

Submission No: 206

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Secretary:
Stephen MacKenzie

8/60 Lethbridge st,
Penrith. N.S.W. 2750

To The Committee Secretary,

I would like to make a submission with respect to aspects of child custody, the child support formula and my rights as a non-custodial parent. I have many points of concern and have summarised them into point form in order to make it easier for your perusal: -

- I believe the current formula for calculating child support payments is biased against the non-custodial parent. The exempted income levels are not balanced with the non-custodial parent entitled to \$12,000 exemption with no dependant children yet the custodial parent can earn up to \$35,000 before adjustments apply. This is biased by 3:1 in favour of the custodial parent.
- The current child support calculation is biased against PAYE wage earners. Using the rates of taxation for the financial year 2003/04 the non-custodial parent is compelled to pay (calculated on 1 child – 18%): -
On a wage of \$40,000 - \$8171 in tax, \$5040 in cs leaving, \$600 medicare levy leaving them \$26,189.
On a wage of \$70,000 - \$19,707 in tax, \$10,440 in cs leaving, \$1,750 medicare levy (2.5% as over \$50,000) leaving them \$38,103.
Considering the non-custodial parent generally receives approx 30% of assets upon divorce settlement they are pushed towards the poverty line when setting up a new home is taken into consideration.
- The current legislation indicates that if the custody is shared 50-50 then the main income earner is expected to pay 12% in child support for one child. This is completely outrageous as considering the costs are shared equally then the child support arrangements should not exist.
- I am also aware that the custodial parent can simply state the non-custodial parent is deliberately avoiding overtime etc and the child support payments will be calculated accordingly. It is up to the non-custodial parent to prove why they are not working extra hours even though this is one of the major reasons they lose custody in the first place (long hours of work). This goes against the building blocks our society is made up from “innocent until proven guilty”.
- Currently the law is biased against the non-custodial parent with respect to how the money paid in child support is spent on the child's upkeep. I believe that the custodial parent must provide documented evidence proving expenses such as school fees, dental/health care, clothing, sporting/leisure activities are maintained as was applicable prior to separation.
- The current laws are extremely biased against the major income earner regarding custodial access to the child. Generally the father takes on the role as main income

earner which requires long hours to ensure a good quality of life for a family is maintained. However when divorce occurs the courts take into account the main provider of care as being of utmost importance ensuring the father is discriminated against because he was out working.

- The non-custodial parent has no rights when it comes to decision making regarding schooling, general welfare etc even though they are compelled by law to maintain significant financial contributions.
- The non-custodial parent receives no reduction in child support payments when caring for a child unless in the total of a year the nights exceed 109 days.
- No incentive for custodial parent to work in fact they are encouraged to stay at home to ensure they receive the benefits of very generous welfare and child support payments.
- The current legislation invades the basic right of privacy for parents in that their income is available to their former partner.
- Any un-proven violence orders should be treated very seriously by the courts as the personal damage caused by this can quite substantial with respect to access as well as standing in the community.

I believe this committee should consider the following recommendations to alleviate the bias against the non-custodial parent as a result of the laws in their current form: -

- The level of exempted income should be an equal amount.
- Any calculations made for child support payments should be made on after tax income or the government should provide taxation relief for the non-custodial parent.
- The custodial parent must provide documented evidence proving school fees, health care, sporting activity fees have been paid.
- The laws should be changed to assume that both parents share the care of the children equally unless it can be proven the child is at risk.
- Any nights the non-custodial parent has access to the child should automatically incur a deduction in child support payments. (a daily rate can be calculated)
- My privacy is invaded by the fact my income is provided to my ex-wife.
- The current legislation only allows for 25% of the child support payment to be credited towards costs ie; school fees. This should be increased to at least 50% thus ensuring the money is guaranteed of being spent on the child the payments are for.
- There should be no child support payments made if the custody is shared equally. This is because the costs will naturally be divided equally. With the non custodial parent usually working and therefore having to pay for child care during their period of care how can they possibly afford this and also pay the custodial parent 12% of their gross income. At the very least the percentage should be reduced to 9% for 1 child.

Finally I have continually been told by the Child Support Agency that the current scheme is fair for all parties concerned. I totally disagree with this notion and would welcome the authors of this scheme to attempt to start their lives over again with such a burden hanging over their head. Changes must be made to create more of a balance ensuring the custodial parent does their bit too. Currently the entire financial burden is placed on the shoulders of the non-custodial parent who is required by law to foot the bill for everything whilst the custodial parent can easily get on with their life in most cases far and away better off than the non-cusodial parent.

I would welcome any correspondence or feedback from members of the committee.

Yours Sincerely

Stephen MacKenzie