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August 6, 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

Dear Sir/Madam,

Subject: Submission to Inquiry into Child Custody Arrangements in the Event of Family Separation

I am pleased to have the opportunity to provide a submission to this Inquiry. This submission is based upon my personal experience as a separated parent who has 50% shared care of two children.

I have included some confidential personal information within my submission. All confidential sections are in italics.

Should you or the committee require further information I am happy to assist you. I can be contacted at [REDACTED] or on [REDACTED]

Yours faithfully



Ian England BSc (Hons) DipBus Adm
Enclosure (1)

House of Representatives Standing Committee
on Family and Community Affairs

Submission No: 735

Date Received: 6-8-03

Secretary: _____

Submission

To

Standing Committee on Family and Community Affairs Inquiry into Child Custody Arrangements in the Event of Family Separation

A - Confidential Content

Sections of this submission include personal details relating to my own situation. I have included these to give real-world examples of issues, but wish them to remain confidential to the Committee. Passages I regard as confidential are in italic characters.

B - My situation

I am a father of two children aged 10 and 12. My marriage ended about 18 months ago. Since that time, my children have been living in a shared care arrangement, 50/50 with their mother and me. The children spend Mondays and Tuesdays with me, Wednesdays and Thursdays with their mother and alternate weekends with each parent.

C - Factors to be taken into Account Deciding Respective Time Spent with Each Parent

As noted above, my children are a 12 year old boy and a 10 year old girl. They were 10 and 8 at the time of my marriage separation. I am delighted to report that the experience of living in a 50/50 shared care arrangement has been completely positive, with no evident downsides. The benefits I see from this arrangement are:

- o I have a closer and more supportive relationship with both of my children than before the separation
- o I am more involved with my children and their day-to-day activities
- o The children have the benefit of two role models at all times in their lives and gain a balanced view of coping skills and approaches to life
- o The children see a male acting as parent, housekeeper, father and worker giving them a modern view of family and gender roles

- o Each parent gets "down time" every week giving a more relaxed home environment for the children
- o My children seem happier, more balanced, increasingly self-confident under the shared care arrangement

When asked what they think of the shared care arrangement compared to other arrangements their friends have, my children overwhelmingly support the idea and express strong preference to have two parents involved closely with them.

(a) Based upon my experience, I firmly believe that shared care arrangements are the most beneficial for children and recommend that the committee find that there should be a presumption that children spend equal time with each parent.

Surrounding this presumption are circumstances that make shared care undesirable or infeasible, but these factors should be no different from those that apply to "traditional" families in respect to child abuse, neglect or suitability to bring up children... However, the presumption of equal time should remain clear. When I was separating and suggested to my legal advisors that I wished a shared care arrangement they tried to counsel me to avoid this, suggesting it were irregular, or somehow "wrong." Had I listened to them a wonderful opportunity for my children and me would have been lost.

D - Existing Child Support Formula

I find that the existing child support formula and its related rules make it difficult to be the payor in a shared care arrangement. It weakens the parental role of the payor and provides perverse incentives to the payor and payee.

First, I will briefly explain my perception of true-shared care, and then show how issues arise from the current child support formula.

D1 - About Shared Care

To me shared care is about being an equal parent to the child(ren) in all ways. This not only includes issues of access, but also requires equal responsibility and accountability for the children's wellbeing and upbringing. This includes all facets of their lives, from feeding, housing and clothing, to support for their activities, emotions and education.

In addition, in a true-shared care arrangement, it is necessary for the children to perceive their parents as equal carers, with equal roles. Ideally, these parents should be seen to be co-operating as a "caring team."

D2. Issues with Current Child Support Formula

The rules and processes for Child Support, as defined on the CSA's website – www.csa.gov.au – create a number of issues that act as barriers to a full shared care arrangement. In no way are these issues anti-male or pro-female, as some groups suggest, rather they are caused by inequities within the system between payor and

payee. The remainder of this section highlights a number of issues, and suggests directions for improvement.

