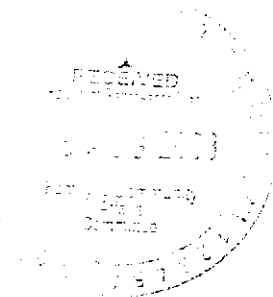


House of Representatives Standing Committee on Family and Community Affairs	
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Secretary:	

4th August 2003

Child Custody Arrangements Inquiry
Department of House of Representatives
Parliament House
Canberra ACT 2600



Re: Child Custody Arrangements Inquiry

Dear Committee

We refer to the Standing Committee on Family and Community Affairs inquiry into child custody arrangements in the event of family separation, and wish to make the following submission for its consideration. We are in a situation where [REDACTED] currently shares 50/50 custody of his four children (aged 7.5yrs to 14yrs) with their mother [REDACTED]. This arrangement has been in place since August 1999. In September 2002 six months after being made redundant [REDACTED] applied for Child Support through the Child Support Agency.

Committee Recommendations for Action

(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**

Our society still has a bias against the father of children. It is important for children to have contact with both parents especially as they get older. It should be an automatic presumption that children will spend equal time with each parent. Cases where this wouldn't apply would be in circumstances where there is a history of violence, abuse etc from either parent.

Difficulties could be encountered if either parent wanted to move out of the area. How would the system deal with 50/50 custody?

A major problem currently exists with child support for parents that share equal custody of children. This issue will be dealt with later in this submission.

The four children feel that it is really important to see both their parents equally and benefit greatly from this. What the law fails to recognise is the legal responsibility of stepparents. In our case the children have a stepmother whom they are very attached to. The reality is that there are many stepparents in Australia who like in our case support the children, both emotionally and financially, and yet have no real rights to making decisions about the children.

We had Consent Orders drawn up to formalise the 50/50 custody of the children and the mother of the children refused to sign the paperwork as she does not want to be restricted to a formal arrangement. For Byron to formalise the process he would need to take the matter to court, requiring money to be spent on legal assistance, money that we do not have, and then hope that the Magistrate agrees to the 50/50 arrangement.

The result is that we live with the worry that the mother of the four children may decide that she wants to have the children full time, something that she has threatened several times, and there wouldn't be anything that we could do about it without spending a lot of money fighting it in court. Money that we don't have.

Why not set up a system where there is a minimal cost involved for parents in making an application for automatic 50/50 custody of children. Where 50/50 custody is disputed then a more affordable system could be put into place.

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

Grandparents appear to be the forgotten group in society where custody is concerned. If a grandparent has had ongoing contact with children then they should have the opportunity to continue contact after the occurrence of a separation.

As indicated before, we also feel the another forgotten group are stepparents. Many stepparents form strong bonds with children during relationships. Currently stepparents have no legal rights to access or custody where their stepchildren are concerned.

If we were to separate or if Byron was to become deceased there would be no legal right for access to the stepchildren for Charmaine. We believe that the contact with other persons should include STEPPARENTS and the rights of stepparents should be reviewed and formalised where their stepchildren are concerned.

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

Child Support Formula

The current Child Support Legislation formula used to assess child support is outdated. Non custodial parents are given 110% of the unemployment benefit to live on. (Health Care and travel benefits are not permissible.) Then the remainder of the TAXABLE INCOME is assessed according to the deemed percentage. The amount to be paid works out to be approximately 50% of the remaining NET INCOME.

Many non custodial parents, mainly men, are left with a minimal income after Child Support is deducted from their income. The result is that these men are left to live in poverty, with parents or have their new spouses/partners contributing inequitable amounts to the household.

There are many reports of men committing suicide due to the financial drain in paying child support to women who are not maximising their income. Why hasn't Parliament addressed this?

If the payer has a fulltime job and voluntarily cease their employment they are still assessed according their capacity to earn and income.

The Legislation does not require the payee to maximise their income. If initially unemployed, made redundant or sacked there is no onus placed on the payee to maximise their income according to their skills and previous employment.

Child Support is the responsibility of both parents. If the children are of school age then both parents should be required to work to maximise their income and the burden not left to only one parent.

