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House of Representatives Standing Committee on Family and Community Affairs	
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The Honourable Mr John Howard  
House of Representatives  
Parliament House  
Canberra ACT 2600

Dear Prime Minister,

We applaud your proposal to reform the current Family Law system. In most instances, the proposed starting point of joint custody is definitely in the child's best interest. Equal access reduces the concept of ownership and reinforces the responsibilities both parents have to nurture their children. This proposal may actually lessen family feuds by automatically having equality rather than having a non-custodial parent having to seek an order through the Family Courts.

Access procedures can be a bitter, long drawn out, and financially draining process. Many non-custodial parents just want to be actively involved in their child's life, instead of being stuck on a treadmill while their ex-partner presents fanciful reasons why they should not see their offspring. Much of this process is caused by bitterness instead of what is in the child's best interest. By removing the adult's personal emotions from the system, the proposed process may provide the foundations for them to, instead, consider their child's best interest. It is time this current process was laid to rest and a new era of improved shared parenting implemented.

Children also have an expectation and right to share their childhood with both parents' extended families. This should not be a relationship exclusively available to the non-custodial parent's extended family. By denying children this basic right, it is the child who is prevented from knowing and experiencing their heritage.

There will of course be instances when joint access may not be in a child's best interest. Some parent's may not be in a position to appropriately nurture their children. There will remain a need for individual orders to be made by a magistrate to fulfil the needs of some children to bring about the best possible outcomes. Access Orders could then be reviewed and modified as required.

Non-custodial parents are generally in the work force and therefore may not qualify for Legal Aid. The custodial parent is able to proceed through our current court system refusing to agree to reasonable access proposals, for as long as they can. Having to attend the many required solicitor meetings, court hearings, family support assessment meetings and so on, means the non-custodial parent have to take considerable time off work, resulting in reduced pay. Solicitor's bills can put people into debt. Its either pay up or give up fighting for your kids. All this can cause considerable stress to the non-custodial parent who has everything to loose and at times may result in depression and loss of employment. For some parents the lack of knowledge and skills may prevent them from even trying to have access with their child. Meantime the custodial parent has the child including all the decision-making and Legal Aid to cover their costs.

This reform will also benefit the family as a whole, extended families and the community in general. By having a starting point of joint access as the norm, it will diminish many fathers (mothers) having to fight for the right to have access with their children. How many parents have very limited time with their children through no fault of their own? Too many! When a family breaks up, how many parents use their children to get back at their partner. Not only do they deny their children access to the other parent, they also use the court system unnecessarily, often with taxpayer funds, to fight to deny or limit access to the minimum. Attempts to obtain restraining orders, reporting the ex partner to the Department of Human Services, are other ploys used to prevent access to children. Some will continue to try anything in order to get revenge on the non-custodial parent.

When the Family Law Court was established it was not meant to be a tool allowing vengeance to take place with legal aid. When revenge is clearly the reason a person is being prevented child access by the custodial parent, and being accused of other inappropriate behaviours in order to get the backing of the Family Law Court, then their right to Legal Aid

should be withdrawn. Currently lawyers know what is happening and continue to represent the person at taxpayers' expense. The instigator of mischief is not accountable to anyone but is almost encouraged to continue his or her pursuit of revenge. This misuse of the justice system is more common than we think. It is not the preferred use of community resources.

The children of Australia deserve the best possible outcome if their parents should decide to separate. Children need both parents, and knowing that both parents share the responsibility equally will enhance the nurturing of all young people. If we are to get the balance right then parents have to realise, that personal hate should be put aside, when it comes to rearing their family. There is no perfect answer to the issue of a family break-up, but there certainly is better way than the current system. Bring on automatic shared parenting as the preferred starting point.

Yours faithfully

David Dare

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