D2 - a). The process locks in place payee control

The current CSA defined process requires the payor to pay a determined amount to the payee. The CSA's call centre advised me that this is the entire amount that the payor needs to pay towards the children. Other costs that the payee incurs can be deducted from the amount paid – but only with the payee's prior agreement. However, the payor has no say on how the payee uses the funds, be it for child support or otherwise.

The effect of this rule is that:

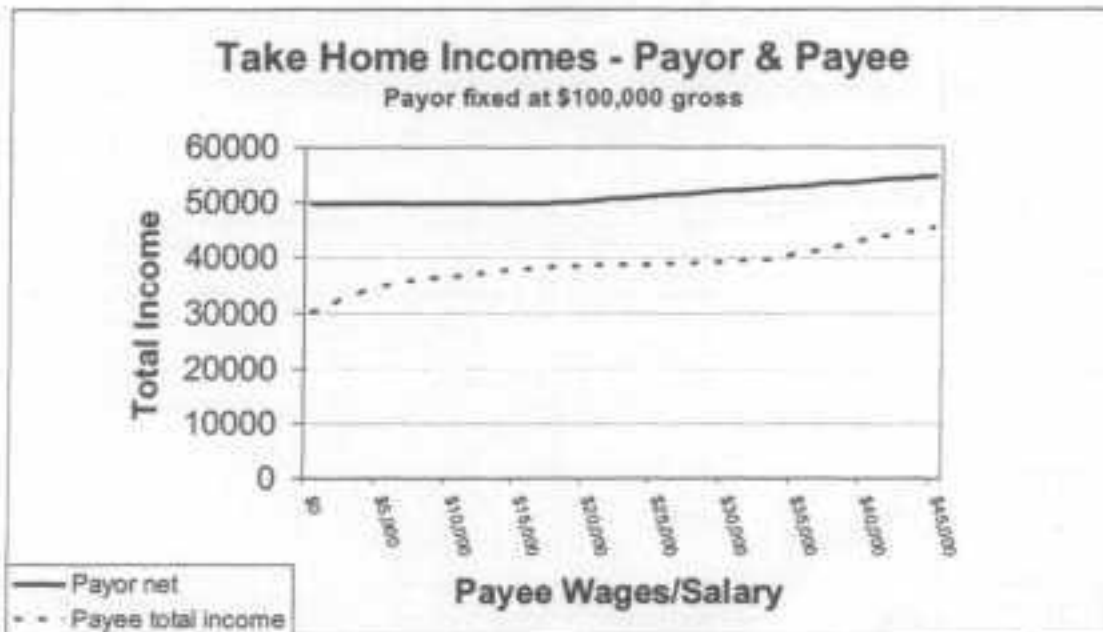
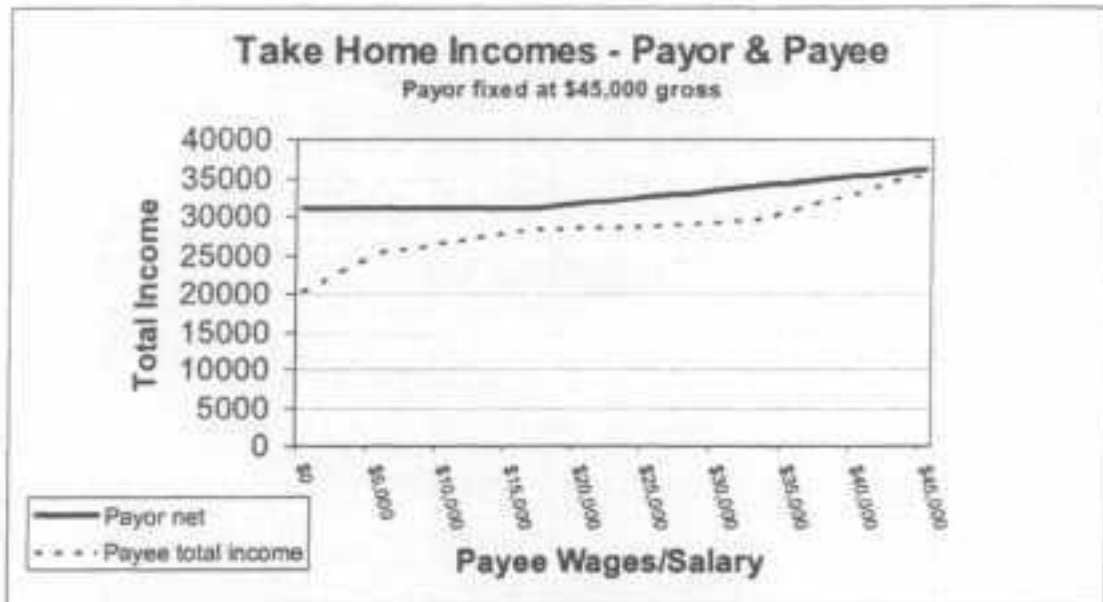
1. The payee has a right of veto on any expense the payor considers is necessary for the children
 2. The payor has no say over how money is spent on the children
 3. There are no checks to ensure the support payments are being used to the benefit of the children.
 4. The payor becomes the lessor of the two parents in a shared arrangement, as the payor's has no ability to determine expenditure for the children.
 5. When the payor has to purchase things for the children, yet the payee does not agree, the payor is in fact paying twice – once for the item and once through the support payment.
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D2 - b) Funds may be misused by payee