Shared Care and Child Support

The current formula claims to address shared care fairly. However, in our situation the four children attracts a 27% Child Support Assessment with 220% of the Unemployment Benefit as the allowable amount to live on. Therefore, our monthly Child Support when the mother hasn't any casual work amounts to just under \$600 per month. The mother of the children, [REDACTED] was made redundant 17 months ago and made the decision not to pursue full time work. The Legislation supports her choice to do this and penalises [REDACTED] because he continues to work full time. How is this fair?? THE LEGISLATION NEEDS TO BE CHANGED.

Also, unlike in substantial care where the minimum Child Support payable is \$260 per annum in shared care the minimum payable is \$0 when the payee earns under \$21,000. However, in substantial care if the even if the payer is on unemployment benefits they are still required to pay a minimum of \$260 per annum.

In our case a Change of Assessment was submitted to have [REDACTED] income reassessed. The process is not a judicial one and the onus of proof is on the applicant. The Legislation allows the other party's claims to remain unsubstantiated by them and allows untruths to be considered as fact. In this Change of Assessment no proof was required by the other party to prove that full time work was being sort. Nor was any proof required to prove that she did not receive any board from her current partner. Consequently the Child Support percentage remains unchanged.

In a shared care situation where both parties are capable of work then no Child Support should be paid and each parent should be responsible for supporting the children in their respective households.

Centrelink Benefits

There is an inequity in the situation between Child Support and Family Tax Benefits. The Child Support income is assessed according to the birth parents income only. However, with Centrelink all household income is used to assess the level of Family Tax Benefit.

If one parent is remarried and both are middle income earners then no Family Tax Benefit is received. The other parent may be living alone and on Centrelink Benefits and receiving the maximum Family Tax Benefit. Result is that the parent receiving Child Support can be earning more net income than the paying parent as Centrelink Benefits are not included as income.

The assumption that the new partner is supporting the children within the household is not correct or fair. Centrelink Benefits for parents paying Child Support should only be assessed according to the parent's income to make it more equitable.

Child Support Legislation and Shared Care

The Child Support Legislation allows for Prescribed Payments for essential dental, essential medical and school fees.

With regards to a shared care situation when these payments have been claimed a Case Officer from the Child Support Agency stated that these cannot be claimed as part of the Child Support for shared care as these have been deemed as costs that are the separate responsibility of each parent EVEN THOUGH THIS IS NOT STATED IN THE LEGISLATION.

In our situation most of the school excursions and school costs fall on the day that the children are in our care. Result is that over and above the Child Support already paid to the other household it costs more for school activities when the children are in our care than it does for the other parent. Advice given by Child Support personnel was that the children do not have to participate in any of the activities and therefore should not. HOW IS THIS FAIR FOR THE CHILDREN?

Jennifer has informed us that the Child Support Agency has advised her not to pay any costs for the children as Byron had claimed Prescribed Costs for essential dental, essential medical and school fees. Result is that we do not have the money to pay for dental treatment or expensive medical treatment so who does? IS THIS FAIR TO THE CHILDREN?

Child Support Agency

The Child Support Agency needs overhauling. The officers in general need much more training in Customer Service. It is not unusual to be the recipient of rudeness from an officer when a difficult question is asked.

Case Officers are not consistent in their interpretation of the Legislation.

Each section is trained in only a certain portion of the procedure and Legislation. THERE IS NO ACCESS TO THE LEGAL DEPARTMENT OR TO A QUALITY ADVISER.

The only access to the Legislation and the Guide is via the internet which for a computer illiterate parent puts them at a great disadvantage and to those parents with access it attracts a cost.

Objections are time consuming and take an inordinate amount of time to have processed. Should an objection be declined the only option is to go to Court.

Conclusion

Automatic shared care is an excellent idea however, as the Legislation stands at the moment it is biased against any parent that is working at the time of a Child Support Case being registered.

The Child Support Legislation needs to be changed. Officers in the Complaints Section and Change of Assessment Section of the Child Support Agency should be interviewed for their views on the Legislation.

Meanwhile, the children in our care continue to experience a decrease in their lifestyle due to the large amount of Child Support Byron has to pay to the other parent.

IN SHARED CARE EACH PARENT SHOULD BE SEPARATELY RESPONSIBLE FOR SUPPORTING THE CHILDREN and the fulltime working parent should not be penalised.

Please assist us and change the Legislation to make it fairer for all.

We are more than happy to be contacted and interviewed with regard to this submission and can be contacted on the phone numbers above.

Yours faithfully
