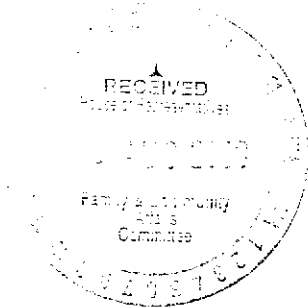


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House of Representatives Standing Committee on Family and Community Affairs	
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Committee Secretary  
Standing Committee on Family Community Affairs  
Child Custody Arrangements Inquiry  
Dept. of the House of Representatives  
Parliament House  
CANBERRA  
ACT 2600  
AUSTRALIA



Dear Sirs,

Thank you for the opportunity to pass comments on Family Law and allied issues. Particularly in relation to the issue of Shared Residence.

The need for legislative change within our current system has never been greater. There are many issues surrounding the current system, which need to be addressed. Without the need to reshape the wheel many aspects of legislative change can be classed as cosmetic. In retrospect there are only a few structural changes. The viability of Shared Residence would make a considerable difference.

Health issues are a concern for both parties involved in the family unit breakdown. There are many funded services readily available and used by woman. Reciprocating services unfortunately are not as available for men's health. This is not to lay blame. There are also a lot of men who do not recognise allied health issues or use the current brittle system.

To look a little deeper into health issues it can be said that the provision of reciprocating services is only a band-aid fix. The root cause surrounding health issues needs to be found. There are many indicators that show the problem lies beyond the separation itself. Many of the indicators relate to systematic issues surrounding Family Law matters especially in regard to child welfare and child support.

There is a demand for primary information. Men can be their own worst enemy because of the lack of vital information? There are again many support structures and advocacy services for women. Most men, for example, are not aware that by leaving the family home to 'give space' in conflict is an act, indirectly, terminating their role as a parent. Although it is considered an act in the best interests of the child so to remove an element of tension out of the home, it certainly puts a noose around the father's neck in regard to residence issues if the break down is not recovered. Children need a mother and a father as parents.

Unfortunately many parents are stripped of their parental responsibility, some through consent and others through court order. Without access to primary information uninformed decisions are often made when family law issues are consented to. A domino effect takes place and the parent can be faced with a loss of all financial status and is financially institutionalised until their children reach adulthood and in some cases after completing university. Unfortunately the current formulas have are not desirable. These are cosmetic problems.

The decision to leave is often made some months before the event. Statistically speaking the decision to leave is made by the maternal parent in a little over 70% of cases. The person who peruses this act is 'prepared' for dealing with separation, unbeknownst to their partner. They have time to prepare themselves for many of the emotional, financial and legal issues relating to the break down of the family unit. In effect a huge head start in a system that considers time an essence. Status quo developing considerably fast granted the circumstance. In turn approximately 70% of residence cases are achieved by the maternal parent.

Legislation includes the need to protect each party, especially the children, from abuse. The act of not allowing an individual, parent or child, to have contact with family is abuse, categorically social abuse. Not allowing a person to cope with adequate money to live is economic abuse. The current framework is considerably hypocritical. Hence, it can be said the Family Court becomes the leader in committing acts of domestic violence through legislation?

There is a great need to settle family law matters quickly and with little disruption to the parties involved, especially the children. A default position is needed to protect both the children and parents from further abuse. The best interests of the child is paramount. Why then does our system look after their interests so late in the family breakdown? There is a great demand for change.

It is the right of a couple to start a relationship. It is the right of a couple to marry. It is also the right of a couple to have children. It is a right of a party to a relationship to end the relationship. There is an obligation to preserve the marriage? The current framework is inadequate and in turn does not support this preservation. After all the best interests of the child is to have a mother and father, communicating with each other at the least. Unfortunately the current framework is encouraging of marital breakdown. By the law of averages it does not encourage adequate parenting from both parties. If a party to the family breakdown wishes to pursue their role as a parent and is capable the current framework usually does not allow this. The current system holds the right of one party to end the marriage (generally, not acting in the child's best interest but their own) higher than the rights of the child not to mention the remaining party to the marriage and continued parenting.

The current framework is hypocritical of its existence. The best interests of the child are paramount. That being the case why are those interests the last to be considered? The system is long and drawn out, somewhat tied up in red tape. Parents have a responsibility to their children. There is a responsibility to deal with their interests first, preferably before the family breakdown. The current framework does not encourage this. Changes to a default shared residence would preserve the rights of a

child first and possibly the marriage. Marriage is after all a life commitment not just a formality for giving birth to children, that is de facto.

There is a considerable expense in re-establishing your life after family breakdown. Finding a new residence, chattels to outfit the residence, modes of transportation and the cost of litigation. Unfortunately for some the chance of pursuing their role as a parent is just not within financial reach. Basically if you work and do not have a considerable disposable income the costs of litigation just simply cannot be met. The opportunity for Legal Aid is not available. The added pressure of working through a complex Family Law network adds to the frustration of a party to family breakdown, especially when they are emotionally most vulnerable.

