

House of Representatives Standing Committee  
on Family and Community Affairs

Submission No: 669

Date Received: 5-8-03

Secretary: \_\_\_\_\_

**SUBMISSION**  
**FOR**  
**INQUIRY INTO**  
**CHILD CUSTODY ARRANGEMENTS**  
**IN THE EVENT**  
**OF**  
**FAMILY SEPARATION**



## Contents

1. (2) Opening to the submission .
2. (2) Child wishes to stay school days with Father in family home
3. (2) Sole Custody Orders handed down in very difficult circumstances - Court counsellor for child not called.
4. (3) Sole Custody Orders used agents Father for more money for wife
5. (3) Parents separate - Child forced to choose one to love under Sole Custody.
6. (3) Mother uses Sole Custody to prevent daughter and father having access
7. (3) Sole Custody Orders hurt child .
8. (3) Sole Custody forced child to live in single room with mother when family home was available
9. (3) Child kept awake when with mother
10. (3) Mother pulls child screaming from car when she refuses to go back after access with father .
11. (4) Child forced by mother to go to "baby sitter" when family home and father available .
12. (4) Child "misses" school bus for contact with father and why is it always mum's way .
13. (4) Child ran away from mother because of Sole Custody Orders .
14. (4) Fifteen years later Daughter doesn't want to talk about Sole Custody just too painful .
15. (4) Child now an adult has left Australia .
16. (4) Little contact now with father - As a child told father did not matter .
17. (5) Had the Automatic right of 50 /50 Custody for the Parents been the law at the time then ;
18. (5) Conclusion .
19. (5) Children at risk
20. (5) Children having contact with Grand Parents .
21. (5) Child support formula .

.....

30th July, 2002

Committee Secretary  
Standing Committee on Family and Community Affairs  
Child Custody Arrangements Inquiry  
Department of House of Representatives  
Parliament House  
Canberra ACT 2600

Dear Committee Members,

**Re: INQUIRY INTO CHILD CUSTODY ARRANGEMENTS IN THE EVENT OF FAMILY SEPARATION**

**1. Opening to the submission .**

I write the following submission as a father who saw his only child have her life and her world completely torn apart by the Sole Custody Orders of the Family Law Court of Australia - the same court that is supposed to have the welfare and well being of the child as the most paramount consideration , clearly in our daughters case her welfare and well being was not the most paramount consideration at law .

I do not blame the Court or the Judge he was very considerate and in fact said that "it was clear that the child needs more time with her father , the Grand Parents and the family home [where all her belongings and pets were .] than the Law provides" or words to that effect .

I blame the "Law as written" giving one parent Sole Custody and thus taking ALL rights from the child and the other parent , thus forcing the child to live with and obey just one parent , even when it is against the wishes and best interest of the child to live with the Sole Custodial parent .

**2. Child wishes to stay school days with Father in family home**

Our Daughter wanted to stay with me [her Father] in the family home on week nights [Monday to Thursday] as we lived across from the primary school she could go to school with her friends from up the road , still see her Grand Parents that lived next door and if her Mother wished she could come and see our daughter after work - the mother drove past each day after work , on her way to where she lived .

Then on Friday night our daughter would go to her mother for the weekend , be dropped back to the Father on Monday , this would have been in the best interest of our daughter - however the Court under the Law as it stood in 1989 could not grant these Orders - as the solicitors [on both sides] sort sole Custody Orders , we were told that is what had to happen , the well being of the child and what she wanted was not taken into consideration at all by the solicitors .

Had 50 /50 custody been automatic law , the wishes and best interest of the child would have been carried out .

**3. Sole Custody Orders handed down in very difficult circumstances - Court counsellor for child not called.**

Although this submission is several pages long , it is only a brief account of what has happened to our daughter and her contact with my-self her father and the Grand Parents all because of the Sole Custody Orders - these Orders were handed down by His Honour in very difficult circumstances , he could only rule on what alleged truths or half truths and in some instances no truth at all , that was presented to him by the solicitors and in fact a Court Councillor waited all day to give evidence on behalf of our daughter and what she wanted , but simply was not called by either solicitor this I believe had a profound out come on the Orders .

Had it been Law that 50 /50 Custody was automatic then the final outcome would have been totally different especially for our daughter .

#### **4. Sole Custody Orders used agents Father for more money for wife**

I would have to alleged that both solicitors wanted my wife to be granted Sole Custody , allegedly I was then made an "offer" of more time with my own daughter if I agreed to more maintenance [than the law allowed] and or money from the property settlement , to go to my wife .

To use a child in this way is unprofessional at the very least , I gave the solicitor a "polite" no .

Again had it been Law that 50 / 50 Custody was automatic this would not have happened .

