge.<sup>11</sup> She had taken their lives because she was scared, she would lose care of their child to the father, but ironically, the father had no intention of petitioning the court for residency. The only critical comment at that time was related to the failure to jump-proof the bridge. Then more recently, we experienced the terrible incident of the father who set fire to his children and their mother.<sup>12</sup> Again little mention has been made of a mother who killed 7 of her own children and a niece in Cairns<sup>13</sup> or the mother who drove her car into a truck killing her 4 children<sup>14</sup>.

There are many more instances of women killing their ex-partner and/or their children that can be cited if we wish to go down that track, but we don't. We just want to highlight the discrimination that occurs in reporting such tragedies i.e. if a man kills then it's front-page news and follow up articles describing every horrendous piece of information that can be published. If a woman kills, a

---

<sup>10</sup> [Arthur Freeman guilty of daughter's murder \(theage.com.au\)](http://theage.com.au)

<sup>11</sup> [Government to be sued over West Gate suicide barriers \(theage.com.au\)](http://theage.com.au)

<sup>12</sup> [Murder of Hannah Clarke - Wikipedia](https://en.wikipedia.org/wiki/Murder_of_Hannah_Clarke)

<sup>13</sup> [Mother arrested for murder after eight children stabbed to death in Cairns | Queensland | The Guardian](https://www.theguardian.com/australia-news/2017/dec/11/mother-arrested-for-murder-after-eight-children-stabbed-to-death-in-cairns)

<sup>14</sup> [Kingaroy car crash: Note and clues that indicate it was a murder suicide | news.com.au — Australia's leading news site](http://news.com.au)

single article, perhaps on the gutter of page 4 with discussion slanted toward her suffering from a mental health problem is the result, thereby minimising the seriousness of her offence.

As an aside, the result of this fearmongering, women are no longer independent and able to cope with their own situation, quite contrary to the intentions of feminism in the 60s and 70s. Instead, they now become paralysed with fear that encourages them to reach for the domestic violence services when all that may be taking place is a disagreement. Couples do disagree, as is their right and a sign of a healthy relationship: if such arguments result in agreement good or perhaps they result in “We’ll agree to disagree” also good. Perhaps the Government should consider the damage they are causing when allowing domestic violence operatives to exaggerate the statistics and cause unjustifiable fear in the women they are reaching.

False allegations of domestic violence flourish in this climate. No man is safe from the easily made accusation and issuing of domestic family violence orders. Once served with the interim order issued by a magistrate, where evidence, if there is any, has not been tested, they will find themselves banished from their home, lose access to their funds and possessions, perhaps lose their job, and removed from their paternal role of loving and caring for their children.

At the later hearing to validate the decision to then issue a 2 or 5 year DV order, the magistrate needs to make a decision on the balance of probabilities after listening to, questioning and reading the available evidence as to whether a domestic family violence order should be continued or not. We hear many reports of men being silenced/muted and not allowed to speak or present any evidence in their favour. It is not unusual to hear of men, who are applying for an order to protect themselves and their children, being castigated in the first instance by the magistrate because he/she has not read the application form correctly, instead relying on their overwhelming expectation that the applicant will be a woman. Indoctrination and brainwashing resulting in significant bias would appear to flourish in Australia’s magistrates’ courts, due we suspect, because of the intense educational process to instruct the judiciary as to the suffering of women subjected to domestic violence whilst ignoring male victims.

Men are frequently persuaded, by the police prosecutor, the magistrate, the Legal Aid duty lawyer or even their own lawyer to *accept an order without admissions*. The man will still leave court with a DV order preventing contact with the ex and his children if they have been included in the order for the next 2 or 5 years! Nobody tells them that this could lead to a criminal offence if the ex-partner decides to make a complaint against him. It is also a great disadvantage as future court hearings will lead with the information that he is a perpetrator of domestic violence. As such he can also be

prevented from gaining a Blue Card (working with children), or a licence where he is expected to be armed such as in the security services or the armed forces etc.

We have noticed during recent years that men trying to defend a domestic violence application or trying to prosecute their own application will find their hearing repeatedly adjourned, some as many as 10 – 15 times. Obviously, this leads to a man walking away, having given up or run out of money to pay his legal fees.

