

**Forbes, Bev (REPS)**House of Representatives Standing Committee  
on Family and Community Affairs

Submission No:

969

Date Received:

17-8-03

Secretary:

From:

Sent: Friday, 8 August 2003 2:59 PM

To: Committee, FCA (REPS)

Subject: Standing Committee on Family and Community Affairs Child Custody Arrangements Inquiry

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

This letter is a submission to the Committee's inquiry into the following terms of reference.

(a) given that the best interests of the child are the paramount consideration:

(i) what other factors should be taken into account in deciding the respective time each parent should spend with their children post separation, in particular whether there should be a presumption that children will spend equal time with each parent and, if so, in what circumstances such a presumption could be rebutted; and

(b) whether the existing child support formula works fairly for both parents in relation to their care of, and contact with, their children.

(c) with the committee to report to the Parliament by 31 December 2003.

I am making this submission for the Parliamentary Committee Enquiry on the subject of Shared Parenting of children from broken relationships. As a child from a broken marriage I was allowed free access to both parents whenever either my father or I wanted. I am a divorced mother who allowed the children of the marriage free access to their father with just one hearing to rubber stamp a 'Parenting Plan'. Finally I am a wife to a man who has had to fight for every minute to see his son and who has endured in excess of 14 court hearings to date because the ex wife refused to permit contact with no basis for such refusal. Therefore I submit as follows: -

1. That child/ren of parents deciding to separate and/or divorce should be permitted to spend equal time with both parents after the said separation/divorce. This proposal should be a base line from which all Family Court Hearings are established. Making the base line in the Family Court neutral and not heavily biased towards one parent against the other creates a non-aligned environment. This impartiality then affords children the opportunity to love and be loved by both parents without fear of guilt and/or reprisal.
2. Having said this there are obviously exceptions to this Shared Parenting proposal. When a parent has proven to be unsuitable through neglect, violence, sexual abuse or mental health problems their automatic right to shared parenting becomes subject to the scrutiny of the Family Court as per paragraphs 3-11 below.
3. When any party with regard to separation and/or divorce approaches the Family Law Court of Australia and children are involved, mediation should be made the primary course taken. Should mediation not achieve a suitable outcome for all parties then all parties must immediately attend with a court appointed counsellor. The family court should place serious considerations to the findings of counsellors / mediators and court writers

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when making decisions regarding the placement of children. The costs associated with mediation and counselling to be borne by the parties equally but with a means tested safety net for low-income earners.

4. Should a parent have clear, concise evidence that would affect / impact on the care of a child, that parent should be granted the opportunity to present these facts to the Family Court. The Family Court should summarily then make a decision regarding residence / contact based on the genuineness and legitimacy of any and all claims.
5. It is imperative that the Family Court deal with all matters summarily rather than allowing cases to drag on, in some cases for years. This chronic waiting for a Hearing several months away in finalising or following up on cases allows the 'custodial' parent time to alienate the child/ren against the non-custodial parent. This alienation damages the relationship between the child/ren and the non-custodial parent, many times to the point of total destruction. Frequently by the time the Family Court orders contact to occur, the child/ren have been so alienated that they balk at contact.
6. The Family Court should also afford punishment for vexatious litigants who use the Family Court as a means of seeking vengeance against the other parent. This issue should also be dealt with summarily and to the fullest extent possible.
7. Should a parent refuse to allow visitation, hinder visitation or sabotage visitation without court sanctions the Family Court must redress the situation summarily and to the fullest capacity of the court.
8. Should a custodial parent refuse visitation without court sanctions - child support payments should be reduced to encourage visitation to occur. The Family Court should have the power to punish and be willing and prepared to use that punishment against the noncompliant parent.
9. The Family Court should have the power to punish and be willing and prepared to use that power to punish vexatious litigants. This action would reduce number of cases presented for further hearing, thus reducing the Courts caseload. This reduction in the number of further hearings would free up Judges and Magistrates so that they can focus on more genuine cases requiring urgent handling.
10. As the parenting of children will be equal between the parents - child support payments will only be made when major discrepancies occur with regard to earnings and earning capacity. Child support payments should be calculated using the current formula but should take into consideration realistic living expenses and the cost of a second family. Stepchildren should be calculated into the payers' deductible amount and not just biological children.
11. Proof of the earnings / investments / income as well as expenses of parents, where child support / property settle

Yours sincerely



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