

House of Representatives Standing Committee
on Family and Community Affairs

Submission No: 778

Date Received: 20-8-03

Secretary:

7th August, 2003

Standing Committee on Family and Community Affairs
Child Custody Arrangements Inquiry
Department of the House of Representatives
Parliament House
Canberra ACT 2600
Australia

Dear Sir/Madam,

I support the concept of shared parenting and see it as the first default position in Family Law. Unfortunately from my experience, the Family Law Court has become an inefficient and costly court both emotionally and financially.

The legal system profits from long delays to "hear a matter". "Rewriting of affidavits", fuels the tensions and disharmony of failed relationships. "Matters" are rescheduled on the day of hearing, resulting in large legal expenses for both parents. There is an impending sense of doom as the children and parents of separated families await the outcome of the Family Law Court that will inevitably eliminate one parent from the children's lives.

The "primary carer" often uses his/her position to manipulate the "accessing parents" ability to see their children. The primary carer, because of the bias in contact time, too often denigrates the other parent to the children. The children do not have the benefit of equal contact with their parents to enable insight and a balance of views. This often leads to alienation emotionally and physically from the contacting parents and their families for years.

This is not in the children's best interests. Children need not be divorced from a parent, even though their parents may choose to divorce one another!

To add insult to injury, the Family Law Court abdicates all responsibility to draw up a financial agreement between parties for ongoing child support. Under the present system, the "primary carer" is encouraged to apply against the parent who has lost "his or her children" through the child support agency. The intention of this application is to provide ongoing monthly payments to the primary carer's house. The child support agency does little to establish the financial status of the primary carer. There is a bias in favour of the primary carer.

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Often the non residential parent pays large sums of pre-tax money to the former spouses household. They have only a small exempted amount of income for the purposes of this calculation. There is no onus on the recipient of this money to provide proof that it goes towards the children's education etc. Children are often sent to the contacting parents house without clothing and shoes, the expectation that the contacting parent will again provide!

The "child support amounts" have nothing to do with the true expenses of raising a child and are often seen as a tax free windfall to the recipient.

Parents are able to manipulate the Family Law Court as it stands today. If they become vicious litigants, the courts will often "give the children" to these people so that the matter will go away. As one well known family law psychiatrist said in my case:-

"He won't give up, you have to take the pressure of the children and given them to him, they will grow up to see what he is like"!

Why should children be subject to this? Why sacrifice them? Co-parenting and equal access to both parents is a child's right. Paying for the care of one's children is a joint responsibility, not just the responsibility of the non residential parent having been imposed upon by an iniquitous child support agency who fails to look at the manipulations made to alter their calculating formula.

The change in legislation needs to be aimed at avoiding children being sacrificed and parents made financially and emotionally vulnerable following the breakdown of relationships.

In summary, the existing child support formula does not work fairly for both parents. This is a pre-tax payment made often by the parent who has reduced or little contact with his or her children. Under the current legislation, if opposed by the primary carer, he is not even able to pay the children's school fees, his only brief is to send money to the household where the children reside.

Often this financially compromises his capacity to "start again". Secondly, the iniquities of the child support agency have been made possible by the Family Law Court judgements.

Reforms in the child support agency should include:-

1. The mandatory requirement by law of two professional parents to make an agreement to jointly share expenses of education, clothing, etc.
2. The formula is inappropriate where parents are not wage earners, as both parents can manipulate tax returns via company and trust vehicles, thus altering the outcome of "child support agency calculations".
3. No access to one's children should reduce one's requirement to pay for that child, thus stopping this manipulation.
4. As stated, the recipients of payments should be made aware of the need to random audit where the funds go over a twelve months period, receipts should be supplied to the agency, preferably at the end of each twelve months period and if it is noted that the costs for the children represent much greater amounts, then the payments need to be adjusted in the following year. In the alternative, if the recipient is obviously receiving vast sums of money that are not required, the excess payments should be credited for the following year. These reforms would force parents to make agreements with each other if they knew they had to be accountable on both sides.
5. Both parents need to supply documented evidence of financial status. Penalties should be applied for misinformation.
6. The exempted amounts should be the same for both parties when performing a calculation for child support payments. It is ridiculous to have the individual who is paying the amounts, being exempted a lesser amount than the person who is actually in receipt of money. In particular, this is so because the payments are "tax free to the recipient"!

Thank you.

Yours faithfully,


Dr Janet Drewitt-Smith