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Secretary: \_\_\_\_\_

Committee Secretary  
Standing Committee on Family and Community Affairs  
Child Custody Arrangements Inquiry  
Department of the House of Representatives  
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Dear Committee

This letter is a submission to the Committee's Child Custody Arrangements Inquiry.

*(a) given that the best interests of the child are the paramount consideration:*

*(i) what other factors should be taken into account in deciding the respective time each parent should spend with their children post separation, in particular whether there should be a presumption that children will spend equal time with each parent and, if so, in what circumstances such a presumption could be rebutted;*

I am appalled that there is even a suggestion to treat children as 'assets' which can be divided evenly between parents post-separation. Children, like adults, are individuals but unlike most adults, they are particularly vulnerable to the whims and motives of other people. Why on earth should their whole lives be overturned, on top of the trauma of their parents separating? Surely as much stability as possible is the most important goal for a child experiencing upheaval. To require a child to suddenly move between two homes, is hardly in the child's best interests, in the majority of situations. Parenting arrangements post-separation tend, in most cases now, to follow those established when the parents co-habited. Thus if the mother did most of the parenting pre-separation, it would be traumatic for a child to suddenly have that taken from them (which could happen, where the other parent sees their own right as paramount over what is best for the child, and refuses to consider how it would best work for the child). The level of competence of the other parent might, in some cases, be quite frightening for a small child used to their primary care-giver. And learning the new skills required might be quite traumatic for the other parent, especially while they are dealing with their own post-separation trauma.

I do appreciate that in some cases equal residence with both parents might be possible and desirable for the child. Fantastic! This already happens where that is the case. However in many cases, especially immediately post-separation when emotions are high, this is (unfortunately) not the case; and a presumption of equal time spent with each parent is likely to exacerbate the potential for children to be used as pawns between

battling parents, and having any stability left in their lives overturned. Non-custodial parents in volatile emotional situations can insist on equal custody (just as custodial parents might refuse it) because it's "their right", not because it's what is right for the child.

Surely the current system, which lets parents make their own arrangements for children post-separation, encourages co-operation already, and **has laws to assist only where they are unable to agree**, is more in keeping with promoting the best interests of children as determined by those who know them best - their parents. Where the parents cannot agree on the best interests, the law is already there to make decisions.

I would welcome my 16 month old son's father taking some role in caring for him, assuming he was capable of it and willing to do so, and my son was happy for that to occur as well. But he chooses not to take any responsibility at all. Sadly this is all too often true of men in our society, with respect to their children. I applaud the efforts of men who do want to take an active role in their children's lives: in most cases, this is an excellent outcome for all concerned. But for more men to do so, clearly there is a need for parenting to be valued more widely, and people helped to meet their responsibilities to children.

The current system which keeps the law out of it unless there are irreconcilable differences of opinion between the parents about the best interests of the children (or where the best interests of the children are clearly not paramount) seems far more sensible than a system which would encourage increased litigation (because in so many cases equal joint residence will not be in the child's interests, yet one parent may insist on their rights to same, over the child's interests).

#### Other considerations

Policies which promote work-family balance (such as flexible working hours, purchased leave schemes) would probably need to be legislated, in order that children of separated families are not plunged further into poverty when their parents BOTH have to limit their earning capacity, as well as paying to run two households. Implicitly this means that both parents should be eligible for the full support of Parenting Payment Single and Family Tax Benefits A and B. The expenses of running a household with children in it do not change simply because some of the children are absent for part of the time.

*(ii) in what circumstances a court should order that children of separated parents have contact with other persons, including their grandparents.*

Current family law provisions enable grandparents to make applications with respect to grandchildren when they cannot make agreements without court intervention, therefore the provisions do not have to be changed.

*(b) whether the existing child support formula works fairly for both parents in relation to*

*their care of, and contact with, their children.*

Until recently I would have said that the formula seems reasonable (though generous to the payee parent) to me, a parent with the sole care of my 16 month old son. His father cancelled his fortnightly visits with him without explanation in February this year, when I asked him to elaborate on a proposed private child support arrangement. He was proposing that he pay nothing now, but that he promises to pay secondary school fees when our son is at that age. Obviously given repeated broken promises of assistance I was not prepared to accept this at face value, so requested further information. None was forthcoming. I consequently applied to the CSA for a reassessment, because my son's father had been paying the minimum rate of \$21.67 per month, although he had been working for about 18 months and is now on a salary of \$40K as an articled clerk. I returned to my job 4 days a week in Spetember 2002, after taking 6 months of maternity leave, and my salary will be around \$55K in 03/04 (when I work a complete financial year).

My request for reassessment was that the CSA should base the payer's liability on his actual, current income and not on out of date information. However to my confusion, we were both quizzed about our expenditure, with certain items deemed 'allowable' or 'not allowable'! The CSA formula is about income, not expenditure? Why on earth was the standard formula not followed? The assessor came to the conclusion that I, the sole carer of a 16 month old baby, had the capacity and so SHOULD BE working full time, and so my income will be assessed as though I was working full time. Obviously this is currently the subject of an Objection and if necessary, a Family Court case following which I shall seek compensation from the CSA (Copy of my Objection letter is attached). So much for the best interests of children! So much for their right to a parent! At the age of 16 months too. And to think I could have stayed as a full time parent on Parenting Payment Single, and received a much greater contribution from both his father, and the community.

Now, if this is to become a standard test (as it will no doubt have to be, if the decision in my case is not overturned), then all parents who worked full-time before they became parents, will have to be assessed for child support on the income they earned before they became parents, unless there is very good reason (caring for a child is NOT a good reason). This will have significant implications for children: in most intact nuclear families, at least one parent works full-time and once children are school aged, the second tends to work at least part-time to meet their primary parenting responsibilities. If the full-time working parent (assume it's the father) following separation, suddenly has to take on a greater parenting role and has to reduce his working hours to meet that responsibility (which is undoubtedly the case, particularly where pre-schoolchildren are concerned), this will not impact upon the child support he is required to pay or receive. Rather, he will be assessed as though he is working full time. Because caring for a child is not considered a reason not to work full time, even when you are the sole carer of that child - so it certainly can't be when you are only the part-time carer. The child suffers, either financially, or in lack of parental care.

So as it stands, I have been supporting my child completely by myself since before he was born, with his father making a contribution of \$21.67 per month since he was 4

months old. Not even enough for a week's supply of nappies. While he earns enough to pay annual membership fees to Tattersalls Club etc along with the amounts you have to spend there to retain membership, dine out regularly, and generally live a fine life!

And now he has been given a significant concession by the CSA, with my income being deemed to be significantly higher than it is: and he is not even required to pay half of my childcare costs, without which I would not be able to work and consequently lower his liability!

So no, I do not think the existing child support formula works fairly for both parents. I have full-time care (the father's choice not to take a role - not a luxury I have, even should I want it!), and am deemed by the CSA to be capable of full-time working as well, so that the father doesn't have to pay so much child support. He takes no caring responsibility, and is given concessions on even the basic CSA formula (which seems generous to the payer parent insofar as sharing the burden of the real costs of raising a child).

I retain some trust that there has been a mistake in my assessment, and I hope this will be confirmed as an outcome of my Objection. This might suggest a training need for CSA assessors. I, as an intelligent, educated and resourceful person, challenged the decision. How many people do not?

In giving consideration to the model of automatic rebuttable equal time with each parent post-separation, which I believe is in place in some US states, then perhaps you could also give consideration to the other US policy of jailing parents who do not pay child support. That would be about as helpful to children as this automatic, one-size-fits-all equal time model would be.

Yours faithfully