

Submission No: 739

Date Received: 12-8-03

Secretary:

[REDACTED]
[REDACTED]
[REDACTED]

8 August 2003

Department of the House
of Representatives
Parliament House
Canberra ACT 2600



Dear Sir/Madam,

[REDACTED]

Re: Inquiry into Custody Arrangements

I note Mrs Margaret May's comment in the *Gold Coast Sun* dated Wednesday, July 30, 2003, within the article entitled "Custody law set for big changes" where she stated "Parenting should be shared unless an agreement is reached by both parents." I ask, what shared arrangement does the non-custodial parent really want?

My own situation and that of my son upon separation reflected a disinterest in caring for our son by my ex-spouse. The separation date was 8 August 2000, when our son was 23 months old. As it was, he had virtually no contact with our son upon his birth and until separation, and this was only minimally changed immediately following separation where he was happy, because of my contention that he had had little to do with his son to that date (and he did not debate this), to only see his son for three hours every weekend. My solicitor put forward a plan to my ex-spouse that his time every week be increased by one hour every month until a full 8 hour day had been reached. My ex-spouse did not even keep up this schedule and failed to make up all the time that he missed out on, which he could have done.

It was not until after the court hearing in June 2002 that my ex-spouse took our son for his first overnight access period. And it was not until a few months after commencing overnight access that my ex-spouse took our son for his first two-night access period. Our son was nearing 4 years old by the time overnight access was taken!

During negotiations leading up to our Family Court agreement in early June 2002 I attended the two supposedly mandatory sessions with a court counsellor in order to try to reach agreement regarding child issues. Neither of the two court counselling sessions were attended by my ex-spouse. While on the one hand the court counsellor was very much dismayed by the lack of interaction my ex-spouse had had with his son up to those

dates and the fact that my ex-spouse had not attended the counselling sessions, my solicitor (a female solicitor) overlooked the facts and said that he had generally complied (my ex-spouse's reasons for not taking all of his allotted access time being that he had had to go overseas for work purposes). However, as I mentioned, he did not make up all the time for access. I remember the court counsellor saying that fathers at our son's age would be able to take their children for two night stays, and yet this clearly did not happen in this case. Clearly, the family lawyers hold too much weight in making decisions, especially the wrong decisions, on behalf of our children. Was my ex-spouse reprimanded or penalized for not attending the court counseling session? No, not at all. Was this taken into account when deciding future access arrangements for our son? No. Obviously the court system needs to be tightened, and if a party is not willing to attend court counseling sessions then I believe their entitlement to access should be reviewed as they surely cannot be seen to be taking the issue of child access seriously.

Following the Court Order dated 3 June 2002 which allowed for my ex-spouse to have two holiday periods with our son for one week at a time within the following year (June 2002 to June 2003), my ex-spouse chose to take holiday leave for 5 weeks, from the end of June 2002 - without his son. His good friend informed me that he was to go with my ex-spouse on a European trip, travelling part way by ship. This therefore meant that at this stage he had taken all of his allotted allocation to holidays, without our son, for the 2002/2003 year.

Also, according to the Court Order my ex-spouse is entitled to spend Fathers' Day with his son, and there is an allocated time of 3 hours on the birthday for our son for whichever party does not have our son for that day. Well, what do you know? True to form, my ex-spouse did not provide me with the required two days' notice of inability to take special day access but also did not arrive to pick up his son on Fathers' Day 2002. I rang my ex-spouse at 9.30am on Fathers' Day 2002 during which conversation he stated that "It's not my weekend." His usual fortnightly access weekend at that stage had included the weekend prior to the Fathers' Day weekend. What significance then does Fathers' Day really hold for my ex-spouse? I would consider he would think Fathers' Day at the bottom of his list of special days, going by his response. It seems, even the passing of his father in early 2002 could not stir him to consider his own son on Fathers' Day.

Our son's birthday in 2002 was just the same. No contact from my ex-spouse saying that he would not see our son on his birthday. And he did not make arrangements to pick our son up at any time during the day.

Obviously my ex-spouse has greater concerns than spending time with his son. I believe there should be provisions within Court Orders that enable the forfeiture of access periods should a parent not comply with the orders.