We are not proposing that genuine domestic family violence should be ignored. No, it shouldn't, but there are criminal laws covering arrest, charging, and the requirement for a full hearing before a judge/magistrate to determine innocence or guilt and then if the latter is established then issuing a suitable penalty. Other allegations of a verbal nature or psychological issues would be better served by referral to a psychologist/counsellor.

Thirty years of propaganda about domestic family violence has been used to manipulate and skew the results provided to politicians and the public who are unaware of the level of violence, sometimes resulting in death, perpetrated against children and their fathers by their mother, stepfather, mother's boyfriend or others encouraged to take up the attack on behalf of the mother. Mothers kill more children than biological fathers.<sup>15</sup>

The questions to uncover such abuse often remain unasked and unanswered and there is an overwhelming suggestion that children are assumed to be safe with their mother. Sadly, this is not always the case.

Statistical evidence gathered by family protection services in each state is uncoordinated (using different terminology to define victims, relationships and identity of perpetrators)<sup>16</sup> and is rarely released in its entirety.

West Australian Department of Child Protection has proven to be the exception with the findings that 73% of child abuse is committed by the mother.<sup>17</sup>

---

<sup>15</sup> Australian Institute of Criminology, 2006-07 National Homicide Monitoring Program 2006-07 Annual Report, <http://www.aic.gov.au/publications/current%20series/mr/1-20/01.aspx>

<sup>16</sup> Bromfield L. & Horsfall B., June 2010, Child abuse and neglect statistics, National Child Protection Clearinghouse, Australian Institute of Family Studies ISSN 1448-9112 [Accessed Online <http://www.aifs.gov.au/nch/pubs/sheets/rs1/rs1.pdf>]

<sup>17</sup> <https://thewest.com.au/news/australia/mum-not-dad-more-likely-to-neglect-kids-ng-ya-236252>

*Extract from The West Australian 23 Sept 2009*

*Mothers are more likely than fathers to neglect and emotionally and physically abuse their children, information obtained under freedom of information laws reveals.*

*But figures from the WA Department for Child Protection show substantiated cases of child sexual abuse against fathers still far outnumber those against mothers.*

*The data shows that parents were the perpetrators in almost 39 per cent of the 1505 substantiated cases of child abuse in 2007-08. Of the 582 cases of abuse by parents, **mothers were responsible for 73 per cent, while fathers committed 27 per cent.***

### **False Allegations – Magellan Hearings**

At this point it would be of interest to reiterate the comments of a family court judge involved with the Magellan Hearings, which handle allegations of physical or sexual harm to children. He commented to researcher Dr Daryl Higgins from Australian Institute of Family Studies<sup>18</sup> about the number of cases that resulted in fathers being reunited with their children saying:

*“I have a sense that **in the overwhelming majority of cases, abuse is not confirmed. And probably in not many cases is there found to be an unacceptable risk.** I don’t have the stats, so it’s probably silly of me to quote stats, but I’m talking of probably upwards of 70 or 80% where the relationship with the father is restored. Which, in itself, is a worry if that is true. Why are so few being confirmed? **Is it mum—usually—using it as a weapon to get dad out of the kid’s life? Is it mum misidentifying the signals and then not accepting professional advice as to what it might really mean?**”*

This is clearly an area that needs more investigation and clarification to determine the number of false allegations being made.

### **Family Violence Homicide**

Statistics<sup>19</sup> tell us one woman is murdered every 6 days in a domestic homicide, but one man loses his life as a result of domestic homicide every 8 days. Do we really accept that a difference of 2 days is enough to ignore the violence committed by women or instigated against the man by another willing to do her bidding? Are their lives not just as important?

---

<sup>18</sup> Higgins, D. J. (2007). Cooperation and Coordination: An evaluation of the Family Court of Australia’s Magellan case-management model. Canberra: Family Court of Australia.

<sup>19</sup> [Recorded Crime - Victims, 2021 | Australian Bureau of Statistics \(abs.gov.au\)](https://www.abs.gov.au/Recorded-Crime-Victims-2021)

If we had the contacts and the funding to engage with a willing media, as do the women's groups we could point to many incidents of women abusing and killing their partners and/or their children.

