

House of Representatives Standing Committee on Family and Community Affairs
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House of Representatives Standing Committee on Family and Community Affairs
Parliament House
Canberra ACT 2600

Dear Sir/Madam,

Thank you for the opportunity to make a submission to the Parliamentary Inquiry into Joint Residence Arrangements in the Event of Family Separation. I would like to comment on whether there should be a presumption whether children will spend equal time with each parent and the circumstances and factors that are likely to cause this arrangement to fail.

My personal situation is that I am currently separated from my husband and acting as the primary carer for our 4 year old daughter [redacted]. Custody arrangements have not been resolved. While I am aware of some successful shared care arrangements (i.e. equal time with each parent) and do not reject the notion of shared care in principle, I am strongly opposed to this approach in our particular circumstances for the following main reasons:

Firstly, the relationship between my husband and I is extremely hostile. There is no trust or respect between us and there is a long history of emotional abuse. I believe successful shared care would demand a reasonably amicable relationship between the parents. This view is also a common conclusion in the literature on this topic. There are many reasons for separation and divorce and so there may be a considerable number of couples who can maintain amicable relationships. My understanding is that conflict between separated parents is the thing that causes most emotional damage to children. Hence, a parenting arrangement that inflames conflict cannot be a good thing for the children. You may well ask why we parents cannot get on for the sake of the children? I wish this could be so. However, the failure to do this is the very reason why we are on the pathway to divorce in the first place. It is a sort of Catch 22.

Secondly, the level of cooperation between my husband and I is extremely poor and one of the main reasons for our separation. I believe successful shared care would certainly demand a high level of cooperation. This belief is well supported in many of the readings I have seen on this topic. In fact, the need for cooperation may be considerably greater in separation with shared responsibilities than in marriage where there often tends to be a division of responsibilities. I believe the demands of shared care on cooperation would be a great strain and lead to more conflict in our case and our daughter would suffer as a result.

In short, there is a great deal of overlap between the causes of failure of shared care and the failings of our particular marriage. That is, conflict and lack of cooperation are key reasons for our marriage break down and in turn, key factors for poor shared care arrangements. For us, shared care is a bad fit. It would be tantamount to putting a round peg in a square hole. I believe that conflict and poor cooperation between parents are important contra-indications to the shared care approach.

I also believe that the presumption of shared care as the starting point in contested custody settlements has a major flaw. This lies in the fact that most separated couples who are suited to undertake shared care self select themselves because of their relatively amicable nature. That is, those who are contesting custody arrangements are least likely to undertake share care successfully and so it is the wrong starting point.

Thank you for considering these comments.

Yours sincerely

[REDACTED]