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The Honourable Warren Entsch
Member for Leichhardt
AAMI Building
140 Mulgrave Road
CAIRNS QLD 4870

of Representatives Standing Committee on Family and Community Affairs
Submission No. 869
Date Received: 8-8-03
Secretary:

Dear Sir

I am an Accredited Family Law Specialist and the head of one of the largest family law sections in a law firm outside Brisbane.

I was admitted on 1st March, 1982 and have been extensively practicing in the Family Law area since that date.

I am also a qualified mediator and a children's representative appointed by the Family Court to represent children in family law proceedings.

I have involvement in the Far North Queensland Youth Assistance Fund, having been on the board for approximately ten years. I was on the board of the Cairns Regional Domestic Violence Service for five years and I am on the Queensland Law Society Family Law Committee.

Over the last four years I have lectured for the MENDS Program run by Centacare in Cairns.

I applaud the moves by the Prime Minister in opening discussions on the statutory presumption of shared parenting in the event of parties separating. In my experience, all too often we see the children being retained by one parent for supposedly the best interests of the children in accordance with the Family Law Act.

The only alternative is for the other parent, who has limited contact to the children, to bring expensive protracted legal proceedings to try and increase the period of contact that they are having with their children. This is often not an available course to a party for various reasons, including financial.

The Court have over the years developed cases which guide the direction of residence proceedings, whereby if children have remained in the care of one party and a status quo is said to exist, a Court is reluctant to change the status quo without very good established reasons. This means therefore, that the parent who retains the children, even on interim orders, is highly likely to continue as the resident parent.

If the situation was reversed with a presumption of equal parenting, and it is then available to either party to seek an increased period of residency with the children, the welfare of the

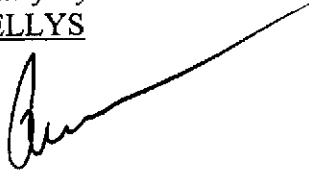
children's section (which currently exist) can still be applicable and orders can be made on the same basis as they currently are, however without either party having an advantage due to the fluctuation of time.

All too often I see children being used by the resident parent, not having a mind to what is in the best interests of the children, but more in mind to the eventual property settlement and child support issues. It is often sadly this reason why parents seek to retain children, given the very substantial financial advantage in retaining children in your care. This also opens avenues in terms of Centrelink payments and other allowances if children live with one parent.

I am more than interested in contributing to any input or any committee that may be formed for public discussion on this issue. I believe that I have a very fair balanced community involvement over many years in this area and I have over the last twenty plus years, freely given my time to lecture for the MENDS Program, the Regional Domestic Violence Service, Lifeline Family Courses, Centrecare Programs, as well for various legal organisations throughout Queensland.

I ask that you pass my comments on to the Prime Minister or to the Committee being established, and I thank you for taking the time to read this letter.

Yours faithfully
FARRELLYS



TERRY NEWMAN
ACCREDITED SPECIALIST FAMILY LAW

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