### **Campaign by women and their supporters to defeat the Shared Parenting Principles**

As a result of the continuous complaints of women's spokespersons, with the assistance of the media, they have called for increasingly draconian provisions as if the tragedies mentioned above are a certain indication of what **all** men are capable of and willing to do. There is no evidence of this! The judiciary are also made to share the blame with accusations that they are giving fathers, who might be dangerous, access to their children.

*Zoe Rathus is a senior lecturer at the Griffith University Law School and co-director of the Clinical Legal Education Program and she writes, "This article has been long in gestation. I wish to thank Juliet Behrens for her patient mentoring and support and the following clever people who have contributed comments and ideas: Helen Rhoades; Kathleen Daly; Susan Armstrong; Heather Douglas; Graham Mullane; Rachael Field; and Belinda Fehlberg. The article<sup>20</sup> is based on a paper delivered at the World Congress on Family Law and Children's Rights in Halifax, Canada, August, 2009"*

Above we appear to have a comprehensive sample of the women who seem to intensely dislike the thought that any father should be allowed to participate in their children's upbringing. Everything one reads from this group is about domestic and family violence against women and children only. No mention of violence perpetrated against men. This is by no means a complete list. There are many more women who agree with the thoughts expressed by Ms Rathus, but we have a growing number of women, who understand the destruction caused to their sons, their families and their grandchildren and are beginning to speak out in protest.

This paper does its best to demean and diminish social science findings that have clearly found parental alienation exists and children do much better after separation in a shared care environment.

As can be seen their paper *Social Science or "Lego Science"? Presumptions, Politics, Parenting and the new Family Law*<sup>21</sup> is very dismissive of shared parental responsibility and blames the 2006 Family Law Act for contributing "to inappropriate, and even damaging, post-separation parenting arrangements for some children"<sup>22</sup>. The author suggests that the "presumption and its legislative link to equal and

---

<sup>20</sup> [Legal Presumption That Children Spend Equal Time With Separated Parents In Australia: A Flawed Reform Proposal \(gut.edu.au\)](http://www.gut.edu.au)

<sup>21</sup> [2.Shared\\_care\\_RATHUS\\_3.pdf](#)

<sup>22</sup> [\(PDF\) Social Science or 'Lego-Science'? Presumptions, Politics, Parenting and the New Family Law \(researchgate.net\)](#) Abstract



substantially shared care time orders have created a 'lego science' that shared parenting is almost always good for children, but this ***lego-science is a pseudo science*** which is not consistent with the complex reported social science about shared parenting."

In response to the misinformation provided by Rathus and her colleagues we include this list of expert opinions about the benefits of shared parenting:

***Positives of Joint Custody 50/50 equal parenting:***

The following is a summary of research showing the positive aspects of joint custody – 50/50 prepared by Eeva Sodhi, a writer and former head of serials cataloguing at the University of Ottawa, Canada.

1. Parents with joint physical custody are less likely to litigate than parents with only joint legal custody. Joint custody parents are less likely to litigate when they must bargain in the shadow of a strong joint custody statute. (Alexander, Ilfeld, & Ilfeld, 1982);
2. When parents were asked to imagine themselves in one of three custody situations, the sole custody arrangement when compared to the joint custody one encouraged punitive behavior and concern for self-interest. (Patrician, 1984);
3. Fewer joint custody cases than sole custody cases were relitigated. (Phear, Bech, Hauser, Clark, & Whitney, 1984);
4. Joint custody fathers were significantly more involved than sole custody fathers and indicated less court use (Bowman, 1983);
5. A report to the U.S. Commission on Child and Family Welfare on June 14, 1995 by Division 16, School Psychology, American Psychological Association concludes that "The research reviewed supports the conclusion that joint custody is associated with certain favourable outcomes for children including father involvement, best interest of the child for adjustment outcomes, child support, reduced relitigation costs, and sometimes reduced parental conflict." The APA also noted that "The need for improved policy to reduce the present adversarial approach that has resulted in primarily sole maternal custody, limited father involvement and maladjustment of both children and parents is critical. Increased mediation, joint custody, and parent education are supported for this policy."
6. In an article called "Joint custody: The option of choice" (Journal of Divorce & Remarriage 21 (3/4): 115-131. 1994) W.N. Bender argues that joint custody is also, the preferred option in high conflict situations because it helps reduce the conflict over time - and that is in the best interests of the children." Bender reviews current and historical research on the 'myths' of joint custody, i.e. - that joint custody should not be awarded when the mother objects or in high conflict matters. The article describes the benefits of joint custody including that children

