

House of Representatives Standing Committee
on Family and Community Affairs

Submission No: 176

Date Received:

Secretary:

Committee Secretary,
STANDING COMMITTEE ON FAMILY AND COMMUNITY AFFAIRS,
Child Custody Arrangements Inquiry,
Department of the House of Representatives,
Parliament House,
CANBERRA. ACT 2600



S U B M I S S I O N

by

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INTRODUCTION

Almost three years ago the Federal Parliament amended the Family Law Act giving hope to Fathers that they would have improved contact with their children after divorce or separation, but it did not happen.

If the Committee and Parliament are genuine in wanting parents to have better contact and involvement in their children's lives I submit that the Family Law Act; the Privacy Act and others must not only be Amended but ENFORCED. To not do so would only again raise false hopes for Fathers, which would amount to gross cruelty, but further erode the credibility and authority of the Legislators also.

During the past three years I have witnessed:-

1. The total destruction of a family by the actions and inactions of the Family Court and Attorney-General;
2. Perjury, both blatant and voluminous, with no action taken by the Family Court, Attorney-General, Minister for Family and Community Services, or Child Support Agency;
3. Fraud aided by the Child Support Agency and no action taken by the Attorney-General or Minister for Family and Community Services.

AUTHOR'S HISTORY

I am not a Father, and, had no bias nor experience with the Family Court and Child Support Agency until becoming the Literacy Aid of the Subject Father [REDACTED] in November, 2000. Since then I have realised the Judicial process and lack of enforcement is so appalling that I now understand why the general public has so little faith in the Judiciary and Politicians.

Naturally, the Father's main interest is the welfare of the children and his deprived contact with them.

As a former Local Government Law Administrator; Probation Officer (Victorian Courts); and, political activist, my main interest are:- the maladministration of Justice; and, non-prosecution of criminal acts; and, the damage being done to Australian democracy.

CUSTODY ISSUES

As the Committee considers the custody of children issues I would urge each Member to ask himself/herself "who has custody of all Australians" and "what value is there in the Legislative section of our three part democracy amending Acts when the Judicial and Administrative sections having not enforced past and present laws may also not enforce new Amendments".

It seems that most women want 'equal rights' to men in all areas except custody of children. Morally, both parents should have equal rights to custody and financial support of children. Neither exist in the [REDACTED] case and changing the Act only on custody rights would not give him contact with the children. In his case, if the Family Court and Federal Ministers had enforced the first Court Orders and existing laws he would have been satisfied. That failure has resulted in numerous other Orders at a large financial cost to him and Government taxes, and still he has no contact with the children.

Briefly, shortly before separation, the Father received an inheritance which paid off the mortgage on his home and greatly improved the Bank Accounts. Unbeknown by the Father his then wife removed thousands of dollars from those Accounts. On 23rd. September, 2000, she assaulted him with a weapon and locked him out of the home. When she refused him contact with the children he applied to the Family Court for contact rights and Orders were issued on 2nd. December, 2000 as per Annexure "A".

Although he made numerous written requests to the Family Court to proceed with the 2nd. December, 2000 Order on the counselling of his family no letters were even answered. As shown in the Mother's Affidavit of 1st. December, 2000, and expanded upon in the Family Report in March, 2001, she wanted the children to have no contact with the Father. Counselling was again Ordered on 20th. March, 2002, and the Mother did not comply. A further Order was made on 2nd. April, 2003, referring counselling to the Court Mediator who sent it back for Judgement on 22nd. July, 2003, but the Judge did not even mention it!!! I submit this is a clear indication that the Family Court is only paying lipservice to a Father's participation in the children's lives.

MAJOR ISSUES AND RECOMMENDATIONS

PERJURY

A basic requirement for a sound and fair Judicial system within a democracy is for Judgements to be made based on the truth and existing laws. To support the Judiciary, laws have been made by the Legislators making perjury an offense. To date, since December, 2000, I have witnessed numerous examples of perjury in the Family Court which also conflict with Affidavits in the Queensland Magistrates Court and the Supreme Court of New South Wales, yet no action has been taken by the Family Court or the Attorney-General. Both the Court and Legal Representatives whom appear before the Court appear to accept that perjury is part of the normal Judicial process.

I submit that the continuous allowing of perjury to go unprosecuted is detrimental to the credibility of the Judicial process and an enormous wastage of Government and private funding of Court cases.

Since drafting this section of my submission my Affidavit of 21st. July, 2003, Annexure "B", has been before a Family Court Judge with other examples of perjury given by the Father's Barrister. That Judge appears to accept my herein statement "the Court appear(s) to accept that perjury is part of the normal Judicial process".

I urge the Committee to recommend that a National Act or Uniform Perjury Acts be established with large penalties for perjury.

I also urge a Committee recommendation encouraging all States to join with the Federal Government in a major campaign to prosecute perjury offenders.

COURT POWERS

The separation of powers is an important part of a democracy, but that does not put the Judiciary above the law, nor give it the right to usurp the powers of the Legislators.

