

Committee Secretary

Standing Committee on Family and Community Affairs

House of Representatives

Parliament House

CANBERRA ACT 2600

AUSTRALIA

Re: Parliamentary Enquiry into Joint Residence Arrangements in the Event of Family Separation.

Dear Sir / Madam,

Please find attached my submission to the above enquiry.

I have kept it short and straight to the point and have addressed the terms of reference adequately in my own opinion. The submission is divided into two parts, addressing sections i) and ii) of the terms of reference only. I have chosen not to make a submission in regard to the Child Support issues due to time constraints.

For the record my name is Greg Bennett. I am a divorced father of a four year old boy who was told by four separate solicitors soon after the breakdown of my marriage to not bother contesting custody because the Family Court would not award it to me. I am a very responsible person with no criminal record of any kind, I have never been violent or an AVO against me, I'm employed and don't take drugs. My son needs considerably more access to his father before it's too late. This enquiry is his only chance at a near normal upbringing.

on Family and Community Affairs	
Submission No: ...	552
Date Received: ...	7-8-03
Secretary:	



Introduction:

The implementation of 50/50 Shared Parenting would see among others, one major advantage over the Custodial / Non-Custodial Parenting system now in place. This is a drastic reduction in the rate of divorce and separation , which can only benefit Australian kids of separated or divorced parents.

The current system creates an effective windfall for a mother should she decide to divorce her children's father or separate from him (defacto.) She knows only too well that she will almost certainly get the kids, the house, a sizeable lump of her husband's superannuation, a healthy Child Support payment every month (which she can spend any way she chooses and doesn't have to justify it), possibly even spousal maintenance, and most importantly, ultimate control over almost everything to do with the kids.

Why not divorce then? There's really no real advantage in staying together and trying to work things out, she knows she will be a big winner in the Family Court. This, I am led to believe, is a major contributing factor to the alarming (more than 2 in 5) number of divorces occurring each year in Australia.

This costs the government money in the way of pensions and allowances which could better be spent on education for example.

Divorce needs to be made an un-attractive proposition, to encourage women to be less inclined to instigate proceedings (around 80 to 90% of divorces are instigated by the wife), and more inclined to stop and look more closely at trying to work things out with her husband or partner, for the child/ren's sake.

A number of states in America have seen their divorce rates drop dramatically with the introduction of shared parenting alone!

One can understand the opposition to any change to the current custody and Child Support arrangements from some women's groups. Despite their protestations to the contrary they know only too well they are on a remarkably "good wicket". I wouldn't want to lose what I had, if I were them, either.

Prior to 1975 the advantage after divorce lay with the father, with no Family Law Act he could walk away from a marriage, fatherhood, and all responsibility. It was a situation which definitely needed change but unfortunately since then the pendulum has swung way too far the other way and the rate of male suicide over Family Law related matters supports this notion.

It's time to grab the pendulum and make it hang down centrally, Australia's kids are in dire need of a fair and just Family Law system, not a one sided affair as it is at present. Their future depends on it.

Please Note: I have avoided the use of the terms "Custodial Parent" and "Non-Custodial Parent" and used "mother" and "father" in their place because in the vast majority of situations this is the case, rarely does the father win custody of his children where the mother contests it.

The current accepted and enforced arrangement of fortnightly access with the father (or Non-Custodial parent) is damaging our kids.

It would be fairly safe to say that everyone would agree that the ideal situation in which to raise children is in a stable, cohesive family situation where children see both parents every day.

With this in mind, after separation or divorce, taking a child from seeing his/her father daily (prior to breakup) to visiting him once a fortnight is completely un-acceptable and deeply disturbing to the youngster, it goes against what he/she has become used to and indeed needs.

Yet, as a separated/divorced father, try and negotiate more access than this accepted amount of time and you'll need to argue intensely that it is to the child's benefit!



He/she went from seeing his/her Dad every day to just once every 13 or 14 days.

