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Forbes, Bev (REPS)

From: Minnis, Doug [REDACTED]
Sent: Friday, 8 August 2003 12:41 PM
To: Committee, FCA (REPS)
Subject: Submission to Standing Committee on Family and Community Affairs

To the Committee Secretary.

I should like to make some observations and comments on the terms of reference to the Committee regarding the "Inquiry into child custody arrangements in the event of family separation".

As a father who had to separate from his family due to emotional and financial abuse by my former spouse, this abuse was recognised by a hospital social worker who was able to provide much greater support than any of the domestic violence services who I had previously contacted (all of these services are able to assist women but have very little to offer men who are on the receiving end), I feel quite strongly about both the legal system that protected and supported my former spouse against me and the child support legislation that also seems to support women far more than it does the fathers who wish to support their children.

I will address the issues as quoted in the terms of reference without restating them in full. I hope this is acceptable.

a(i) What other factors should be taken into account

As much as I would like to spend equal time with my children, I find that having to work full time and also at this current time, having to work away from home for extended periods it is necessary to allow maximum flexibility in contact/custody arrangements. I am fortunate that this is mostly possible in my case but would find it devastating I could not see my children as opportunity arose. Both the emotional and financial costs need to be considered need if/when it becomes necessary to chase back to court to seek a legal directive each time a parents circumstances changed. I also found it extremely difficult to find a custody arrangement that would suit my chaotic lifestyle that followed breakdown of my family. If my former spouse did not allow the flexibility that I need in contact arrangements I feel that I would probably be defeated by the costs of dealing with the court every time my circumstances changed

(a)(ii) In what circumstances a court should order

Although not an issue for me at this time, I know that there are circumstances where grandparents are very close to their grandchildren and are unfairly prevented from contact with these children due to family breakdown. Contact by grandparents/others should be actively raised by the court as an issue to be dealt with at the earliest possible point. Contact should not be unnecessarily opposed by any party.

(b) whether the existing child support formula works

To me I am afraid the answer to this question is a resounding no. I can only look at this from my personal perspective and understand that this does not apply to every case where child support applies. I do however know that my problems and issues are common to many who pay child support.

Firstly an outline of my circumstances. I am 46 and employed full time as a PAYE employee. At time of separation my former spouse held all property and cash. I left with a small amount of personal possessions, approximately \$1000 in cash and a car (modestly valued). Since property settlement my former spouse has the former home, a car, all the cash and some of my superannuation (I did trade some additional superannuation for cash to obtain a new vehicle - I could not realistically get a loan due to my financial position). I own no property and firmly believe that I will never be in a financial position to become a home owner.

Having given that broad outline I would like to raise some issues.

There seems to be considerable pressure on me to keep earning money so that I can pay for my children. There does not seem to be the same pressure on the other party to earn increase or even keep up an income. There is also no way to adjust payments based on short term income fluctuations, eg I found it necessary to take a day off without pay to gather supporting documentation and attend a CSA conference. At

the time, this reduction in income caused me considerable short term financial difficulty, that I could prove, but it seemed that I could virtually only reduce my annual income by this relatively small amount. I was also struggling with legal expenses but could gain no relief as these are personal expenses and were also very difficult to quantify as they were irregular and some were also carried by my solicitor for quite some time. I guess that I am saying that there needs to be more flexibility for the CSA to take into account actual financial situation.

I am in a position where I need to earn and save heavily with a view to establishing a household in the future, unlikely as outlined above. It is even more unlikely as every extra dollar that I manage to earn is divided among the ATO 50%, ex-spouse 32%, me 18%. Considering the positions outlined above, I need any extra that I can get, the ex spouse is well set and I believe that my children are well catered for financially. Currently I feel that it is not worth my while to earn extra as the bulk of any extra goes to my ex-spouse, not the children. It is also my firm belief that only a small portion of the amount paid is actually spent on or allocated to the children.

I would be much happier if the money I paid out was accounted for in some way or a portion was placed in trust for the children. There is no accountability as to where the CSA payment goes or how it is spent.

Optional activities, ie children's activities that are not mandatory school activities, also creates unnecessary tension in the area of payments. My ex spouse has the children enrolled in a number of activities that I am not entirely in agreement with however the children expect and want to go to them. This often creates tension when I have the children as I get to pay for all these activities when I have the children, as well as transport and sometimes provide the necessary equipment. No outside payments by me are accepted as CSA payment unless my ex spouse agrees to that. Needless to say none are agreed to.

Child support payments are calculated in a complicated fashion which I will try to explain in rough terms and that in itself creates other issues. My apologies if any of the figures are slightly incorrect.

Gross Annual Taxable Income is applied to the CSA formula to give an annual payment amount, then divided by 365.5 (average number of days in a year) to give a daily amount, this is then multiplied by 30.3475 (average number of days in a month) to give a monthly payment amount. All very wonderful and fair you may think, but why not divide the annual amount by 12 to give a monthly amount and divide by the actual number of days in the month if a daily amount is required, much simpler and I believe much fairer.

I have recently taken issue with the way that these calculations are used as my CSA payment was reduced on the 6th of October and due to the application of the CSA rules I ended up having to pay a greater monthly amount than previously because my CSA payment actually went down. It works like this - when calculating monthly payments the CSA use the daily amount and multiply by 30.3475. When a change happens (in my case a reduction), in this case on the 6th of October, CSA multiply the original daily amount by 6 then add the new daily amount multiplied by 25, because there are 31 days in October. In my particular case I ended up owing \$15 more than the original monthly amount because my monthly payment reduced by around \$30. It does not take much to figure out that this method is unfair in EVERY circumstance that it is applied because no month has 30.3475 days in it.

A simpler approach would be to not use arbitrary dates like the 6th of October. This date, in actual fact, is the date that the paperwork happened to be processed and has no relevance to any change of circumstance. This could more easily be applied from the start/end of month. This may be said not be any fairer but is more consistent and much easier to calculate and understand. When taken with the simplified calculation suggested above it may even release CSA staff to do something more productive.

Another issue I have is with the 110(??) days of custody required by a parent to obtain a reduction in CSA payment. In my case any reduction in my favour due to greater than 110(??) days custody would only cause greater hardship for myself and my children as there is no easy way to divide petty things like wear and tear on shoes, clothes and a thousand other things that would create conflict between myself and former spouse who firmly believes I do not pay enough now. What I would rather see is a way to have a form of pro rata reduction (eg cost of food) for periods of custody of 1 continuous week or greater. Due to my circumstances I tend to have the children in several periods through the year. The longest of these would be around Christmas when I usually have the children for three weeks. It is somewhat of a financial strain to pay my ex spouse to look after the children while I feed and entertain them. I feel there should be a way to provide some relief from the monthly payment (claimed and calculated in a simple way) when the children are in my

care for greater than a week.

In summary I feel that the CSA legislation is unnecessarily complicated and inflexible. The CSA does not seem to have any way in which to alter things that do not work, like the process that I outlined regarding changed payments. In this case the only appeal is to the Minister (which I have done).

I am more than happy to explain further anything that I have not made entirely clear or to provide documentation, where possible, regarding the issues raised.

Regards

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