

Submission No: 996

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Submission to: Inquiry into child custody arrangements in the event of family separation

Secretary

Summary

- The Family Court (and Federal Magistrates Court in Family Court jurisdiction) strongly discriminate against fathers.
- Male parents are treated as inferior, including their wishes to be involved in their children.
- Mothers interests or desires are considered to be dominant, irrespective of their consistency with the best interests of children.
- Children's wishes, or the best interests of the children, are not given serious consideration, where they are inconsistent with the wishes of the mother.
- A presumption of shared custody would greatly benefit children through enabling both parents to contribute to the welfare and development of their children.
- In cases where shared care is not available to parents, another system may be negotiated, which facilitates both parents contributing to children. Alternative care arrangements would be negotiated with both parents considered equally.
- A presumption of shared care would promote "the best interests of the child".
- A presumption of shared care would encourage all parents to contribute to their children's future and welfare.

Personal experience

I am the father of three children. In 2000 I separated from my wife. I have maintained my interest in all my children, and wish to continue to be involved in their development, not merely by the silent contribution of paying child support.

Initially I considered shared, or week about, care of all three children. I believe this would have allowed both parents to be actively involved in the lives of all three children. My solicitor advised me that no Court would agree to this, unless the mother wished for that course. As this was opposed, I did not pursue it further.

Ultimately, I pursued an order in accordance with my children's stated wishes. One wished to live with me, the other two were ambivalent, but for stability, it appeared to be in their best interest to continue to live with their mother.

I made application for this residence arrangement through the Federal Magistrates Service. This was opposed by their mother. As I attempted to negotiate a role in my childrens' future, I was constantly rebuked with, "The Court is always going to give me the children".

Despite this constant rebuff, I took my case to a Court hearing in November, 2001. After one day's hearing, the Magistrate stated, "**despite the child's stated wishes, a child's best place is with their mother.**" The Magistrate went on to firmly state the Courts position, and it was apparent that my desire to have input into my childrens

future was futile, because I was only the father. An order was made that all children live with their mother. At that time my son was two weeks short of his 14th birthday.

Within six months the ordered position became unworkable, and my son came to live with me, as he had originally wished. His mother has since ceased all contact with him. He is coping well in all aspects, but this process has been far more difficult than it should have been. It would have been easier if we had been able to negotiate this position. Six months distress to all parties would have been saved, if the Court had considered each parent as an equal, or placed the wishes (or best interests) of the children above the desire of the mother.

I believe that an equal shared custody arrangement would have enabled both parents to have significant input into the future of all children. A child will always be better off where two parents look out for their interests.

Alternatively, a presumption that children will spend equal time with each parent, would have enabled us to negotiate on an even playing field. An outcome consistent with the wishes of all children could have been negotiated without the need to attend Court. This would also have avoided the children being interviewed by several counsellors, and the attendant, adversarial Court proceedings.

The best interests of children is to have two parents interested in, and contributing to, their futures.

The current system has winners (mothers) and losers (children and fathers). A presumption in favour of shared care recognises the positive influence that every parent can have in the lives of their children. In place of winners and losers, this would have contributors (parents) and beneficiaries (children).

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