#### **5. Parents separate - Child forced to choose one to love under Sole Custody.**

Just because two adults separate the child still loves both Mother , Father and Grand Parents , it is totally immoral , un-Christian , un-Australian and agents the rights of the child , to force the child under Sole Custody to live with just one parent and be told they have to forget the other parent , as they can not live with the non custodial parent or Grand Parents when they [the child] wants , the child often does not understand , why all of a sudden they are force to live with just one parent the child never really gets over this trauma , this has happened to our daughter

Also the non custodial parent and Grand Parents never get over the trauma.

#### **6. Mother uses Sole Custody to prevent daughter and father having access**

As the Mother was granted Sole Custody , she believed that what she said simply had to happen - not in just rearing our daughter but in so called access through out the year , also at Easter , Christmas , Birthdays , Father's day and other "special" occasions

I can not remember when I last spent these "special" times with my daughter on "the" day - despite the fact that the Orders gave me [the father] 50 /50 time with our daughter on these "special" occasions

I did not get to see my daughter graduate from university or celebrate her 21St birthday with her at the official function , as my wife said "I have Sole Custody and I will say what happens" or words to that effect , even after our daughter turned eighteen (18) her mother was so used to having her way with Sole Custody Orders , it simply continued

#### **7. Sole Custody Orders hurt child .**

I can not put down on paper all of the hundreds of times our daughter was hurt , the sadness , emotional hurt , the heart ache , embarrassed and the trauma the sole custody Orders gave her over the past 15 years and it continues to this day . God alone knows what anguish , torment and trauma the Sole Custody Orders caused our daughter being forced from the ones she loved and the family home she wanted to live in with all of her belongings

#### **8. Sole Custody forced child to live in single room with mother when family home was available**

Our daughter was forced by the Sole Custody Orders to live in a single room with her mother - the child said that her mother snored and she could not sleep - this was evident when she would come to stay with me , by the black look around her eyes and the fact that after the evening meal say 6 pm she would ask me if I mind if she went to bed that she was tired - our daughter loved her own room in the family home and would go straight to sleep , when she woke in the morning at say about 8. am it was evident by the relaxed look on her face that she had slept soundly - she would say that it was lovely to sleep in her own bed and room and not have to listen to her mother snore.

#### **9. Child kept awake when with mother**

Our daughter told me that when she could not sleep when she was with her mother , due to her mother snoring our daughter would pretended that she was in a room on her own , she did this by dividing the room up with pretend walls

#### **10. Mother pulls child screaming from car when she refuses to go back after access with father .**

For years when I would take our daughter back to her Mother after access [sometimes a rare occurrence ] our daughter would refuse to leave the car - her mother would pull her bodily from the car crying and screaming that she did not want to go with her mother - our daughter would grab at anything in an attempt to not go with her mother , on several occasions she would even grab at the lawn to try in vane to stop her mother from taking her , her mother would bodily force / throw her through the door into the "room" she was living in and slam the door behind her , on these occasions as I could not interfere as my wife said if I obstructed her in the execution of the Sole Custody Orders she would take out Orders against me - this would mean that our daughter would not have any access to me at all

It is an indescribable thing hearing your daughter screaming out and crying "daddy help me I do not want to go with her" - and not being able to help her - all I could do was go to the nearest police station , they were extremely helpful and would have a car with a female officer go to see if our daughter was all right , my daughter told me they would tell her that "daddy sent them" and "that he loved her" , this would comfort her a lot and I believe from what our daughter told me stop her mother from physically hurting her

**11. Child forced by mother to go to "baby sitter" when family home and father available .**

After school under the Sole Custody Orders the mother would not let our daughter come across the road [to her family home] to see her Father or go to the Grand Parents , my wife said " that if that was to happen then the Court would have said so in the Orders" or words to that effect , instead our daughter was forced against her will to get on a bus and go 2 Km up the road to a "baby sitter" four (4) days a week , this was supervised and enforced by the school [female] teachers , it embarrassed and upset our daughter , on the Wednesday the Orders gave me [the father] access , our daughter often told me that she was so happy when Wednesday came around and she could come to me and her home .

**12. Child "misses" school bus for contact with father and why is it always mum's way .**

When our daughter went to high school she would often "miss" the bus that she had to catch to where her mother lived - I would get a phone call to come and pick her up , I could see that she wanted to see me and talk to me and this was one way she "got around" the Orders and her Mother , it would take about twenty (20) minutes to drive from the high school to where her mother "lived" , in this time we would have a good talk about her school , sport and coming events at school , she would ask how her Grand Parents were and our daughter often said to me "Dad why does it always have to be Mum's way and what she wants just because she has Custody of me , why can't it be what I want for a change" or words to that effect .

