

SUBMISSION

Committee Secretary
Standing Committee on Family and Community Affairs
Child Custody Arrangements Inquiry
Department of the House of Representatives
Parliament House
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Australia

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on Family and Community Affairs

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Standing Committee on Family and Community Affairs

Inquiry into child custody arrangements in the event of family separation

1 Summary

- Many fathers are equally loving and want to have an equal share in their child(s) upbringing after separation, but due to many and varied numerous reasons I believe they do not even attempt to seek 50/50 sharing of their children at the time, which they later regret.
- Any changes to legislation should be effective immediately to all current parents.
- A child spending equal time with both parents will make it even more imperative there is legislation to at least partially define 'Joint Responsibility', in respect to the shared welfare and upbringing of their child.
- A failure to define 'Joint Responsibility' in any new legislation will allow fathers to take 'revenge' on mothers who have used deficiencies in the current system, to simply freeze fathers out by not including them in decisions involving the child's welfare and upbringing.

2 Background

Briefly, my experience with my marriage breakdown, was that when I sought legal advice, I was told quite clearly I had very little chance of obtaining 'custody' of my daughter, unless I could prove my wife was irresponsible (as in: a drug user, alcoholic, abusive, violent, etc), which she is not.

In respect to obtaining shared residence of my daughter I was advised it would depend on how co-operative my wife was likely to be, the answer to which was not at all (at that time). This led to the feeling that it was primarily her choice, and not mine, that I could not have 50/50 sharing of the raising of *our* daughter.

It was made very clear to me by the solicitor that I should be focusing on having Court Orders drawn up to sever the financial arrangements with my wife, and protect the ability to see my daughter at least *some* of the time, i.e. every other weekend and half the school holidays.

With all the above taking place while living through the trauma of a marriage breakdown, it was only later with hindsight that it became clear that I did not think this a fair outcome for me as a father, and it left me with a feeling of being discriminated against.

3 Observations

When I had come to terms with the devastation it had on my life I reviewed the situation and made a number of observations. I observed that my wife had:

- retained the day to day care and contact with our daughter, whereas I was only able to see her every other weekend and half school holidays (I once sat down and calculated this was equivalent to missing out on being with her for 4 out of every 5 years of her childhood)
- remained in our family home, whilst I had to move into a rented unit
- took possession of all our joint domestic belongings, while I had nothing and had to buy everything again
- was able to continue only working part time, while I had now the additional regular financial burdens of:
 - paying maintenance (we have a private arrangement)
 - the cost of having to maintain a 2 bedroom unit for the fraction of the time when my daughter was with me
 - buying a second set of clothing for my daughter for the time she is with me

The point being, that the way the current system works, it left my wife's life almost unchanged, where as for me, the father, it left me with dramatically less contact with my daughter and significantly more financial obligations.

4 Discoveries

The court orders with my ex-wife declare 'Joint Responsibility', which I have yet to see a definition of. There were a number of problems I discovered with hindsight about the consequence of this, including:

Phone contact: That my solicitor had overlooked incorporating phone contact with my daughter into our court orders. This I discovered would become a problem when my initial regular scheduled weekly calls to my daughter, were being forcibly limited by her

mother to only 2-3 minutes. On numerous occasions I would ring at the allotted time to find the phone off the hook, or the answering machine on all evening. (This problem ceased after a couple of years)

GP: my daughters' mother rarely informs me of our daughters' health, or reasons for her attending a GP. When I enquire, either speculatively or through my daughter mentioning she has been to one, often the only response I receive is 'what do you want to know for'. (This problem is now only intermittent)

Dental: as per GP above.

Special problems: our daughter had a serious speech problem that was slowing her learning, which we used to take her to a speech therapist on a weekly basis. After our separation, her mother continued taking her, but would not inform me of her progress, even when I asked, and she even denied knowing herself what the therapist was doing. Eventually I contacted the therapist directly myself, who told me she had been giving my ex-wife a regular monthly progress update that she had decided for whatever reasons she was not going to pass on to me.

Education/schooling: This is an area I have discovered is, and still is, being particularly overlooked. Our daughter has experienced speech and subsequent learning difficulties, which has caused her school to (commendably) give her additional help. I discovered the school had contacted and/or met her mother on a number of occasions in relation to this, but I was not contacted, or told, without prompting them first. My ex-wife had decided not to pass this on to, or include me, and for a long time I was unaware it was even happening. The school didn't make any attempt to contact me.

In addition, regular information the school sent home, including newsletters, were not passed on to me. This has included nearly missing such events as:

- Christmas shows for parents
- Dance performances for parents
- Parent/teacher interview nights
- School photographs

I contacted the school on numerous occasions about these concerns. I had to supply stamped addressed envelopes for them to post me their school newsletters, which I often received 2-4 weeks later, after most of the events they mentioned had gone. On one occasion I wrote to the (then) headmistress enquiring if I would even be contacted if anything serious should happen to our daughter, to which I received a reply that the school didn't have time or resources to deal with both

parents. This left me with the impression the school are not interested in treating both parents equally, a practice that I feel is discriminatory and should be legislated against.

5 Conclusions

There are many parents (mainly fathers) who have not, and do not, have equal contact with their children, not because they don't want to, but because for a wide variety of reasons they have not sought it. This could be due to being legally advised its just too hard, just plain bad or incorrect legal advice, not being able to finance legal action, not wanting the associated additional trauma of court action, just not wanting to upset their children, or just through simple ignorance. I think any new legislation should be drawn up to include current (as well as future) parents, who at the time of their marriage breakdown, did/do not have the benefit of hindsight to realize they have a right to expect an equal share of contact with their children.

If such legislation does become law, it is (in my opinion) also imperative any criticisms of it are anticipated and included. If fathers suddenly are able to have their children living with them 50% of the time, and they decide to not inform the childs' other parent of trips to the GP, dentist, messages from school, meetings with school staff, school events, etc, I would anticipate that the other parent (mainly mothers some of whom may have otherwise undertaken the very same practice themselves) will be crying foul in the very loudest terms when they are suddenly the ones being frozen out, and not informed of important aspects of their childs' upbringing, by fathers. Of course a simple solution to this is if the school at the very least maintained a mailing list of fathers who had expressed an interested in wanting to be contacted equally in all matters relating to their childs schooling. And with todays electronic technology (and I know this is about to become available in NSW) the school maintained a website of all upcoming events, and e-mailing list of non-residence parents for direct contact. Indeed my daughters school already has an email address, but I was simply told they 'wont' use it to send out their fortnightly newsletters. But regardless of the mechanism for communicating, it requires legislation to force them to, thereby treating both parents equally.

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