adjust better post-divorce in joint custody as compared to sole custody awards, children's attachment to both parents' post-divorce is essential for healthy child development, joint custody leads to higher levels of financial compliance, re-litigation is lower as compared to sole custody, and joint custody leads to the best outcome for children even in high conflict situations because it forces resolution and best leads to reduction of child stress in the long term.

7. Joan Kelly also remarked her article "Further Observations on Joint Custody" that appeared in vol. 16 of the University of California at Davis Law Review that. "I am concerned about the position that argues that joint custody should not be awarded when parents do not agree. In these cases, it is almost always the woman who is opposed to joint custody. Women do not need to ask for, not agree to, joint custody. They are presumed by society, lawyers, the courts, and themselves *to have a right to keep the children in their care and protection*. It is the father who must ask for joint custody and it is often in the mother's power to agree or disagree. The mother's position is particularly enhanced if she knows that a refusal to share parenting with her spouse will preclude a joint custody order regardless of her reasons for denying joint custody. In this context, it would be important to study women who refuse a request for joint custody"

8. Pearson and Thoennes " . . . conflict between divorcing parents in our sample did not appear to worsen as a result of the increased demand for interparental cooperation and communication in joint legal or joint residential custody arrangements. To the contrary, parents with sole maternal custody reported the greatest deterioration in the relationships over time." [in their "Custody after Divorce: Demographic and attitudinal patterns" (American Journal of Orthopsychiatry, vol. 60, 1990)].

9. Alexander, Shanon J., M.A., Family Relations division of Home Economics, Florida State University in an article called "Protecting the Child's Rights in Custody Cases" (The Family Coordinator - Oct. 1977) says that results show better results for joint custody than sole custody. (The) re-litigation rate for joint custody was half that for sole custody (16% vs. 32%).

10. "It is also possible that the increase in disagreements occurs specifically because the custodial parents are resisting the non-custodial parents' new parenting efforts" [Virginia Knox, Cindy Redcross. Parenting and Providing: The Impact of Parents' Fair Share on Paternal Involvement.]

11. In his written statement, titled "THE JOINT CUSTODY OF CHILDREN AMENDMENT ACT OF 1993" Ronald K. Henry, Esquire, Co-Chairman of the American Bar Association Federal Legislation Subcommittee of the Custody Committee, [and] Advisor to the American Law Institute Family Law Project and as an advisor to the National Commission on Uniform State Laws Project on

Interstate Visitation Enforcement in support of Bill 10-442, in Washington, said: "If we want to reduce conflict between parents, we must end the barbaric practice of forcing them through the winner-loser combat of sole custody trials. The most mean-spirited opposition to joint custody is the claim that it should be barred or restricted for the population at large because of the risk of domestic violence. among some families. **These opponents argue from a presumption of pathology and urge a rule that would assume that the worst behavior of the most extreme individual is the norm. Policy cannot be made by anecdote and the law should not be based upon this presumption of pathology.**

12. Thirty-four percent of the unequal shared custody cases had parents who were in dispute about custody, while only 6 percent of those with the outcome of equal shared custody were in dispute. Although only 53 percent of both divorcing parents were represented by legal counsel in their divorce, 70 percent of the cases with an unequal shared custody outcome involved legal representation for both parents. Unequal shared custody cases required a much longer time period to reach resolution (320 as compared to 252 median days). Unequal shared custody parents also return to court at higher rates, both before and after the final divorce judgment. [Physical Custody in Wisconsin Divorce Cases, 1980-1992 Institute for Research on Poverty Discussion Paper no. 1133-97]

The puerile and offensive terminology *lego-science* used by Ms Rathus says more about the author's loathing of the idea that fathers should have an ongoing role in raising their children. It is to be expected that Ms Rathus would turn her attention to the "fact that the reforms were driven by fathers' rights groups". We might remind Ms Rathus that children need both their parents in their life, providing neither presents as a risk to their children.

