

Submission No: **1383**

Date Received: **18-8-03**

Secretary:

Stepfamily Association of Victoria Inc

Inquiry into child custody arrangements in the event of family separation

This submission focuses on how consideration of issues of specific relevance to STEPFAMILY wellbeing is relevant to the Inquiry.

Summary of recommendations

That the Inquiry clarify the apparent confusion of terminology between the emphasis on "custody" in the Inquiry title, and the emphasis on "shared parental responsibility for children" in the Family Law Act.

That the Inquiry start with the end in view, that is, with the knowledge that the great majority of children whose parents separate will be involved in residence or contact stepfamilies when their parents repartner.

That in considering how children's best interests will be served, the Inquiry take as its starting point in examining any presumption that children will spend equal time with each parent, the long-term view that such shared parenting arrangements must be workable when parents repartner.

That the core tasks of developing a successful stepfamily be considered in determining "factors which should be taken into account in deciding the respective time each parent should spend with their children post separation".

That information and education courses be readily available to resource parents to develop relationship, parenting and repartnering knowledge and skills, both before and after partnering, separating and repartnering.

That the Inquiry consider how any such presumption would encourage respectful relationships between parents, and between parents and children

The Stepfamily Association of Victoria Inc. (SAVI) is a not-for-profit organisation whose mission is to encourage Victorian stepfamilies to survive and be successful. SAVI commenced as a self-help support group in 1981 and remained a volunteer network for 16 years. In 1997 after receiving some funding through the Family Relationship Services Program of the Department of FaCS, an office was established. SAVI is now a respected, professionally resourced organisation providing support and education for stepfamilies and training for professionals.

The Standing Committee's Terms of Reference are:

Having regard to the Government's recent response to the Report of the Family Law Pathways Advisory Group, the committee should inquire into, report on and make recommendations for action:

(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
- (ii) in what circumstances a court should order that children of separated parents have contact with other persons, including their grandparents.

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

This submission focuses on (a) (i). Members of SAVI – mothers and fathers, stepmothers and stepfathers, represent a diversity of experience and views of negotiating and maintaining parenting arrangements and child support commitments under the Family Law Act.

SAVI notes and **recommends that the Inquiry clarify the apparent confusion of terminology between the emphasis on “custody” in the Inquiry title, and the emphasis on “shared parental responsibility for children” in the Family Law Act.**

As the Media Release of the Attorney-General and Minister for Children and Youth Affairs of 24th June, 2003 noted, “it is a fact of life that families do separate”.

It needs to be added: “and the majority REPARTNER”. Australian Institute of Family Studies figures (McDonald 1993) indicate that 54% of mothers and 74% of fathers repartner within 4-6 years of separation. However ABS statistics only count residence households as stepfamilies - 7% of families with children under 18 (Family Characteristics 1997).

Research (Pryor and Rodgers, 2001) indicates that 5-8 years after separation, only 13% of children under 18 did not have a stepparent in their lives. This suggests that residence and contact stepfamilies exceed 20% of all families with dependent children under 18. Thus approximately 13% of all families are invisible stepfamilies.

The experience of children and parents (mostly fathers) in these contact stepfamilies is denied for ABS purposes, although recognised for Child

Support Agency purposes. SAVI's experience over 20 years with thousands of stepfamilies is that contact stepfamilies experience the dilemmas and complexities of stepfamily relationship dynamics as acutely as residence stepfamilies.

It is well accepted that stepfamilies are at greater risk of breakdown than nuclear families, although statistics are difficult to find since the Family Court no longer collects separate figures on the rate of breakdown of remarriages. Breakdown can mean not only the couple separating, but also the breakdown of an environment which is nurturing for children and young people - 76% of young homeless people come from stepfamily and sole parent family settings (Chamberlain and MacKenzie, 1997)

Stepfamilies in general and contact stepfamilies in particular (because they are not counted as stepfamilies by the ABS) are often ignored in development of family policy and family support services in Australia. Yet children and adults in stepfamilies inherit the complex family histories of all their members, including their histories in relation to separation and parenting arrangements. Clearly any factors which enhance successfully negotiating separation will enhance stepfamily survival and success.

In return, SAVI believes that the core tasks of developing a successful stepfamily have direct relevance to "factors which should be taken into account in deciding the respective time each parent should spend with their children post separation". **SAVI recommends that these core tasks be considered in determining such factors.**

They include, but are not limited to:

1. Stepfamilies are born out of loss – loss and grief from parental separation are inevitable, both for children and adults. Losses need to be processed and where they are ongoing, positive strategies to manage them developed. Becoming "stuck" in processing loss impacts on ability of a parent to successfully negotiate the changes involved in separation and repartnering.
2. Children need support to resolve losses, to be able to adjust to the new family environment - parents can best help when they have faced their own losses. Without such support, children may experience a stepfamily as a source of further losses.
3. Accurate knowledge, realistic expectations and inclusive strategies about forming a stepfamily are essential for survival and success – as they are to successfully negotiate separating and joint parenting. **Readily available information and education courses are essential to resource parents to develop such knowledge and skills, both before and after partnering, separating and repartnering.**
4. Relationship styles based on achieving mutual respect, not dominance, are fundamental to managing the inevitable conflicting needs when attempting to combine 2 existing family units with different family cultures, histories, values and needs. – **The Inquiry should consider how any presumption would encourage respectful relationships between parents, and between parents and children.**

5. When either or both parent repartner, the needs of two or more additional sets of children and parents need to be factored into managing parenting arrangements. It is thus crucial for stepfamily survival, and preventing subjecting children to stress of another family breakdown, that **parenting arrangements balance certainty with flexibility**. A presumption that children will spend equal time with each parent would need to be realistic in this complex repartnering context for it to be considered following separation.

In summary, SAVI believes and recommends that the Inquiry start with the end in view, that is, with the knowledge that the great majority of children whose parents separate will be involved in residence or contact stepfamilies when their parents repartner.

Children's best interests will be served most if the Inquiry takes as its starting point in examining any presumption that children will spend equal time with each parent, the long-term view that such shared parenting arrangements must be workable when parents repartner.

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References

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McDonald, Peter 1993 Family Trends and Structures in Australia Melbourne, Australian Institute of Family Studies

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