Any rationally thinking adult should realise that the level of contact we need to strive for has to be as near to ideal daily contact as is possible, though in practical terms this is of course impossible to achieve perfectly where parents have split.

Further to this, the current arrangement does not reflect modern society where an ever increasing number of mothers are employed and make use of Child Care facilities and friends or relatives to take care of their children while they are at work.

Surely then, Family Law should at least endeavour to pursue this goal as best it possibly can. It most certainly does not at present.

Why not alternate weeks, in other words 50/50 shared parenting? It's as close as you can get to the ideal family situation.

50/50 Shared Parenting should be the starting point for negotiations, not subject to the mother agreeing to it. The child has two parents, and his/her father is just as much a parent as his/her mother, and he/she needs regular contact with both to develop properly, so why then does everything hinge on the mother's consent?

Australian kids need regular contact with both their mother and father, whether living in a cohesive family unit or a separated family. Hopefully the Enquiry will realise this situation and act to halt the absurd and damaging situation which currently exists.



Thank you for taking the time to read my introduction.

Please find attached the details of my actual submission in response to the terms of reference and I look forward to finally seeing a fairer system put into place which actually benefits the child rather than affecting him/her adversely which I believe is currently the case.

Your's Faithfully,

Greg Bennett

7 Sophia St. Shellharbour. NSW 2529

4th August 2003

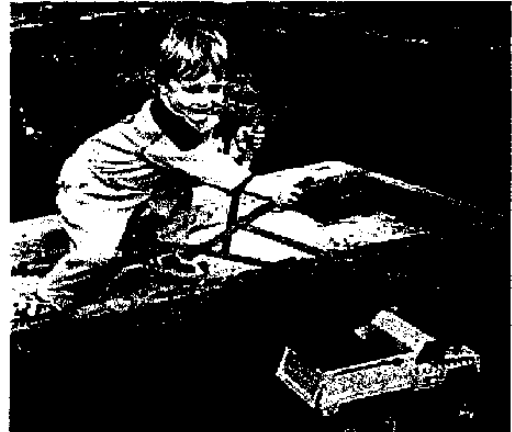
Phone: (02) 4297 0708

email: tz350@tz350.net

Parliamentary Enquiry into child custody arrangements in the event of family separation.

Given that the best interests of the child are the paramount consideration:

- i) **Factors to be taken into account in deciding respective time with each parent:**



1. Whether the parent's child care capabilities are limited or affected by:

- a) Drug or alcohol dependence.
- b) History of child abuse of any kind (perpetrator).
- c) History of domestic violence.
- d) Mental disorder which could possibly place the child/ren's welfare in jeopardy.
- e) Undesirable living conditions
- f) Lifestyle doesn't compliment ideal parenting.
- g) Inability to transport the child/ren as required
- h) Lack of ability or willingness (reluctance) to guide and educate the child/ren in basic skills.
- i) Unwillingness to embrace 50/50 shared parenting.
- j) Capacity of the parent to provide for the needs of the child/ren.

In addition to the above factors to be considered there is one which **should not** affect the decision of respective time with each parent:

- k) Work situation, unless it is an issue for the parent in question.

2. The child/ren's opinion on where they would prefer to reside and for what reasons.

(Explanations of all of the above appear on the following pages of this part.)

Factors to be taken into account in deciding respective time with each parentexplanation:

11 a): Supervised access may be acceptable in this situation, if the addict / alcoholic is undergoing treatment to combat his / her addiction, but definitely not any kind of shared parenting arrangement.

1 b): Perhaps if the abuser is undergoing or is reformed through therapy he / she could be allowed supervised access. This needs to encompass any particular parent's new spouse/partner as well, if he/she has a history of abuse then this needs to be addressed in the same way.

1 c): Perhaps supervised access in this situation to begin with if parent concerned is undergoing or is reformed through anger management therapy. Once again, either parent's new partner/spouse needs to be considered in this regard as well.