There were issues also on the school front. Only once I had informed my ex-spouse in May this year that our son had gained entry into a private school for next year did he make any comment about schooling. In August 2001 I had put our son on the waiting list of

three private schools. In April/May this year my son was called up for an interview and was subsequently accepted. I asked my ex-spouse if he would contribute one-half of the enrolment and bond fees by the end of May. No response was received by me before the closing date for acceptance of enrolment and payment of the applicable fees. So I paid the fees and returned the appropriate forms. Then I received a letter from him stating the he would pay all of the private school fees but he wanted our son to go to a different school (The Southport School) from Year One. My ex-spouse's interest came all too late for me, considering that I had done all the groundwork and had him accepted into a school. And we had never envisaged our son going to The Southport School as it was a single-sex school. As my ex-spouse is entitled to have our son for one-half of all school holidays from next year, I can only imagine that my ex-spouse thought that The Southport School would be appropriate so that our son could participate in the casual boarding arrangements available at the school. As I, a single parent, am on the Gold Coast (where our son's schooling would take place), I do not believe that our son should be boarding at any stage during his school years. I wrote to my ex-spouse regarding him contacting his lawyer in order to draft a Child Support Agreement which would include his commitment to pay all of the private school fees. A response was later received by me wherein he stated that he would forward a cheque to me for the required school fees. But what trust do I place in his statement? None. His statement does not guarantee to me that he will pay the school fees when due. And certainly his refusal to sign a Child Support Agreement does nothing to secure our child's future in regard to his schooling.

Unfortunately my lawyer was not prepared to involve herself in this issue prior to the Court Order being finalised; she stated that I should approach the Child Support Agency. I believe the Child Support Agency will not take on board the written submissions from parents regarding their intent to pay more than the Child Support Agency specified amount as per the earning parent's income. Why this should be the case, I've no idea. Doesn't the Child Support Agency support the child? The more in the child's interests the better, wouldn't you say? However, my ex-spouse only states that he will send a cheque to me for the school fees when they are due. Is this sufficient? I believe not. What if he doesn't come up with the money at the required time? Will Child Support then say that even though the ex-spouse gave a commitment to pay, that the private school fees will now have to come out of the Child Support payments I receive? I believe Child Support Agreements should be mandatory for separating families.

Although our son is one month off his fifth birthday, my ex-spouse is due to return our son after having his first holiday with him since our separation in early August 2000. That is, a 7-day holiday.

Our son has related to me that only on one or two occasions has his father had full responsibility for him during the access visits. Usually there is his father's mother available during the access time to change our son's nappy or take him to the toilet and to prepare food for him. Our son has said that his father just plays with him. Responsibility? Not in the full sense of the word.

For many months also, while my ex-spouse may have had access, he only had access for

such short periods that he wasn't responsible for bathing our son or providing him with dinner or breakfast. Even now, our son comes home from access with his father stating that he rode his bicycle in the house (ex-spouse's mother's house), he hardly walked. Our son has stated that only once or twice did his father take him to the park to cycle (and this he stated again recently). Our son's access days with his father tend to be spent going to restaurants and cafes, which is all well and good, but where is the attention to child-friendly activities? For quite a while also our son on return from access periods stated that he had not been bathed, even though he had been staying overnight with his father. On return from his holiday with his father, our son stated that the hotel in which they had stayed for 5 days did not have any bath, and the apartment my ex-spouse resides in does not have a bath either. Our son stated that he did not have a bath the whole time he was away with his father on the holiday, that is, for 9 days. Our son, at this stage, does not like showers.

Yes, there may be shared care, but I have the responsibility of our child for around 90% of the time. A meagre 10% responsibility for our son is held by my ex-spouse. He is entitled to 15% shared care; but his record for last year stood at 10%!

I believe a greater amount of shared care going to ex-spouses (from a single-parent perspective) will only leave the children from single-parent families in the care of others - such as child care workers, after school care workers and before school carers and within boarding schools. Surely you don't believe this sort of care is the best for our nation's children? Why should they have to bear the brunt of the separation of couples? Already, more and more emphasis is being placed on children going into child care from an early age - and we're heard of the tendency towards violence, aggression and behaviour problems as a result of children being in care for so long and from such an early age - due to parents having to work longer and longer hours. A greater amount of shared care going to non-resident parents, I believe, would only lead to children being further victimised.

