

ACWS CONCERNS REGARDING THE PROPOSED THE DIVORCE ACT

- The violence and conflict that women face is largely ignored in judgments about custody and access arrangements. Shelter workers see court decisions putting more and more women and children in danger.
- The approach taken in the Executive Summary of the Report on Federal-Provincial-Territorial Consultations on Custody, Access and Child Support in Canada minimizes the need for a woman to protect herself and her children.

Personal safety and security should be basic to any legislation. The Alberta Council of Women's Shelters believes that custody and access provisions in the legislation can be greatly improved by recognizing the right of women and children to live without violence. The following three points need to be reflected in any changes to the Divorce Act:

1. The legislation needs to instruct judges to take violence into consideration when making decisions in custody and access cases.

The impact of violence against a mother on a child and the impact of violence against a child must be overriding considerations when determining the best interests of a child. "High conflict" is not a separate category as indicated in the report. Instead the term disguises the existence of violence in intimate relationships. A civil standard in the judgement of violence must be affirmed. If women are not to be believed when they disclose abuse, their safety and that of their children is compromised.

2. An acknowledgment that maximum contact is NOT always in the best interest of the child.

Maximum contact can put women and children in danger. It can actually undermine the best interest of the child and expose women and children to ongoing violence and harassment.

3. Shared Parenting must not be legislated.

Shared parenting has not worked in any jurisdictions where it has been implemented. If violence is not a primary consideration, shared parenting means that the mother and child will be exposed to ongoing harassment and violence according to a court-imposed schedule. The "Australian Family Law Reform Act 1995: The First Three Years" states that the safety of children has been compromised by shared parenting reforms as they have created greater opportunity for harassment and interference in the life of the mother and her children.