The payor makes support payments to the payee in the belief that the money will be used for the best interests of the child(ren). However, the payor has no way of knowing, or ensuring the payments are used appropriately. In effect, the Child Support Payment becomes spousal maintenance and not child support. This means that the children may not be receiving the anticipated standard of living.

D2 - c) Disincentives

I have attached graphs that show the respective net incomes of a payee and payor based upon a payor with \$45,000 per year gross income and another with \$100,000 per year gross income. These are based upon my understanding of the web sites provided by the ATO, Centrelink and CSA.



The resulting gap between the net incomes of the payor and payee are relatively small in the case where the payee is unemployed or in casual employment. For instance, if the payor has a gross salary of \$45,000 and the payee earns \$7,000 a year in casual work, the annual difference in their take home incomes is around \$6,000. For the case of a payor, grossing \$100,000 and a payee earning \$10,000 the difference in disposable income is around \$13,000. Considering the additional efforts that the payor has to make in time, labours, stress and education either there appears to be a lack of benefit or reward to the payor. In addition, the payor needs to incur costs related to working, such as transport, clothing and equipment, which further reduce this gap.

The effect is that:

1. The current formula devalues the payor's efforts compared to a payee who is unemployed.
2. The current formula places a significantly greater burden of being accountable for the children upon the payor than the payee.
3. The current formula appears to make inadequate allowances for the additional costs of the payor in being in a shared care arrangement, such as children's bedrooms, children's transport, consumables, washing, cleaning, all of which occur in similar amounts as being a full time parent.
4. The payee's decision about "whether to work or not" directly affects the payor's net income. This appears to lack justice, as there is little incentive for the payee to seek income from paid work.