### ***Changes to the Family Court and Federal Court system***

*"The Australian Government<sup>23</sup> introduced this structural reform of the federal family law courts to address problems with the previous court structure.*

*The overlapping family law jurisdiction between the previous Family Court and Federal Circuit Court of Australia (FCC) led to significant inefficiencies, confusion, delays, additional costs and unequal experiences for many families. This resulted in poor outcomes for some children and families, including those affected by family violence.*

*The new court structure will help Australian families resolve their disputes faster by improving the*

---

<sup>23</sup> [Structural reform of the federal courts | Attorney-General's Department \(ag.gov.au\)](https://www.ag.gov.au/structural-reform-of-the-federal-courts)

*efficiency of the family law system, reducing the backlog of matters before the family law courts, and driving faster, cheaper and more consistent dispute resolution.”*

A good idea, but the reality is the court is taking longer to resolve issues, more confusion abounds as new Registrars struggle to find their place in the court and understand what powers they have. Many of the legal professionals that we work with have complained about the changes and the additional costs due to the extra time taken to complete paperwork and attend hearings.

### From a NSW solicitor

*When the new system came into operation, it was promised to be quicker, better, cheaper and faster.*

*What I have found is the exact opposite*

*Prior to the merger:*

*I was required to file 3 documents to commence or respond to an application - being Affidavit, Notice of Risk and application or response,*

*After the merger:*

*We have to file 7 documents, Affidavit, Notice of Risk, application or response, parenting and/or financial questionnaire, Genuine steps, undertaking, plus fee payment.*

*The effect has been a prior fee of around \$3500 rising to around \$11,000 for the extra work (hourly rate stayed the same).*

*We are also undertaking a lot more work, for example, an interim hearing was relatively rare and required a few hours to prepare at most (oral submissions).*

*The new system has interim hearings in every matter, that require the filing of case outlines (taking 1 or 2 days up to 10 days to prepare), plus a minute of order, submissions, etc*

*It seems that a lot of the Court efficiencies have been achieved by the work being pushed onto lawyers, rather than the system actually becoming more efficient.*

*The subpoena process is a case in point. Prior to Covid, we were able to file a subpoena, have it sealed by the court and then send it out to the person or organisation that had the records. Once the material was returned to the Court, we were also able to organise to access the material and read it when it suited the solicitors.*

*The process now requires producing the subpoena, sending it to the court, providing a letter or form to explain that we are seeking and that it is within the 5 subpoena limit, if we have permission of the court, etc.*

*Once the material is produced, we then have to file a notice to inspect. The sole purpose of the notice to inspect appears to be data collection for the Court. We then have to file an undertaking for the available material, sometimes requiring multiple undertakings per matter, then we have to book an appointment of 1.5 hours to view the material. Each solicitor is limited to one appointment a day, but it must be within 4 weeks of an interim hearing or within 6 weeks for a final hearing.*

*Given the number of matters and number of solicitors, this makes accessing subpoena material almost impossible in most matters, especially given it takes longer to drive to and from the Court than I spend reading material.*

*I have also noticed a significant (almost triple) amount of paperwork and forms from what we had pre the change. What we need is a red tape busting broom through the whole thing.*

*In relation to the proposed amendments to the family law act. I see nothing but Chaos!*

*A lot of people who made false allegations against their ex's will be encouraged to relitigate matters, as the standard claim is the court didn't believe me, (case of Minshall for example 2014-2021).*

*I also see a lot of people taking the law into their own hands, especially those who have the means to do so, either through actual threats and violence or things like brainwashing of children. There is going to be a lot of extra work for lawyers, Police and support services... work we don't want or need!*

*it will be a case of first allegation wins, just not sure if the intention is to adopt a gendered approach to allegations - ie believe all women, but not accept that men are also victims and survivors of Domestic Violence.*

*There is a documentary about women abusing this sort of legislation in*

*Israel <https://rtd.rt.com/films/no-woman-no-crime/>*



**Subject:** From a Queensland solicitor - Points re Court Merger and Proposed Amendments to the FLA

As previously discussed, my thoughts below.

