

Joint Parenting Australia

House of Representatives Standing Committee
on Family and Community Affairs

Submission No: 1561

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Joint Parenting Australia is committed to promoting both a raised awareness, and a clearer understanding, of Co-Parenting issues and experience, in the Australian social climate.

Legal Pathway of an Equal Parenting Vision

An address to the Parliamentary Standing
Committee on Family and Community Affairs
Inquiry into Child Custody Arrangements

Blacktown
1st September 2003

We are concerned with important issues such as:
Access to the legal system,
Equity in alternative dispute resolution mechanisms,
Law's which disadvantage one parent and Advantage the other,
Poor health statistics of Non-Resident Parents, especially suicide,
Government policies that undermine the role and value of
Non-Resident Parenting.

Submission by Joint Parenting Australia to the Inquiry into child custody arrangements in the event of family separation.

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8th August 2003

Committee Secretary
Standing Committee on Family and Community Affairs
Child Custody Arrangements Inquiry
Department of the House of Representatives
Parliament House, Canberra ACT 2600
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- (a) (i) *What other factors should be taken into account in deciding the respective time each parent should spend with their children post separation, in particular whether there should be a presumption that children will spend equal time with each parent and, if so, in what circumstances such a presumption could be rebutted.*

When couples have children they must re-organise their lifestyles in accordance with their capacities, commitments and children's needs, most often this is done, within relationships, cooperatively. One parent may contribute more to meet the financial needs of the children through participation in paid employment, while the other may contribute more to meet the physical needs of children through primary care of the children in the home. Whatever that mix of work and direct physical care of children may be, the outcome is the result of a joint agreement, between parents, in the best interests of children.

Upon separation both parents must be given the opportunity to re-organise those lifestyles in accordance with the changed circumstance. Both parents must assume new parenting roles to meet the children's needs and to continue to meet their parenting responsibilities.

Joint Parenting Australia (JPA) believes that this is best achieved from the level playing field that would be provided by a rebuttable presumption of joint physical custody rather than through the current, potentially adversarial, post-separation model of residence/contact provided by the current legislation.

JPA believes that post separation, one parent's contribution to the needs of the children should not be preferred over the contribution of the other.

Apart from the detriment to the children's wellbeing resulting from the current residence/contact model whereby one parent is relegated to alternate weekend visitor status in the children's lives, it should be recognised that the residence/contact (or sole custody) model condemns the 'winning' parent to carry an unequal and unnecessary burden of direct physical care of children. This has the effect of precluding easy entry into the workforce by the resident parent as well as a degree of social isolation.

JPA believes that the only relevant factor in deciding the respective time each parent should spend with their children after separation is the absolute right of the children to retain the kind of equal and unrestricted access to both parents that they enjoyed prior to separation. This right implies a starting point of 50/50 custody subject to the kind of reorganisation of parenting capacities and commitments already referred to. The children's equal relationship with, and need for, both parents can best be preserved by a rebuttable presumption of joint physical custody.

In summary:

- After separation parents need the level playing field provided by a rebuttable presumption of joint physical custody.
- Who does what prior to separation should not determine time spent with children after separation.
- Children have an absolute right to enjoy the same equal access to both parents after separation that they enjoyed before separation

In what circumstances should a presumption of joint physical custody be rebutted?

Joint Parenting Australia believes that there exists a diversity of parenting capacities and styles across the social spectrum. Children should have a right to a relationship with both parents regardless of parenting capacity or style.

JPA believes further that a presumption of joint physical custody could be rebutted only if one or the other parent is demonstrated to have been abusive in accordance with current child protection standards. Mere allegations, however, should not suffice for rebuttal.

There should be an onus on the parent wishing to rebut the presumption to demonstrate the reasons the other parent is unfit to continue to parent.

In Summary:

- Children have a right to a relationship with both parents regardless of the parenting style of either parent.
 - To rebut the presumption of joint physical custody the onus should be placed on the objecting party to demonstrate the other party's unfitness to parent.
- (a)(ii) *In what circumstances should a court order that children of separated parents have contact with other persons, including their grandparents.*

Joint Parenting Australia believes that contact between children and persons other than parents (significant others) should occur in circumstances where that contact cannot be facilitated through the existing relationships with the parents and in accordance with current child protection standards. The contact should be provided by the parent that is related to that significant other unless the parents have agreed, for whatever reason, to share the care of the children on a less than equal basis.

(b) Does the existing child support formula work fairly for both parents in relation to their care of, and contact with, their children?