1 d): Depression of any kind is the main concern here. Supervised access only.

1 e): . Eg. Regularly moves house, is homeless, or lives in a shared housing arrangement with non-relatives other than partners and their children, or he /she lives in squalor.

1 f): Parent in question spends a lot of time out drinking with friends for example.

1 g): Inability to arrange transport the child as required for normal day to day activities, in all weather conditions, especially if the parent in question has moved further than say 40km or so from the child / children's family home prior to separation.

Parents should be restricted to living within 40km or so of the child's home prior to breakup, to limit the risk of trauma through alienation from family and friends through distance. The primary objective here needs to be keeping the children in as familiar an environment as is possible.



If one parent chooses to move a great distance away then the parent remaining in the original area should automatically become the children's full time custodial parent, with the other being of course permitted extended access during school holidays for example, transport costs to be at their own expense.

1 h): A child should be taught to count and recognize letters and pictures and learn other basic skills etc. prior to attending school. Some parents do nothing in this regard and this should be considered if one parent can demonstrate that he or she is educating the child while the other is not.

1 i): Some parents will no doubt be happy enough to have limited contact as per the current arrangement and not want their kids to interfere with their life. Shared parenting should not be forced onto these people due to the risk of their reluctant acceptance of shared parenting leading to a strained relationship with the kids.

1 j): Physical and mental capacity, as well as financial position need to be considered here. Obviously risk of discrimination is important here, this is where supervised or assisted access becomes a viable alternative.



**The factor which should not affect the decision of respective time with each parent
explanation:**

1 k): Tens of thousands of custodial parents (mainly mothers) in modern 21st century society juggle work with parenting utilizing education based child care, or even time with responsible relatives and / or trusted friends.

There is no rational argument that I can see why a modern father, in pursuit of shared parenting, should not be able to do the same.

This aspect of course can relate back to item 1 i) above. There will be parents who would rather work and earn as much money as possible to secure a better financial future for their children.

1 k) continued: In this situation only the parent in question's input should be considered. This is a choice only they can make about the way in which they want to prepare and secure their children's future. The other parent should have no input here.

2. This needs to be determined in a closed counselling session with a child psychologist. Neither parent should be present. The psychologist then presents his/her findings in the court.

(End of Part 1.)



Parliamentary Enquiry into child custody arrangements in the event of family separation.

Given that the best interests of the child are the paramount consideration:

ii) Circumstances in which a court should order that children of separated parents have contact with other persons, including grandparents:



- a) Where the other person / persons make an application to the court either in person at the hearing or in writing.

- b) Where the person / persons concerned **have no**:
 - i) History of child abuse of any kind.
 - ii) Drug or alcohol dependence.
 - iii) History of domestic violence.
 - iv) Undesirable living conditions, unsuitable for caring temporarily for a child.
 - v) Mental disorder which could possibly place the child's wellbeing in jeopardy.
 - vi) Inability for either the other person / persons or either parent to arrange transport as required to enable contact with the other person / persons.
 - vii) Difficulty or inability to financially to care for the child / children during contact visitation.
 - viii) Physical incapacity which would render them unable to care for children of the ages in question.

Circumstances in which a court should order that children of separated parents have contact with other persons, including grandparents explanation:

- a) Obviously the other person / persons must desire the contact.
- b)
 - i) No access.
 - ii) Perhaps supervised access may be acceptable in this situation
 - iii) Perhaps supervised access may be acceptable in this situation
 - iv) Eg. Regularly moves house, is homeless, or lives in a shared housing arrangement with non-relatives other than partners and their children, or he /she lives in squalor.
 - v) Depression type illnesses are the concern here.
 - vi) Self explanatory.
 - vii) Self explanatory.
 - viii) A hyperactive 4 year old would be too much for an 80 year old in a wheel chair to handle for example.



(End of Part 2.)

End of submission.

Thank You,

Greg Bennett

4th August 2003