



STATEMENT ON CHILD SAFETY IN FAMILY LAW from the Women's Refuge Child Support Conference, Sydney on the 9-10th March 2004

The NSW Women's Refuge Movement represents 55 refuges for women and children across the state. The majority of the women and children that come through the refuges are seeking protection for themselves and their children from a violent or abusive partner. Many of the women and children go on to seek safe living arrangements through the Family Law Court.

Women's Refuge Child Support Workers provide specialised services to children who come to refuges escaping domestic violence and child abuse. In most cases the perpetrator is the father. Child Support Workers understand the effect that violence and abuse has on children and work to identify and meet the needs of each child during their stay at the refuge, and often after they leave.

There is an overwhelming concern from the Women's Refuge Child Support Conference regarding the implications of some of the recommendations contained in the report *'Every Picture Tells a Story: Report on the Inquiry into child custody arrangements in the event of family separation'*.

The Women's Refuge Child Support Conference currently has no confidence in the Family Law Courts' mechanisms for identifying, screening and protecting children and their mothers in a consistent manner. Not every child or mother has a doctor's report, a police report, and a hospital admission or has called an ambulance. This type of evidence is often needed to support women and children achieving a level of safe contact and residency orders even if there is an Apprehended Violence Order (AVO) in place.

When women without admissible evidence go to the Family Court and say, *"We are being abused. Our children are being abused."* They are told to prove it. When they go to Child Protection Services they are told they won't investigate because it is before the Family Court. There are policies and procedures in place, but the appropriately trained staff and adequate resources to make them effective are not available.

The key concern to the Child Support Conference is the recommendation that *"50/50 shared residence (or 'physical custody') should be considered as a starting point for discussion and negotiation."*

Child Support Workers see first hand the affect on children who are forced by Family Court Orders to remain in the proximity of and in contact with a father who has terrorized and brutalized them and their mother. The conference expressed serious concern over changing the starting point of child contact and residency arrangements to 50/50. It will make escaping domestic violence and child abuse through the Family Law Court more difficult than it already is. Given the ongoing significant impact this has on 'the best interests of child', it is neglectful if the government does not give this issue the resources and the attention that it clearly deserves.

Domestic violence and child abuse is prevalent and is therefore a serious concern. A recent survey undertaken by Chief Justice Nicholson of the Family Law Court showed that of the 6% of women and children who make it to the final stage of judgment in the Family Court, more than two thirds of them

have issues of physical domestic violence. This statistic does not even begin to take into account other forms of abuse that affect children, including financial, psychological, emotional, and sexual.

This statistic also does not cover all the cases of domestic violence which do not make it to a final judgment. In our experience, many women and children do not take their case through the Family Law Court to a final hearing because of;

1. Fear from escalating threats to themselves and the child/ren.
2. Lack of confidence in the Family Law Court to protect them through appropriate Orders.
3. Fear that they will end up with less safe living arrangements if they continue.
4. Lack of financial capacity or inability to meet Legal Aid eligibility criteria

The Standing Committee did not recommend legislating shared residency because it did not *“support forcing this outcome in potentially inappropriate circumstances by legislating a presumption (rebuttable or not) that children will spend equal time with each parent.”*

The Women’s Refuge Child Support Conference has serious fears that despite the presumption not being legislated there will be flow on effects that will see an increase of inappropriate contact and residency orders. A 50/50 starting point for negotiation will make child abuse and domestic violence more difficult to prove.

Women currently undertake at least 80% of the primary care of their children prior to separation. It is in the “best interests of the child” for this arrangement to continue.

The Women’s Refuge Child Support Conference calls upon the Federal Government and the Family Law Court to improve the safety of children by:

- Ensuring that the best interests of the child are held up in the Family Law Court above the rights of a violent parent.
- Guaranteeing that children and women, especially those suffering domestic violence, have access to legal representation.
- Implementing a rebuttable presumption of no contact when there are allegations of domestic violence and child abuse.
- Legislating for a presumption of safety in the Family Court.
- Implementing processes within the Family Court that screen for domestic violence and child abuse.

We demand safe and stable living arrangements for children escaping domestic violence and child abuse.

This statement is endorsed by:

Refuge

Town/City

Butler Lodge Women’s Refuge

Burwood

Elsie Refuge for Women and Children

Glebe

Hastings Women and Children Refuge	Port Macquarie
Jenny's Place	Dangar
Marian Centre	Summer Hill
Mimosa House	Pendle Hill
Tanderra Women and Children's Refuge	Toronto
Warilla Women's Refuge	Warilla
Warrina Women and Children's Refuge	Coffs Harbour
Woy Woy Women's Refuge	Woy Woy
Moruya Women's Refuge	Moruya
Griffith Women's Refuge	Griffith
Kempsey Women and Children's Refuge	Kempsey
Manning District Emergency Accommodation	Tarree
Marian Villa	Arncliffe
Pam's Place Crisis Accommodation Resource and Referral Service Inc	Doonside
Tamworth Women's Refuge	South Tamworth
Wimlah	Katoomba
Wollongong Women's Refuge	Keiraville
Amelie House Women and Children's Refuge	Jannali
Eastlakes Women and Children's Refuge	Swansea
Essie Women's Refuge	Rooty Hill
Grafton Women's Refuge	Grafton
Jean's Place	Newtown
Muswellbrook Women and Children's Refuge, Nydia's Place	Muswellbrook
Rosa (Shoalhaven) Women's Refuge	Nowra
Elandra Women and Children's Services	Toukley