Unfortunately our society seems more and more content to devalue the role of parenting. Children have become commodities. They are sent to child care centres more often than not rather than spending most of their time in their early years with at least one parent. I have seen the effects of early child care on children and, yes, they may be more social than other children, however, there are detrimental effects. For instance, my son was bewildered when a child of a friend of mine spoke to him holding a male doll and said something like, "I'm going to kill you." After a few more sentences at which I was totally flabbergasted, my friend told her son that my son is not into fighting. Phew! But this all leads me to wonder where the nation's children are headed. Even the toy shops of today promote violence via their in-store screens which show videos. According to me, a lot of the "toys" available in toy shops should be labelled adult toys and located far away from the toy shops for children. I spoke to a shop assistant in a local toy shop about what was screening on a screen within the shop which I considered to be violent and she stated that what was showing had a general classification. I was astounded. Luckily for me (and I guess I have not promoted violence to my son), he steers away from all the violence.

However, he is still exposed as such, yet he is only 4 years old. I do believe there should be a tightening of laws in relation to what can be classified as a toy and placed in a toy section of a shop or in a toy shop. All this exposure to violence can only lead to a lessening of people's worth within society as some people exert their force upon others. This early conditioning in violence in children will only be reinforced by time and accentuate itself in adulthood, especially in relation to domestic violence. As if the world was not a violent enough place already, and yet we have to sell violence to children. What a crazy world this is! Fighting is in, discussion and diplomacy are out.

In all this argument about greater shared care for non-custodial parents I don't hear of fathers giving up some of their work, or all of their work to care for their children. How exactly would they intend to see their children more often? For children of school age attending private schools, the approximate yearly amount of holidays per child equates to around 14 weeks. Considering that the average full-time worker receives 4 weeks per year in holiday leave, how on earth is the non-custodial parent going to take his full entitlement to half of all school holidays access with the children?

Men may grumble, however, I believe they grumble because they have to pay child support, and as we've heard about lately in the media, the payment of child support is a big issue because the non-custodial parent is not paying up. Although I receive all the child support payments now, there was a period of time prior to me contacting the Child Support Agency and prior to the Court Order, when not all of the child support payments were made by my ex-spouse. No account of the CPI increase had been factored in for a whole year and my solicitor had not alerted me to any increase in payments. I have made my ex-spouse aware of the money owing, but he has not gotten back to me on the issue. What concern for our son!

Although I could not prove it because I didn't take any photographs at the time, our son was physically abused by my ex-spouse's parents, I believe during a nappy change incident. That was the first and last time I ever left our son with my in-laws. Unbelievably, when I showed my ex-spouse the damage that had been caused after having left our son with his parents for two to three hours when our son was around 16 months old, my ex-spouse stood up for his parents. Family name as against abuse of an innocent child? How abhorrent! My ex-spouse did not even think that I should go out and obtain some healing cream for our son. There was no apology from his parents, not even a sound, just a statement from his mother that she had difficulty changing the nappy and that she had to call on her husband for assistance. Even more reason for concern!

Although during the marriage I had been the subject of put-downs by my husband, the subject of projectiles, and had no decision-making power in relation to financial issues or things like where we would eat out, et cetera, I was not prepared to stand by and accept that this abuse of our son was an accident. I later learned through going to the Domestic Violence Service that I had, during the marriage, been subjected to much domestic violence (although this did not seem to count when the lawyers were focussing on the Court Order) - which appeared in all facets of our relationship. I had no idea it was

domestic violence as the media only portrays physical abuse for domestic violence. Another lawyer I met with the other day stated that domestic violence as a reason for separation is so common and it would be too involved for the Family Court to undertake such assessments of domestic violence as well as do the work it already performs. This situation is appalling! And Margaret May wonders why “We are seeing family breakdown grow and grow”?

Yes, I agree “We need to go back to the core of the problem and look at policies that encourage strong families.” For one, stop all the violence that we see on the television. There is too much of it. And even the advertisements in between programmes exhibit too much violence - and many a time it is violence aimed at women.

The government could also institute programmes within schools dealing with domestic violence - in all its forms. Conflict resolution should also be taught within schools to pupils from an early age.