*Court Merger*

- *If a client has an urgent issue that they need determined, they now have the added step of convincing a Judicial Registrar that the issue is urgent enough to be re-listed at a later date before a Senior Judicial Registrar.*
- *The big problem seems to be that there are not enough Judges to meet the courts case load. I don't know whether that is a funding problem or lack of qualified people to take those positions.*
- *The merger and new practice directions and rules that came with it, rather than getting people decisions sooner, keeps them pre-occupied with all the steps in the case management process.*
- 

*Proposed Amendments*

- *They are unnecessary. The presumption of ESPR exists to meet the principles underlying the objects Part VII of the FLA being:*
  - (a) children have the right to know and be cared for by both their parents, regardless of whether their parents are married, separated, have never married or have never lived together; and*
  - *(b) children have a right to spend time on a regular basis with, and communicate on a regular basis with, both their parents and other people significant to their care, welfare and development (such as grandparents and other relatives); and*
  - *(c) parents jointly share duties and responsibilities concerning the care, welfare and development of their children; and*
  - *(d) parents should agree about the future parenting of their children; and*
  - *(e) children have a right to enjoy their culture (including the right to enjoy that culture with other people who share that culture).*
- *If the concern is the risk of family violence, the FLA already provides that the presumption does not apply where there is evidence of family violence.*

Clearly the attempts to improve the process of family law is not having the desired effect. The family law process needs to review and correct the duties and responsibilities of family report writers and Independent Children’s Lawyers (ICLs) to ensure they have the required qualifications and understand their own beliefs should not be imposed on the parents and children they are interviewing.

If these family law changes are brought in we predict far more children will be drastically affected by the loss of a parent, usually their father; more children will turn to the local street gangs in place of missing support in their depleted family; more mothers will find it hard to cope with children and their care without the support of the other parent who loves his children; more men will suicide as they are removed from their children’s lives and false allegations of domestic violence and sexual assault will increase as it becomes easier and easier to gain a DV order.

In closing, we would like to reiterate the writings of two significant people in the political sphere.

Firstly, the Hon. Peter Duncan MP (Lab), in his role as the Parliamentary Secretary with responsibility for carriage of the 1995 Family Law Bill, said the following in his second reading speech:

*“The original intention of the late Senator Murphy was that the Family Law Act would create a rebuttable presumption of shared parenting, **but over the years the Family Court has chosen to ignore that. It is hoped that these reforms will now call for much closer attention to this presumption and that the Family Court will give full and proper effect to the intention of the parliament.**”<sup>24</sup>*

Secondly, Geoff Green from the Shared Parenting Council with considerable experience gained in his role as the State Director for the Liberal Party of Australia South Australian and Queensland Divisions

*“The Parliament has told us, the people, that it would be based on **a shared parenting presumption, and that these would be the expected outcomes from the Family Court.***

*Despite the modest reforms that the Howard Liberal government implemented in 2006 to reinstate the will of Parliament **over recalcitrant agencies and the opposing family court, it is obvious that nothing has changed, and this is a problem that is occupying the electorate offices of Federal MPs across our country.**”*

It is a disturbing indictment that the Family Court judiciary and associated staff have been identified as failing to interpret changes to the Family Law Act in line with the intention of Parliament. Is this because the legislation is poorly written or is it because the Court strongly disagrees with the new aims of the legislation.

---

<sup>24</sup> [Joint Custody - Article - Family Matters - Publications - Australian Institute of Family Studies \(AIFS\)](#)

Either way it needs to be resolved. We cannot continue to have such a dysfunctional system controlling decisions for our families. The Labor Party ideas are not the answer and will make the whole system far worse.

The above comment applies equally to the country's domestic violence operations and the family court system - they are definitely linked. A domestic violence order creates an advantaged way forward for women in the family court arena.

Certainly, the politicians could achieve a great deal if they changed legislation affecting families; adopted a recognition of the importance of fathers/men; provided a rebuttable presumption of shared and equal parenting; provided assistance for men who are subjected to domestic violence; reduced the level of false allegations by issuing penalties for those who make these allegations; remove child support calculations that are determined on how much overnight contact one has with their children – to have 100% care means 100% child support.

Sue Price JP (Qual) BSocSci

Men's Rights Agency

P.O. Box 28, Waterford 4133