In 2000 the Federal Legislators amended the Family Law Act changing the key word "may" to "must" relating to penalties for a person found guilty of contravening a Court Order, but the Court Form 49 reflects the Court's attitude by still using the word "may".

In my letter of 31st.May,2003, to the Attorney-General, Annexure "C", I pointed out how the Judicial process had been changed with or without the approval of Parliament or the Attorney-General, and how that change will damage thousands of Court cases. The Attorney-General did not reply and on 22nd.July,2003, a Family Court Judge compounded the change. Family Law Specialists agree that all Court Orders on Child Custody and welfare may now be unenforcable.

IGNORANCE OF THE LAW

As every State and Federal Legislator would realise, a basic principle in the administration of Justice is "Ignorance of the law is no excuse" when determining guilt, but in most cases it is accepted in determining penalties. That essential and basic principle was abandoned by the Family Court (Brisbane) at least twice, i.e. 29th.May,2003 and 22nd.July,2003.

I submit that unless the Federal Parliament amends the Family Law Act to include the principle of "Ignorance of the law is no excuse" the will of past Legislators and stated spirit of the Act is surrendered to the Judiciary.

At least 2 Judges accepted the Mother's claim that her Barrister and Solicitor had not explained to her the meaning of the Court Orders. Thus, their dereliction of duty has cost the Father an estimated \$15,000 in legal fees and the Federal Government a much higher sum for 3 Hearings. The Court Orders of 20th.March,2002, have been proven worthless and unenforcable in establishing contact for the children and the Father.

I submit the Family Law Act should be amended to clarify the responsibility of the Court and Legal Representatives to explain Court Orders to the participating parents, plus the penalties for Legal Representatives be set down for them not informing their clients. In the [REDACTED] case not even the Judge, on 22nd.July,2003, explained the meaning of the Court Order to the unrepresented Mother, thus she would be able to return to the Court and again claim to be ignorant of their meaning.

CHILD SUPPORT

The Father (██████████) and I have different opinions on child support, undoubtedly because he is a Father and I am not. I briefly outline his experiences which shows the need for the Parliament to use its powers to amend the Family Law Act; Privacy Act and others.

He married a divorcee and emotionally and financially fully supported her son from her previous marriage. ██████████, being dyslexic, his then wife did all the paperwork during their marriage.

After their separation I became his Literacy Aide and discovered that she had exploited his disability in various ways, examples being:-

She had ██████████ pay all the living costs for her son and secreted funds paid to her by the boy's biological Father, thus 2 men paid for the upkeep of one child.

While married to and living with ██████████ and he financially supporting the family, she secretly and fraudulently claimed and was paid a Sole Parent Pension for 3½ years, which she banked in an undisclosed account.

She claimed child support through the Child Support Agency, giving it a fictitious address for ██████████ in Brisbane, an estimated 600 kilometres from where they lived together in New South Wales. Unbeknown to ██████████ the Child Support Agency intercepted his Tax Refunds of \$2,700+.

Many thousands of dollars have disappeared from his joint bank accounts through withdrawals by his then wife.

When the Federal Government paid Family Support Allowances to his family she secreted those payments into undisclosed bank account/s.

When the couple separated, in September, 2000, the Mother made claims that he took all the money and her parents had to financially support her and the children. The facts were that he 'left her' with a debt free fully furnished home; 2 motor vehicles; a boat; a profitable business with takings in the home; and, her undisclosed bank accounts. She took herself and the 2 children for holidays in Fiji, and built a fourth bedroom onto the marital home for her parents. It seems that Federal Ministers and the Child Support Agency think he should continue to provide those assets for another man's child, his dishonest ex-wife, her 'parents' plus his daughter!! He works 9½ hours per day 6 days per week to pay the \$20,000 per year legal fees because his ex-wife does not comply with Court Orders, yet Federal Ministers and the Child Support Agency expect him to pay 18% of his earnings to his ex-wife!!!

If I was in this Father's position my attitude would be:-
The Federal Government has robbed me of all my rights to my daughter so it can have all the financial responsibility for raising her. Many Fathers already have that attitude due to the failings of the Family Court, Child Support Agency, and 'responsible' Ministers.

Hopefully the Committee will make recommendations to help restore relationships between Fathers and their children with an equitable financial support system.


CONCLUSIONS

The [REDACTED] case has shown that the Child Support Agency did, and continues to, aid the crime of fraud and acts upon incomplete and falsely sworn applications to it. The Child Support Agency refused to respond to a Family Court subpoena and requests by the Father for copies of documents relating to him and purportedly sent to him - the Agency claiming the Privacy Act prevents the disclosures, even to the Court!

If the intent of past Legislators was to aid a crime and prevent Courts and the victim of the crime having access to the evidence, then I urge the Committee to recommend to the Parliament it reverse that intent by amending appropriate Statutes.

The expressed will of the Legislators has not been adopted by the Judiciary, namely the Family Court (Brisbane), and not enforced by the 'responsible' Ministers in the Administration. I urge the Committee to recommend appropriate legislation to ensure that Justice is administered according to the law.

The contents of this submission can be supported with ample documentation if required by the Committee.


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29th. July, 2003