

From: [REDACTED]
Sent: Sunday, 10 August 2003 4:18 PM
To: Committee, FCA (REPS)
Subject: Child Custody Arrangements Inquiry

House of Representatives Standing Committee
on Family and Community Affairs

Submission No: 722

Date Received:

Secretary:

Re: Inquiry into child custody arrangements.

(a) Given that the best interest of the child are paramount, a more concerted effort has to be made by the Family Court to minimise the extent, effect and duration of disputes between parents.

The Family Court, by providing parents with a venue to contest issues concerning the welfare of children, is contributing to the harm that some children suffer.

Some parents and their lawyers believe that it is in children's interests to settle their dispute in the Family Court - this adversarial process is demeaning to everyone concerned - and ultimately impacts on children who are exposed to the distress parents experience while trying to find fault with their ex-partners and defend themselves from all sorts of criticism.

The Family Court process is demeaning because it is self-serving. The best interests of the Family Court are in reality, ultimately paramount - that these interests extend to children is often questionable. Legal professionals often have not demonstrated an understanding of the welfare of children. In this climate the Family Court is unwilling or unable to separate the self-serving issues of parents, lawyers, judges and others, from children's welfare issues. This is evidenced by the fact that the Family Court is disinterested in enforcing the Orders that it makes. The Family Court adversarial process is not in accord with the principle that the welfare of the child is paramount. Family life and the Family Court have little in common - greater effort is required to fairly resolve problems outside of the Court.

Often it is the case of wrong venue and wrong process - if the best interests of the child were truly held paramount.

If the welfare of children is paramount, disputes need to be resolved quickly. Dispute resolution involves skills virtually unknown to the Family Court. Ultimately, one parent may be seen as contributing more constructively to the dispute resolution process. This parent is 'more helpful' or 'more friendly' - and this is the parent who may play a significant role in reducing conflict. This is similar to the Friendly Parent Doctrine used in the USA - a more enlightened approach to resolving complex family problems.

(a) (i) Children need both parents. The 'friendly parent' should be asked to arrange sufficient time for the child with the other parent - according to the child's needs - and be required to justify their provision of access. This process is more flexible and dynamic than mechanical.

(a) (ii) There is little need for the Court to order children to access other people if there is less reward for obstructing access, as at present. It would be better to have fewer Orders properly enforced than more Orders being made and breached.

(b) The child support formula seems reasonably fair - but some parents are able to avoid contributing financially for the welfare of children, through remaining on welfare. Not much can be done about this. Each case needs to be decided on its merits.

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