Joint Parenting Australia believes that the existing child support formula is weighted too heavily against the contact parent and should be revamped in line with the recommendations of the Henman Report.

A fair child support formula would thus:

- Reimburse the full cost of collection and return where one parent only carries the burden of such costs.
- Incorporate into the formula the cost of providing accommodation in the same way that the formula currently factors in such costs for resident parents.
- Reflect the actual percentage of care enshrined in the joint physical custody arrangement and in line with current centrelink practice.
- Factor in the higher costs of providing for the children on weekends borne by the contact parents, as opposed to the lesser costs incurred by the resident parents during the school week. This could come in the form of a prescribed minimum payment.
- Incorporate an expansion of the out of agency payment system to allow for an increased involvement by the paying parent in defraying extra expenses.

Joint Parenting Australia wishes to thank the committee for being able to present our ideas and would be pleased to answer other questions or appear at a public hearing.

CO-PARENTING

AGREEMENT

THIS DOCUMENT IS CONFIDENTIAL
THE EXCLUSIVE PROPERTY OF;

**The Mother,
AND
The Father.**

**THIS IS A RESTRICTED DOCUMENT
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CO-PARENTING AGREEMENT

Family Law File No. _____

This parenting plan is for the children of:

Mother:

of (address) Street:

Town:

State:

And,

Father:

of (address) Street:

Town:

State:

Co-parents in this agreement.

The children of this Relationship under age 18 are:

Name

Date of Birth

In keeping with our firm belief that we, the parent's, are the best People to make the important decisions about the issues affecting our Children and, in accordance with the Family Law Act 1975, Section 60A, 60B,2d. That; "parent's should Agree about the future parenting of their children", we, the undersigned parents, parties herein, acknowledge the gravity of the duty we owe to our children to respect their rights, as set forth below, and do hereby affirm and pledge to our children that our Co-Parenting relationship will be Child Focused and guided by the following Child's Bill of Rights with our full understanding of their inherent rights as children to be;

- THE RIGHT TO KNOW THAT A PARENT'S DECISION SEPARATE WAS NOT THE RESPONSIBILITY, OR FAULT, OF THE CHILDREN.
- THE RIGHT NOT TO BE A SOURCE OF CONFLICT BETWEEN US THE PARENTS.
- THE RIGHT TO A CONTINUEING RELATIONSHIP WITH BOTH PARENTS.
- THE RIGHT TO HAVE A RELAXED, SECURE RELATIONSHIP WITH BOTH PARENTS.
- THE RIGHT TO BE ABLE TO EXPERIENCE REGULAR AND CONSISTENT CONTACT WITH BOTH PARENTS.
- THE RIGHT TO BE ABLE TO EXPRESS LOVE, AFFECTION, AND RESPECT FOR EACH, PARENT WITHOUT HAVING TO STIFLE THAT LOVE BECAUSE OF DISAPPROVAL OF THE OTHER PARENT.
- THE RIGHT TO HONEST ANSWERS ABOUT CHANGING FAMILY RELATIONSHIPS, TO KNOW THE REASON FOR ANY DISRUPTION TO CONTACT OR CHANGE OF PLANS, TO BE TREATED AS AN IMPORTANT HUMAN BEING, WITH UNIQUE FEELINGS, IDEAS AND DESIRES.
- THE RIGHT TO CONTINUING CARE AND GUIDANCE FROM BOTH PARENTS.

We accept that both parents hold equal importance to our children and that they will need each of us as an active Co-Parent throughout their lives. We respect each parent's separate role with our children and we support each other as fit and proper parents. We will give our children permission to love, and be proud of, the other parent. We shall endeavor to put our children's needs first in planning their living arrangements. We expect each child is an individual and may have different needs and that their needs will change, as they grow older. We each have a heart felt and legal responsibility to provide for the physical and emotional needs of our children.

1. Responsibilities and Decision-Making

- a) Responsibility for the Long Term Care Welfare and Development of the children.
- b) Responsibility for the Day to Day Care Welfare and Development.
- c) Neither parent shall schedule activities for the children during the times the Children are scheduled to be with the other Parent without the prior written agreement of the other Parent.

2. Residential Schedule

- Who the child shall live with and when.
- Include school holidays, Easter and Christmas.

4. Birthday's

5. Transportation -- children and belongings

- How the child/ren get to and from each parents home

6. Names

- We agree that our children will continue to be legally and publicly known by the surname ?