The Child Support Agency in Australia is arguably one of the best in the world. Its current framework lays a strong platform to looking after the best interests of the child. Unfortunately the current models to the formula used to calculate the amount of child support is lacking. The economic abuse, in which the system innocently entrains, causes many added health issues to the non-resident parent. This again is a cosmetic problem. If there were provisions for default shared residence the added economic pressures would be reduced considerably. The current formula makes it quite an attractive option for one to have children and hold 100% rights and no responsibility.

Unfortunately in this country the current framework and allied support mechanisms are destructive although with right intent. The need for such investigation as this supports there is much evidence to suggest that all the mechanisms do not function well or compatibly with each other. The need to approach each case on a particular basis is still lacking. If for instance the law of averages granted shared residence much of the associated issues would be dissipated to a certain extent. The process of being able to move on with ones life would be less complicated and the road somewhat easier...emotionally and financially...better still with the maintenance of strong family ties.

The attitude, which develops from family breakdown, is a farce. It contradicts the principles and morals of family itself. Expectation that contact once a fortnight is acceptable simply is not, especially for a parent who can provide for the day-to-day care of their children. Shared residence is certainly an achievable circumstance. There are many positive structures in place, which can support this. Childcare and assistance in such is a good example of this. Unfortunately there is a tendency for a working partner to quit their job to care for the children of the marriage. This is simply because it is easy for a parent to go on welfare benefits and receive very large sums of child support. To be frank why work when you can stay at home and have somebody else pay for your lifestyle.

For example:

Party A earns \$40 000 pa

Party B earns \$30 000 pa

There are 2 children of the marriage.

Party B ends the marriage and takes the children.

Tax payer funded welfare would give Party B \$18 852 after tax  
Party A would be required to pay \$7876 in child support, which I agree an amount should be paid.

Net income being \$26 728  
Gross income being \$30 562

Not a bad lifestyle...stay at home with the kids...have more of a disposable income... not have the commitment of work or allied expense...deny Party A of continuing their role as a parent...NOT BLOODY AUSTRALIAN.... TOO COMMONLY DONE.

In the like Party B can provide support and meet the day-to-day care of the children...financially and emotionally be it residence or shared residence. The burden on the taxpayer is reduced considerably more importantly the children maintain a strong relationship with both parents. The current system does not readily make this available.

Nobody said separated life or single parenting would be easy.... I'm sorry the current system dictates that it is...for one party anyway. The other is left to pick up the pieces after being abused by this countries current 'fair' system. Yes a party to a marriage has the right to end the marriage. They also need to be held responsible and accountable for their own actions. It is without question that in a majority of cases they who have the care of the children could not do it without support of a dictatorial system. One that strips a party of their rights and institutionalises responsibility whilst graciously providing the other their rights and removing the burden of responsibility. What has become of the Australian Family Unit? ....A BLOODY MOCKERY.

Shared Care is a viable option, not that the rights of a child should be suppressed by economics. Morally it should go without saying. With minor cosmetic and structural changes to our current system the best interests of the child are easily met. It's becomes a question of attitude.

Other than a child needing regular extensive periods of residence with both parents, there are many factors, which should be considered in granting shared care. Primarily the right to continue the party's role as a parent if that party wishes granted that they have the capability to provide adequate care.

There are of course provisions where shared residence should not be granted such as domestic violence. This however should be proven beyond reasonable doubt not based on a balance of probability. Unfortunately desperate times call for desperate measures and far too often perjury is committed. It is difficult for a court when it is then faced to decide between two diametrically opposed cases on a balance of probability.

Prosecutions for perjury would be a welcomed change.

Shared care takes both parties to want to make it work. Why then does this country grant residence to the party, which blatantly refuses to make this a possibility?

The children need to maintain a close relationship to their family roots on both sides. Family breakdown unfortunately drives a wedge between families and quite often leads to the children never knowing any non-resident family.

A suggestion to the changes in Child Support formula would be to simply change from the percentage calculated from gross income to net income.

The assessment free range could be greater than 110% of welfare... Maybe 200%. After all, the payer is working for a living and paying their taxes why are they left with no money to enjoy the fruits of their labour. Much of the remaining is used in work related expenses such as fuel or transportation costs. They also are deprived of having their family.

It would also be fair to say that the reduction is child support payable start from 110% of welfare rather than \$35 000. There seems to be a bias trend.

It cannot be said that readjusting the model of child support is robbing Pauline to pay Peter. Peter has been raped and pillaged by Pauline for far too long.

Regards

Mik Whitecross

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