Again I say had 50 / 50 Custody been automatic then our daughter would not have had to go to the lengths of "missing" her bus to see me and talk to me .

**13. Child ran away from mother because of Sole Custody Orders .**

On at least two occasions our daughter "ran away" from her mother and refused to go back to her mother , on each occasion my wife called the police and our daughter was forced against her will to go back to her mother under the Sole Custody Orders . Where was our daughter's rights and what on going harm did these Orders do to our daughter no one will ever know .

**14. Fifteen years later Daughter doesn't want to talk about Sole Custody just too painful .**

A couple of years back I tried to talk to my daughter about the past , I wanted her to know that I tried to get Orders for her to live here in the family home the way she wanted , she asked me not to talk about it that she never wants to talk to or see another counsellor or the Family Law Court ever again , or hear about the Sole Custody Orders , it was clearly very painful and at the time [15 years ago] she thought that I had let her down or did not care about her , but now realises that it was the Sole Custody Orders and that both of us had lost all of our rights , that the Sole Custody Orders had given her mother total and one sided say in all of our lives .

**15. Child now an adult has left Australia .**

Our daughter is now 25 years old , she has left Australia and now lives in England [for last eighteen months and I do not know for how much longer ] , I believe as a result of the Mother being granted Sole Custody Orders and the trauma this has caused our daughter along with not having reliable regular contact with my-self [her Father] and being told to "forget" her father , this resulted in both of us growing apart despite our best efforts to "get around" the difficulties of the Sole Custody Orders and the Mother using them for her advantage .

**16. Little contact now with father - As a child told father did not matter .**

I still write to my daughter on a regular basis , but owing to her upbringing under the Sole Custody Orders and being told that I did not matter and I was not to be told anything , being taught not to share family problems and joys , I very rarely hear from her and she will not share her problems and joys with me her Father , if I get any reply at all I'm told "you don't need to know" or "Mum said I don't need to tell you" - that is the way it has been since about the age of twelve (12) years , our daughter came to me and said "Dad I'm sorry but I can't fight Mum any longer I will have to give in , she is making it too hard for me , she has custody [Sole Custody Orders] of me and there is nothing we can do" or words to that effect .



**17. Had the Automatic right of 50 /50 Custody for the Parents been the law at the time then :**

- (1) Our daughter would not have suffered as she did
- (2) The mother would not have become as domineering and ruling every ones lives with the Sole Custody Orders
- (3) I would have had my right as a father to help raise our daughter and she would have had a more stable upbringing
- (4) The grand Parents would have keep on seeing there Granddaughter , on a normal basis

**18. Conclusion .**

In conclusion , it was clear that our daughter wanted to still share her life with both her Mother and Father [as well as the Grand Parents] , however the Sole Custody Order totally prevented this and harmed the child to an extent that no one will ever know , she is now twenty five (25) years old and not married , as soon as a relationship starts to become serious she simply walks away .

I beg of all committee members not to let this chance go by to make a more humane law and stop future children suffering as my daughter did and is still doing , not to mention the suffering of both parents and the grand parents .

The Law of Sole Custody for the majority of children simply MUST end

Uphold the best interest of the children , ensure that those interests are of the utmost paramount consideration - make the recommendation that at Law 50 /50 custody is the child's automatic right .

**19. Children at risk .**

There will always be some children "at risk" , with the 50 / 50 automatic Custody , there is no reason that the Court counsellors can not screen all parties to a separation and determine those minority of children that are "at risk" and from what parent , then refer them to the Court for a Judicial decision

**20. Children having contact with Grand Parents .**

Unless it can be proved beyond all reasonable doubt that a child is at risk with the Grand Parents then this should also be the child's automatic right at Law , to continue to have contact with the Grand Parents on a regular basis and be allowed to "stay over" with the Grand Parents on some occasions - say during school holidays .

**21. Child support formula .**

I can only say what happened in my case , any money I gave my wife for the care and upkeep of our daughter she would spend on other things and our daughter would go without , her Mother told her "Dad will not give me any money to support you" or words to that effect

I found this out six (6) months after my wife left the family home from our daughter , from that time on I did not give my wife any more money , instead I asked our daughter to tell me when she needed clothes , school books and school fees etc and I gave her money to buy food [or when we could we went shopping together] and any thing else she needed , when our daughter went to university we set up a joint bank account and money was deposited into that account on a regular basis by my-self , as well I gave her a computer and other things she would need at university .

My wife received the child support payment - so no , I do not think the system as it stands is fair , but just because the Court gave Sole Custody to my wife this did not in my opinion relieve me from my duty and fatherly need to provide and care for my child .

In the event of Custody being made Law at 50 / 50 automatic then I believe each parent should be given 50% of the child support payment and the formula for maintenance should be adjusted accordingly .

\*\*\*\*\*