

Mrs Kay Hull MP  
28 Bayliss Street  
WAGGA WAGGA NSW 2650

14 July 2003

Dear Mrs Hull,

The Prime Minister has recently made some comments about the important issue of where a child should live after the child's parents have stopped living together. He talked about introducing a presumption of shared residence (which used to be called custody). Sadly, the Prime Minister's focus on the rights of parents (or, indeed, their capabilities) forgets that the most important thing about the issue of child residence is the impact of this proposal on children. That is, the Prime Minister's proposal is not based on any research suggesting it is in children's best interests to go down this path. On the contrary, three of the leading researchers in this area (Professor Patrick Parkinson, Associate Professor Lawrie Moloney and Research Fellow Bruce Smyth), all having expressed strong sympathies for fathers, have concerns about this proposal.

The proponents of this proposal have rose-coloured glasses on. They seem to assume that there is no domestic violence, substance abuse, violence towards children nor high degree of conflict between the separating parents. Introducing a presumption of shared residence into the equation here is likely only to lead to greater litigation in the Family Court. Studies show that the most important things for children after separation are stability and security, and these are not achieved by exposing children to a continuation of the conflict and/or violence that existed prior to separation.

Shared residence requires a high degree of co-operation between parents, flexibility in work arrangements and often sufficient money to set up two households. There are many parents who work out their own post-separation arrangements taking into account what is best for them and their children. These are the parents who the Family Court never see, and who do not need a presumption of shared residence to focus on what is in the best interests of their children. Most mothers are grateful to share parenting duties and responsibilities with involved and committed fathers, and this sharing is not necessarily achieved by dividing the child exactly down the middle in terms of time living in each household.

House of Representatives Standing Committee  
on Family and Community Affairs

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At present the Family Law Act focuses on the child's rights, and specifically the child's right to have contact and a meaningful relationship with both parents, except where this is contrary to the child's best interests. The Family Court has always had the power to order shared residence, and does so. The current proposals do not have their origins in a group of fathers concerned to improve the lot of children, and are shifting the focus to one of parental rights, regardless of whether this promotes the child's best interests.

The Prime Minister has remarked on how important it is for boys to have strong male-role models. Of course this is important. In many cases, fathers provide loving, stable and decent role-models for their sons and their daughters and help their children to become flourishing members of our society. However, violence and abuse can also be role-modelled. The fact that a father no longer lives with his family does not mean that he hasn't left his mark in terms of behavioural problems later experienced by the children.

Lastly, it is a matter of concern that the terms of reference to the Standing Committee also include a review of the child support formula. The effect of this is that contact with children could be linked to the amount a non-residential parent pays in child support. In the past, the system has been careful to separate a non-residential parent's obligation to financially support a child from the time they spend with that child. There is a real danger in linking the two. And what is the benefit? We are concerned that complaints from vocal fathers' groups about child support payments may well be the impetus for the shared parenting proposals.

We should be very careful about these suggested reforms of the system. These reforms may not be a genuine attempt to deal with the best interests of children after separation, but a cynical and selfish move away from genuinely caring for children in our society, to fathers' rights.

  
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