

Submission No. 410

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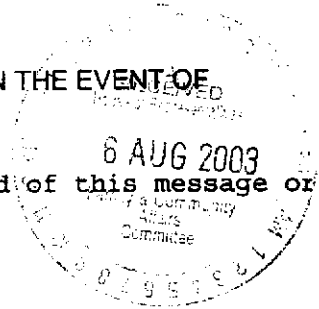
Sent: Monday, 4 August 2003 7:47 PM

To: Committee, FCA (REPS)

Subject: Submission to: INQUIRY INTO CHILD CUSTODY ARRANGEMENTS IN THE EVENT OF FAMILY SEPARATION

Secretary:

"This email is to be read subject to the disclaimer at the end of this message or



Dear Committee,

I recently separated from my wife. We have two children aged 6 and 10. I would like to make the following comments for your consideration:

(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; and

Under normal circumstances (absent of violence, abuse, etc.) it is in the best interest of children to spend as much time with each parent as possible. Mother and father are equally important to both, boys and girls, for a balanced upbringing and adaptation to their life ahead. Therefore, there should always be a presumption that children will spend equal time with each parent. Any other arrangement should be considered the exception.

I believe that in non-separated families where both parents are working evenly (eg. full-time or part-time) the time spent with the kids is often split about evenly due to circumstances. However, I noticed that in non-separated families where both parents are NOT working evenly (eg. one parent is working full-time while the other parent is looking after the home duties full-time) the time spent with the kids is often ALSO spent evenly. The reason for this is that a lot of the time of the non-working parent is actually spent on home duties (cleaning, shopping, cooking, organising social events, etc) rather than with the kids. This is particularly true once the kids have reached day-care or school age. The 'extra' time the non-working parent is spending with the kids such as after school (3:00pm) until the working partner comes home (5:00pm to 7:00pm) is often compensated for by the working partner spending extra time with the kids in the evenings and on weekends to give the non-working partner a 'break' and to enjoy the precious time with the kids. So if you add up the overall hours spent by each parent with the kids in any one week you will often find a very healthy balance. Nowadays men, who in many cases still represent the working parent, have developed a very healthy attitude towards their family and children, and enjoy and embrace this responsibility.

The only way to continue this relationship between the children and each parent is to assume that the children will continue to spend equal time with each parent.

In the event of a separation the overall workload between the separated parents is increasing. Often separation involves looking after a another place of residence (two instead of one) and doing the shopping, cooking, cleaning, organising social events, etc is all more work when done separately then it was before separation. This means the workload on each separate parent will increase to some degree. The more parents shared those duties before they separated the easier it will be for each parent to adopt to those changes, the more the parents segregated duties during their relationship the harder it might be for each parent to get used to the new duties.

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For the working parent, this might mean learning to look after the home and doing the shopping, cooking and socialising; for the non-working parent this might mean to go back to work and earn a living.

Most importantly, for the children it should mean they can continue to spend equal time with each of their parents, after school, in the evenings, on weekends and during school holidays. Of course there will be circumstances where the parents agree on different (non-equal) arrangements to either continue the level of child care as it was before separation or to adjust to the changed circumstances, but those exceptions should not be presumed

And, unfortunately, there will be a few exceptional circumstances where the court will have to decide to implement non-equal arrangements for the safety and health of the children.

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

In non-separated families the parents usually decide how much time the children spend with their grandparents and other persons. There is no reason why this can not continue after separation. If the time of children is equally split between the parents, each parent can still decide if they use 'their allocated' time to allow the children to have contact with their grandparents and other persons. In non-separated families the grandparents have no RIGHT over the time of the children, they have to rely on the parents decision to allocate time to see their grandchildren and the children have no RIGHT to see their grandparents, again they have to rely on the parents' decision to see their grandparents. There is no reason why this should change after the separation of the parents. Each parent has the opportunity to use their 'allocated time' with the children to ensure that the contact between grandparents and other people is maintained as they did before separation.

(b) whether the existing child support formula works fairly for both parents in relation to their care of, and contact with, their children.

The answer must be a clear NO. The current child support formula encourages a trade-off between time spent with the children and the level of payment received. This is a very unsatisfying situation since the non-working parent is encouraged to maximise time with the children for the sole purpose of maximising payments and minimising the need to go back to work and earn a living. Maximising the time with the children for only one parent is surely not in the interest of children who need time with both their parents to develop and grow. If the non-working parent has been out of the workforce for a while it might be a daunting and challenging undertaking to find their way back into the workforce, but this difficulty (or the fright thereof) should not be used to effectively keep the children away from the other parent.

If the commission agrees with the principle that children need to spend equal time with each parent the child support formula needs to be changed to make this principle a reality.

Regards

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