

Public Hearing

INQUIRY INTO CHILD CUSTODY ARRANGEMENTS IN THE EVENT OF FAMILY

SEPARATION

Friday, 26 September 2003

Joondalup WA

House of Representatives Standing Committee
on Family and Community Affairs

Submission No: **1536**

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Secretary:

Thank you for the opportunity to address this vitally important inquiry.

I do not claim to be an expert in the matter of child custody arrangements, nor do I belong to, or represent, any interest groups.

What I have stated in my submission are my personal beliefs which I have formed over the years, particularly since becoming a father; I have two children, a boy aged 10 and a girl aged 6. Nine months ago my marriage broke down and the issue of child custody arrangements became of critical importance to me.

My submission to the committee is based on my personal experience with my own family and on my interpretations of discussions with friends and relatives, many of whom have experienced family breakdown and its consequences.

There a number of specific points I will now address.

Point 1

I am sure the committee is well aware of the statistics on the rate of divorce. More than one third of marriages end in divorce and, fortunately, the majority of the resulting negotiations are conducted in an environment that favours the welfare of the children. Most divorces do not end up before court.

However, I note that the child custody and access outcomes in cases that cannot be negotiated and therefore end up in court are a powerful influencing factor in the out-of-court negotiations regarding child access and care arrangements. Often, the negotiations are based on what the parents assume the courts would decide, rather than on what they believe is best for their children, their family and their personal or work commitments.

Therefore it is important that the assumptions made by the court in relations to the time children spend with each parent be based on what takes place in the majority of satisfactorily and amicably negotiated separations, rather than on the results of the minority that make it to court and are often characterised by high levels of conflict.

Point 2

I have read some of the submissions to the inquiry that have been published on the internet and my perception is that most of the submissions, even those from large and reputable organisations, reflect the needs and desires of one gender, be it mother or father, and do not place paramount importance on the best interests of the child.

Research indicates that it is in the best interest of children to have both parents closely and regularly involved in their lives to develop a trusting and nurturing relationship within which they can thrive and grow. This can not be achieved satisfactorily on a two-day per fortnight contact basis with one of the parents.

Interestingly, virtually all submissions agree that it is in the best interest of the children if both parents are closely involved in the upbringing of the child. However, some submissions still argue that this can be achieved most effectively if one parent has access for only two days once every fortnight. These arguments are apposed to the well-accepted view that children need contact with both parents equally. The bases for the arguments are faulty and focus on the needs of one parent rather than the needs of the children.

The main arguments that have been presented in some submissions to support this imbalanced position are:

Argument 1 – Financial Burden

The argument that an equal share of time spent with each parent puts an undue extra financial burden on the parents is faulty.

While family separation does put a significant financial burden on most parents through the reduction in assets, setup of a second home, etc., the share arrangements do not need to impose a significant additional burden.

Firstly there are the one-off or set-up expenses:

If the children have fortnightly, weekend access to one parent, this parent still has to provide appropriate and acceptable accommodation, adequate clothing, toys, etc. for the children during this time. Once these facilities have been established there is not much difference in the financial burden if the child stays for a two-day or seven-day period.

Currently, Child Support payments account for part of those expenses and independent from the outcome from this inquiry this payment structure (or “Formula”) needs to be reviewed to take into consideration that even the parent who gets visiting rights (rather than full custody) needs to set up accommodation for the visiting children.

Secondly there are the ongoing expenses such as food, entertainment, travel to school and back, homework and educational support etc.:

These expenses are already met by both parents either through direct expenses or through child support payments. The formula does and should adjust payments according to the time the children spent with each parent balancing the financial burden for the ongoing expenses approximately evenly.

This means while the impact of care arrangements on the financial burden of each parent is minimal, there is a significant benefit to the children with regards to developing and maintaining a healthy and meaningful relationship with both parents if the contact time can be extended from two days to seven days every second week.

Argument 2 – After-School Care Arrangements

In most families both parents are working either full-time or part-time and therefore within those families, the separation may require only minimal adjustment to new or extended after-school arrangements, which are possibly already in place for most days of the week.

In families where one partner was not working and spent his/her time looking after the house and children, new arrangements might have to be found for after-school-care during the time the children spend with their working parent. My experience is, however, that in those families, the former non-working parent often starts part or full-time employment within a few months of the separation because:

1. Extra financial burden caused by separation (not by the care arrangements!)
2. Lack of adult/social contact and interaction due to being a single parent
3. Desire to start a new life and embrace new challenges.

When this happens, new after-school-care arrangements will need to be found independent of the existing care arrangements between the parents.

Argument 3 – Social Security and Other Support Payments

The split of Social Security and other support payments between the parents might have to be adjusted and reworked following the outcome of the Committee's recommendations. This, however, should not influence the recommendations.

The primary criteria for the Committee's recommendations should be based on the needs of the children not the process of splitting child support payments between parents which can and should be worked out accordingly i.e. as a result of the best interests of the child being represented.

Point 3

With regard to the Court "ordering" contact with other relatives, particularly grandparents, I believe that this decision should lie entirely with the parents who have care of the children at the given time.

Only in rare circumstances where, for example, one parent has died, might the Court intervene and order contact between the child/ren and the grandparents (or other people) on the deceased parent's side, particularly in the case where the living parent is refusing to allow contact between the child/ren and the deceased parent's relatives.

Point 4

I believe that the existing Child Support Formula encourages a trade-off between time spent with the child and the level of payment received.

This can easily lead to a care arrangement which is firstly un-equal and secondly based on financial matters rather than the best interest of the child. Both outcomes are neither desirable nor appropriate.

While the Child Support Formula should take into consideration the respective expenses for childcare borne by each parent (eg. during time spent with the children) an assumption that children will spend equal time with each parent would be a critical move in reducing the potential for such trade-offs to occur while also minimising the antagonism between parents that is often a direct result of the monetary aspect of child access and care negotiations.

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