7. Extended Family

- a) Each party shall be at liberty to have the children accompany them to significant extended family events so long as details of such events are provided to the other parent no less the ? day's prior to such event and in writing save and except for funerals which shall require ? hours notice in writing.
- b) We recognise our children will benefit from maintaining ties with step siblings, grandparents, relatives, and people important to them and we will assist our children to develop positive relationships with such people.

8. Education

- a) Major decisions about our children's education shall be made by joint agreement in writing, this shall include, but not be limited to, any school the children may attend.
- b) Each parent shall be able to contact our children's schools to find out about their needs, progress, and special events including parent-teacher conferences.
- c) We agree to share information about our children's school progress, behavior, and events with each other.
- d) We will encourage and support our children's efforts for further education such as college or technical training.

9. Health Care

- a) Major decisions about health care (such as the need for surgery) will be made by joint agreement in writing.
- b) The scheduled parent shall make sure our children receive any prescription medicine as required from time to time.
- c) In emergencies, each parent can consent to emergency medical treatment for our children as needed and we agree to notify the other parent as soon as possible.
- d) Health insurance coverage for our children shall be provided by Medicare. Costs for our children's health care, which are not covered or paid in full by Medicare, (including the cost for additional health insurance premiums and medical, dental, orthodontic, and vision care), shall be shared by the parents equally. These payments shall be paid directly between us no later than;
 - (i) 30 days after receiving the bill OR
 - (ii) 30 days after receiving proof of how much the insurance company paid on the bill, whichever occurs last.
- e) Each parent shall have access to the children's medical information and records.
- f) The parents shall communicate with each other on major health care for our children.

10. Child Care

- a) We agree to give each other as much notice as possible. Should something unexpected or unavoidable come up. If we are unable to agree on a change to the schedule, this shall be followed.
- b) If occasional child care is needed by either parent we shall offer the other parent the chance to provide this care before seeking someone else to care for our children.
- c) The scheduled parent shall make any needed occasional child care arrangements and pay the cost.

11. Children's Out-of-state Travel

- a) We shall not remove our children from the state of NSW without agreement in writing requiring ? day's notice in writing.
- b) We agree to provide a travel agenda that must include
 - i) Details of departure/return including dates and travel times.
 - ii) Destination address and phone number

12. Relocation

- a) We shall give each other as much notice as possible and at least ? days notice when a decision to relocate is made.
- b) We accept that a move of ? klm or more will make it difficult to follow the schedules in this Plan and therefore will require a new agreement.

13. Financial Support

Child support shall be set in accordance with the Child Support Agency Guidelines .

14. Communication

- a) To keep our children free of any conflict, we shall not;
 - (i) Inquire into the life of the other parent,
 - (ii) Ask them to give messages to the other parent, or
 - (iii) Denigrate the other parent around our children.
- b) We agree to treat each other with dignity and respect in the presence of our children. To keep our conversations short and calm when exchanging our children so they won't feel afraid or anxious. We agree our children can have unlimited telephone access to each of us.
- c) During long separation from our children, we will maintain frequent contact with them by phone, letter, post cards, video, or audio tapes, etc.
- d) We will encourage and help our children stay in touch with the other parent by phone, letter, etc. Before leaving, we shall give each other the address and phone number where our children can be reached when they are away from home for more than 48 hours.

15. Disputes

- a) If one of us does not follow a part of this Plan, we understand the other parent's obligations under the Plan are not affected.
- b) When we cannot agree on the meaning of some part of this agreement or if a significant change (such as a relocation) causes conflict then we shall make a good faith effort to resolve our differences through mediation before returning to court for relief.

16. Duration

- a) Both parties agree and affirm that this parenting agreement was not signed under duress, that no threat, promise of inducement was made and this agreement has been made with a free conscious mind applied to the Best Interests of the children.
- b) Both parties agree that they had ample opportunity to obtain relevant legal advice before signing this document.

17. Other

We agree that Reasonable costs should be awarded to the prevailing party in any action brought to enforce any terms of this agreement.

ONCE THIS AGREEMENT IS MADE AN ORDER OF THE COURT, this agreement shall be in effect until further court order. Any changes to the Plan shall be made in writing, dated, and signed by each of us.

Until such written change is made an order of the court, this agreement will govern any dispute.

Mother: _____
(name)

Witness: _____
(name)

Date: ___ / ___ / ___

Date: ___ / ___ / ___

Father: _____
(name)

Witness: _____
(name)

Date: ___ / ___ / ___

Date: ___ / ___ / ___

Signatures must be notarised before presenting this agreement to a court.

All Parties to this agreement will not divulge in any manner or means the content of this document without the express written consent of the Parties.