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 Sent: Friday, 15 August 2003 2:44 PM
 To: Committee, FCA (REPS)
 Subject: rebuttable shared parenting

INQUIRY INTO CHILD CUSTODY ARRANGEMENTS

SUBMISSION TO THE INQUIRY INTO CHILD CUSTODY ARRANGEMENTS IN THE EVENT OF FAMILY SEPARATION

ATTN: Committee Secretary
 Standing Committee on Family and Community Affairs
 Department of the House of Representatives
 Parliament House
 CANBERRA ACT 2600

House of Representatives Standing Committee
 on Family and Community Affairs

Submission No: **838**

Date Received: **15-8-03**

Secretary:

8 August 2003

RE: INQUIRY INTO CHILD CUSTODY ARRANGEMENTS IN THE EVENT OF FAMILY SEPARATION.

Dear Sir/Madam

This is a personal submission on behalf of my husband and I. We are members of Lone Fathers Association and Shared Parenting Association. We joined these associations to obtain some help and solace. This is our second marriage and we feel that we have a very valid interest in the current inquiry as we have both experienced the difficulties of parenting after divorce. I have two boys aged thirteen and ten from a previous marriage and my husband has one aged five.

It is of great concern to us and many in our community to see the devastating results of divorce on our children. Divorce is a personal and difficult choice of action but as adults we make decisions that we foresee are in our best interests. As for what is best for our children unless you are fortunate enough to be part of an amicable divorce and negotiate your own shared parenting arrangements, the children usually are swept up in a bitter tug of war between parents. As is the case currently the children stay with the mother and the father becomes a visitor. Under the current law the child/children instantly become part of a win/lose scenario. Never is it in the best interest of a child to be erased from another parent's life and that parent to be given rights less that would befit a stranger.

Our argument is that a rebuttable presumption of joint custody is as close to a "win-win" scenario as is possible in divorce. Australian law claims that both parents have equal legal rights in decisions affecting the welfare of their children, but unfortunately this is far from reality. One of the primary barriers to shared parenting is the actions of the custodial parent to maintain control over the children to allow greater freedom for their own future opportunities. Therefore when children would benefit from the presence of both parents in active roles, legal processes – including spurious allegations of abuse and neglect – are used to ensure shared parenting does not occur.

16/08/2003

In my own case after my divorce, I always encouraged my two young sons to remain in contact with their father. I have never regretted my actions. My ex-husband and I were never in agreement about how to rear our two sons. Although we were never able to have an amicable divorce, our sons have grown through the difficulties and know both their parents as is their birth right. I believe my two sons are well adjusted healthy boys. They thankfully know their father and have had wonderful guidance from their step-father. My two boys are thankful that they were able to have a relationship with their father and not be blocked from doing this in the way that they have witnessed their step-brother has been. The boys are not interested in who was right and who was wrong in my relationship with their father. They are only interested in having what is rightfully theirs and that is to know both parents.

My husband was not so fortunate. He has not seen his son for eight months now. His ex-wife relocated five hours away with their son. My husband has spent over twenty thousand dollars going back and forward to the solicitors to keep trying to work out access to see his son. He slips in to depression often and takes one day at a time. He worries constantly that his son will forget him and think that he has abandoned him. His solicitor who was supportive through out has said he needs to send his son letters and that one day when he is older his son will come looking for him. His solicitor said that there was no end in sight for my husband as his ex-wife would continue to cause difficulties and we could no longer afford the legal bills.

My husband is a good man and a good father. I owe him a debt of gratitude for his tireless efforts that he devotes to his step-sons. It is with great sadness in our hearts that he is unable to parent his own son.

It only seems common sense that child custody arrangements should ensure that a child is able to spend equal time with both parents. While there are many issues that impede this process in the blame game, our courts should be equipped to assist and move parents through their own personal grievances and wholly focus on the child's welfare. It is my belief that sole custody is a breeding ground for Parental Alienation as has been our experience.

If the only way that shared parenting will work is between parents that have an amicable relationship, then this crisis will never be averted. We currently operate within an adversarial system that has winners and losers. We must go back to even ground and look very closely at the tactics that some parents are using to sully the relationship of the non-custodial parent. The use of false allegations is rife within our system. Frivolous and vexatious allegations must be closely examined. To currently do this though one parent has to spend an enormous amount of money. The only thing left to do for many is walk away from their children emotionally and financially broken.

We are currently creating a new era of stolen generations. We have already witnessed the unbelievable damage that is caused when families are ripped apart within our indigenous population. Surely we should already have learnt from this grave error of judgment. Children need both parents, grandparents and extended family to form a holistic sense of self.

CHILD SUPPORT AGENCY

Clearly in our view the Child Support Agency needs a full review of its practices. It is acting in many ways in a manner that supports a win/lose scenario. It is unfortunate that the residential parent should be motivated by the current system to resist efforts toward greater use of shared parenting as this would reduce their Child Support payment. It is also the path to emotional and financial ruin to remain in litigation with the custodial parent and remain up to date with CSA payments, coupled with rebuilding a new life and home and support a second family. My husband and I could no longer afford a solicitor and to pay his child support, which left him with no other choice but to let go of his son.

To conclude we appeal to the committee to make positive steps towards reforming our current

system. Our current system lags greatly behind the changes in society and the way that fatherhood is now commonly shared equally between both parents. Our society is rapidly changing conservative views need to be changed accordingly. Society is ready to support this reform and is waiting somewhat impatiently for family law to catch up with modern consensus.

Yours faithfully

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