Laws need to be instituted so that Child Support Agreements are required to be drawn up when separation occurs. This would be to safeguard the future of the children of the marriage. Penalties need to be in place for those non-custodial parents who do not abide by a Court Order or a temporary access arrangement, even if the issue does not seem a big deal. For example, I have heard many instances where the non-custodial parent does not take the access granted via the order and does not inform the custodial parent of their inability to take the access (as has also happened to me). Not only does this keep the custodial parent in a kind of limbo not knowing whether the ex-spouse is going to pick up their child or not, it must also be disappointing to the child. What sense of self-worth can a child have on hearing “Sorry, Daddy can’t come after all”, when the child is already dressed to go with the father? In complaining, the solicitors just pass correspondence between themselves and the issue goes nowhere. What importance the child?

Men need to value their spouses and their children above and beyond their roles in the workplace and the money they receive from same. And men need to actively involve themselves in the lives of their wives and children. At the moment women are seen as very useful to men: like I was during our marriage - they may pay the bills, shop, cook, look after the children, clean the house, hold on to a full-time job, arrange for any workmen to do odd jobs, etc, etc. Too many advertisements and movies and other TV programmes still portray women negatively - usually only in a sexual way. And of course our society relieves men of their responsibilities when they get to age 40 and decide to have affairs. Equality between the sexes needs to be taught at schools also wherein it focuses not only on equality in the workplace but also equality at home.

One thing that I believe is totally wrong is non-custodial parents being granted overseas holiday access with their children, via court orders drawn up by divorce lawyers, when the non-custodial parent is not a resident of Australia, is a Singaporean citizen, when Singapore is a non-Hague Convention country, when the non-custodial parent has only a working visa for Australia yet he has been in Australia since 1988, when the non-custodial

parent works for an Austrian company and could feasibly work for that company in Austria at a later date, and when Austria is a non-Hague Convention country also. This is my predicament. My Court Order enables my ex-spouse to holiday overseas from 2005 with our son although my ex-spouse is not to travel to any non-Hague Convention country. How ludicrous! How could this be monitored? How could I ensure that my ex-spouse does not take our son overseas with our son never to be returned to Australia? Advice from solicitors has meant that I have to wait until my ex-spouse advises me that she wants to take our son overseas before I can do anything via the court system. The Court Order, I believe, should never have included such a clause relating to our son being taken overseas. The laws need to be changed in this respect.

Again, I'm a single mother who takes basically full-time care of her son having to fork out more on legal expenses to ensure that she will continue to hold her custodial parent status. These funds for legal fees will need to come out of the child support payments that I receive. Unfortunately Legal Aid is not there for those who need it. Meanwhile, my ex-spouse continues to earn over \$200,000 per year, plus around \$15,000 per year in extra payments, as well as receiving a fully maintained C200 Mercedes vehicle and other benefits. Who is receiving the child support? The legal profession.

In order to arrive at a property settlement which includes children's issues I also had to save the child support payments I received in order to pay the legal costs - lawyer, accountant, barrister. Thankfully, after forking out further payments from the property settlement pool I was still able to purchase a property for my son and I to live in. But what of the child support payments? Where is Legal Aid to help? For those single parents without the resources, I pity them.

Equality really hasn't gotten very far. We have talked about it for quite a long time, but really equality for women is far from the reality. Equality should start in the home - with the care of the children, with the care of the house, with the concern of financial issues, etc. The reason, I believe, that there are so many separations within our society today is because women are finally saying they have had enough! We are no longer willing to accept that we are second class citizens - having sex when the opposite sex wants it, partaking in activities that the other party deems appropriate, denying yourself time off with your friends - because your husband thinks that he should be the sole object of attention.

For too long money has been the power that has controlled relationships. Well, guess what? We're not willing to forsake our sanity, our self-respect and that of our children for the sake of money. We want power in other ways. To decide for ourselves, for our children.

Who earns the money? Well of course the men in our society. When we leave the workforce to have children we succumb to the power (money) of the earning parent. Many of our rights, leave us at that time. For the person earning the money wants, and has, the power to decide how that money will be spent.

Margaret May states that “Most say they don’t mind paying the money but they want to be involved in decision making.” Doesn’t decision making come with taking responsibility for your own children? If you’re not in the lives of your children, how can you insist on making the decisions for them? And yet I go back to the point earlier where I say, what men are willing to settle for part-time work instead of full-time work while the rest of the time they care for their children? I’ve only heard of men giving up work altogether - but only to avoid paying any child support at all - not to care for their children.

