



# Alberta Council of Women's Shelters

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#2, 12739 Fort Road, Edmonton, Alberta T5A 1A7  
Tel: (403) 456-7000 Fax: (403) 456-7001

November 19<sup>th</sup>, 1998

The Honourable Anne McLellan  
Minister of Justice  
239 Wellington Street  
Ottawa, Ontario, K1A 0H8

**Re: Child Custody and Access**

Dear Ms. McLellan,

I am writing to you to express my concern about the Alberta Government Response to MEP/Child Access Review Report as well as the Recommendations forwarded to the federal government for consideration in its review of the "Divorce Act".

The Special Joint Committee on Custody and Access was struck by yourself, to hold hearings in major cities and towns across Canada. The Committee was to hear from the public on issues of custody and access, with a view to producing a report recommending changes to the Divorce Act. Usual means of outreach by Special Committees were not followed. This means little or no notice of the impending hearings was given to women's groups. As a result, most were unable to participate in the process, or given little time to prepare briefs and presentations. The impact of this was huge in terms of whose voices were heard by Committee members. On the other hand, participation by representatives of fathers' rights groups and other men's groups was noticeably overwhelming.

Roger Gallaway, the chair, recently said publicly that women's shelters should be done away with because women who go to shelters make false accusations that they have been abused/assaulted. There is a strong concern that the report will reflect the same woman-hating bias that was evident at the hearings. Recent headlines confirm our fears that the Committee's draft recommendations for changes to the Divorce Act would give more rights to fathers, erode protections currently in place for women and children, and institutionalize disbelief of women's experiences. For example, women would be criminalized for their efforts to protect themselves and their children by new recommendations making "false" accusations of physical abuse and "unreasonable" prevention of court-ordered access, offences under the Criminal Code. Another example is the recommendation that the word "custody" no longer be used, replacing it with "parenting".



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The Alberta Council of Women's Shelters was not notified even though we are one of the few remaining women's groups in the Province. We served, in a residential capacity, over 12,000 women and children last year, as well as, over 4,000 women per month on a program and information basis. The majority of women and children we serve require the assistance of the Maintenance Enforcement Program and the Divorce Act.

In June 1997, Minister Havelock asked Marlene Graham, Q.C., MLA Calgary - Lougheed, to head up a review of maintenance enforcement and child access. Again, the Alberta Council of Women's Shelters was not contacted. I was notified of the process by the Calgary Status of Women Action Committee and contacted Ms. Graham asking to present. I was given a 24 hour time frame to research, write, and present a brief.

On October 6<sup>th</sup>, 1998, Recommendations came forth from Ms. Graham's committee. Recommendations 12, 14 and 1 state:

12. Alberta codify remedies and sanctions available to the courts for breaches of custody and access. The codification should include exceptions or defenses in appropriate cases.
14. There be a codification of sanctions and remedies for failure to exercise access, as well as for failure to comply with an access order.
1. The federal and provincial government amend legislation to provide a statutory right for children to the continued significant and substantial involvement of both parents in their lives.

This ten page document does not address issues of family violence. Recommendations have been put forth which will further endanger the lives of children and their mothers that live with family violence. Alberta has the highest rates of domestic violence in our nation and yet no provisions are made for the thousands of children and their mother's who will be dangerously and adversely affected by these changes.

Historically, in the province of Alberta, maintenance has never been tied to access. Currently, the Court of Queen's Bench, "refuses" to tie these issues together. Parenting after separation and mediation do not work where there is a power/control imbalance or when one person has manipulative capabilities over another, which is always the case in families experiencing domestic violence.

It has been the experience of Alberta families that Supervision Orders/Mandatory Supervised Access is very difficult to obtain through the courts. It is also known the cost of supervision is high which leads to clients choosing less expensive alternatives such as friends or relatives with whom supervision is not always comfortable or safe.



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The "Divorce Act" provides that orders for custody and access are to be made in the best interests of the child. It is never in the best interest of children to remain in an abusive home or spend time with an abusive parent who continues to exercise "power and control" over the custodial parent through the children. Such reforms would prove very harmful to protective parents who only have separation and divorce to escape family abuse situations without further aggravating their abuser! The mention of "special opting-out provisions for families where there is a proven record of abuse towards one parent or the other, or towards the children" is unrealistic. Front line family violence workers state that the "proven record of abuse" criterion is impossibly high for abuse generally inflicted in the secrecy of the home and not consistently sanctioned by authorities. Only a criminal conviction for an appropriate charge, or even a number of them, would meet this criterion. In fact, most instances of such abuse in Alberta are not even accepted for prosecution by police or Crown prosecutors but sloughed off to an overloaded and under entitled health/social service delivery network!

End the link between support payments and access. Lives are at stake.

Should you require any clarification on the affects of the recommendation on the lives of Alberta children and their mothers, please fell free to contact me at any time.

In Sisterhood,

ALBERTA COUNCIL OF WOMEN'S SHELTERS

Arlene Chapman  
Provincial Coordinator  
AC/fb

cc: Marlene Graham, MLA