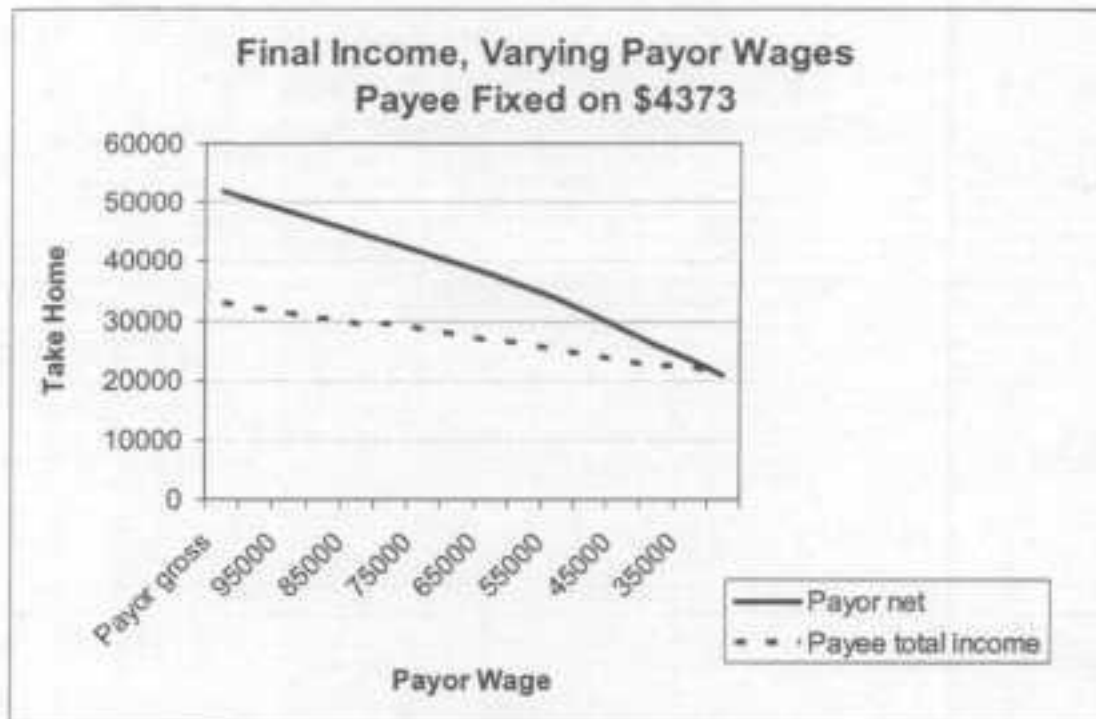
D2 - d) Perverse Incentives

The above graphs show other features of the current formula. First, the current scheme encourages the payee to remain unemployed claiming welfare payments and using the Child Support as a maintenance payment. The graphs show that for the payee between \$15,000 and \$35,000 gross income their net income hardly changes at all with less than \$4,000 change in net monies.

Considering that gaining full time employment will cause a significant lifestyle change for the payee (working 37.5 hours a week rather than discretionary activities) and cause them to incur additional costs (transport, tools, clothes etc), and add additional stresses and pressures to life, all for less than \$4,000 a year, then the system is encouraging the payees to remain unemployed.

For the payee to improve their financial position significantly will require them to gain a job earning around \$45,000. However, this is above the average wage, and considering that in many cases the payee has been out of the work force for a while, is an unrealistic expectation.

A further perverse incentive relates to the payor. The following graph shows the take home income for payors and payees as the payor's income decreases. Again, this is estimated from the ATO, Centrelink and CSA websites.



With a payor on \$45,000 and the payee earning \$4374 in casual work, there is only about \$5,000 difference in net earnings. Considering the effort involved in earning the \$45,000 this provides a strong incentive for payors earning \$45,000 or less to give up their work, and become a beneficiary.

E - Suggested improvements

1. The model for Child Support in a shared care arrangement needs modification to provide each parent shared accountability for spending. One method would be that the CSA requires shared care arrangements to set up a trust account for the children, with parents as trustees. A certain amount of the funds would go to the current payee to assist with board and lodging costs, and the parents could then co-ordinate the use of the remaining funds for the children. In cases where the funds are misused by one parent, the other can appeal to the CSA for a review and require the misuser to reimburse of the trust account.
2. The funding model needs to be reviewed to remove the perverse incentives. In particular, the model needs to recognise that each parent is only, in-effect, a half time parent, and therefore has the other half of their time free to support the family economically. If the payee is not working, but seeking welfare, then in effect they are half-time unemployed.

The combined Centrelink and CSA models need to ensure that a payee keeps more of their earnings if they are working – to ensure that there is a strong enough incentive for the payee to contribute economically.

In addition, the combined benefit and CSA models also need to avoid devaluing the efforts of a payor compared to an unemployed payee, by ensuring the payor gains a

reasonable and fair income margin for their additional work. This would prevent payors from giving up work, or retiring too early.

3. The funding model needs to make full recognition of the additional costs to the payor in having a shared care arrangement.

4. The legal profession needs to be educated to the value and desirability of shared care.