Ms May’s comment “that the idea that men could not care for young children ... was a fallacy ...” is probably correct, however, I do not believe that most men would be prepared to give up their full-time jobs to care for young children nor give up their full-time jobs to take on part-time jobs. Is it also in the best interests of the child for the father to care for him/her in the early stages when mother’s milk is arguably best.

One friend of mine, during her marriage, decided to go back to work full-time while her husband minded the children. Whilst she had cared for her children full-time at home, her husband quickly took the children to a child care centre for 4 days per week while he went out golfing. Needless to say, his record in relation to contact since they split up has been appalling.

I believe a stable home environment is essential for the wellbeing of the children concerned and that this can only be provided if the children spend most of their time living in the one home.

I don’t believe that my ex-spouse would be taking our son nearly as often as he does without his mother and his sister, and formerly his father, to help with his time spent with our son. For one, Singaporeans are obsessed with “saving face.” That is, they have to be seen to be doing the right thing in front of others, no matter what they do behind the scenes or what they really think.

Some men may be genuine when they say they want more time with their kids - my ex-spouse will only ever let our son into his life if it suits him at the time.

Our son has already stated to me that his father doesn’t listen to him. That is a sorry state of affairs for a 4 year old. To me, respect is learnt at any early age. And if children are not given respect by their parents, then they will grow up to be rebellious or introverted. Perhaps the P5 Parenting Programme should somehow be brought more to the attention of both fathers and mothers, especially non-custodial parents who clearly spend less time with their children. Perhaps attendance at such a course should be mandatory for all separating couples.

Perhaps marriage should not be allowed until both parties have been to see a relationship counsellor. I suggested this to my ex-spouse before we married, but he refused to see one. He also refused to see a counsellor when we had trouble within the marriage. Of

course, the marriage floundered.

I think some fathers only have themselves to blame while the government is also to blame. Some fathers have accepted that society has devalued the work of the stay-at-home mother, the government has forced both parents back to work in a large percentage of cases, with the wife still having to undertake the majority of the home tasks, etc.

I take full responsibility for my son. He attends keyboard lessons (and last year attended a music/singing/rhythm class) and gymnastics lessons. He attends another fitness class and I have introduced him to a drama class. Aside from this he has attended indoor play centres, gone to the Bunnings workshops, been taken to numerous playgrounds on the coast and, when he was younger, attended Playgroups. I talk to him often, as I did when he was a baby, and his speech is quite outstanding for a 4 year old. I prepare craft activities for him. He has been learning computer skills on his laptop and via my PC as well as learning to spell and read and write. When he was 6 months old I joined a toy library in Brisbane, which was a great way to involve him in new activities without the expense of buying new toys regularly.

Teaching my son has been very rewarding. And I have been giving him a head-start in preparation for his attendance at school next year.

Raising a child is not so easy, especially on your own, and especially while going through the court process. However, I have been determined to bring up our child in a way that is interesting and fulfilling to him, and seeing him develop day-by-day makes me a proud parent. In essence, I value being a parent. It is just the system that doesn't.

Selfishness is flourishing in our society and the children are the victims. There is less and less time being spent with our own children and more and more time being spent by parents doing what they choose. The purchase of things for our children seems to take priority over the time spent with them.

Why is access provided to parents who clearly do not hold their position as parent in high regard? For every non-compliance with the temporary arrangements with regard to access there should be a tightening of the access provisions. After all, the responsibility should lie with the non-conforming parent. Surely any non-compliance with the temporary arrangements for child access indicates the overall attitude of the parent concerned, especially if they do not make up the time available to them. Why does the legal system ignore this?

I don't believe government-enforced child access will work. The love, care and responsibility for a child has to come from the non-custodial parent. This can not be enforced. You will just have a system where further access is granted, however, this access is not taken. Any increase in access, I believe, could be granted following a long trial period. However, failure to comply with the increase in access provided should result in penalties or the reduction in child access. The need for stability for the child should

be of paramount importance and if the non-custodial parent cannot assist in providing this stability then a lessening of access should take place.

Yours sincerely,

[REDACTED]
[REDACTED]

cc. Nagael Kay' office,