

Nikolaus Okle
PoBox 3556
North-Mackay Qld. 4740

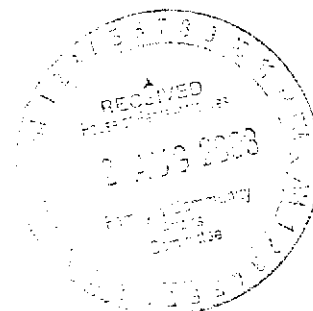
House of Representatives Standing Committee
on Family and Community Affairs

Submission No: 171

Date Received: 2-8-03

Secretary:

To the:
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
FCA.REPS@aph.gov.au



Submission to the Inquiry into child custody arrangement in the event of family separation

Abstract:

Family: Father, Teacher working full time
Mother, Jeweller working part-time
Children: Boy 13 years, Boy 11 Years, Girl 9 years
Shared Custody

- (a)
- (i) Custody: shared custody for over 2 Years
Conclusion: shared Custody works well for the children.
 - (ii) Contact with others: Opinion: yes children must have access to other people.
- (b) Child Support Formula:
Maintenance is far too high.
Maintenance calculated on Gross salaries must be tax deductible to be fair
Purpose of payments is to undefined and to uncontrolled
Formula should consider Property Settlement and Costs of maintaining a full time job

Dear Madam, Sir

Custody:

My wife and I came to Australia in 1991 together with our oldest son from [REDACTED]. Now there are 3 Children, two boys 13 and 11 and a girl aged 9. In July 2000 the breakdown of the marriage happened and for me that was unexpected and without a reason. Not willing to accept that it is all over, I was very reluctant to make a move. Over the following months the tension grew, my wife got more and more hostile towards me and the children started to play up. I offered to move out under the condition that we agree on shared custody. So in June 2001 I rented a flat and moved. The children were very sad and wanted us to stay together, but this was not an option for my wife.

Since then we work on a fortnightly custody schedule of eight nights with the mother and six nights with me during school weeks, but additional nights with me during school holidays. Our yearly custody level results at around 49/51%.

The first weeks after separation were very hard and confusing. I was still in doubt that it has really been right or necessary to move out. There was confusion and some uncertainty on the part of the children but they started soon to test out the new situation. (A good sign) At no stage any of the children was unwilling or reluctant to go from one place to the other, they cope willingly with all this packing and moving every week. Very often they arrange times and location themselves. In the very early weeks there was this huge logistic dilemma how to get school, music, sports and punctual pick up and get it into good terms with a full time job. With plenty support from school and other parents all settled in and worked out.

Today it is just part of our life, slowly there are even sign of a beginning cooperation (between my ex and me) in children's issues, e.g.: Helping out with driving and pickups. My oldest son was just starting year 7 when I moved out of the family home, despite that he still managed to apply for and gain an academic scholarship for High School.

So after all, we have nearly an average family life with birthday parties, friends after school and even sleepovers. I have to say the support by other families and the staff of my children's school(s) is a very important factor in this.

I am convinced that shared custody is surely the solution which bruises the children the least and it doesn't deprive them of a parent, and children need both parents very much. But it requires help from school; other parents and **flexibility from employers** to get all the difficulties sorted out. Having shared custody as norm and not as an exemption will surely help a lot as well.

Contact with others:

Children need, especially when they enter their teen years a larger reference than just father and mother or even worse only one of them. In almost all cases contact with the wider family is good and should not made impossible only because one parent is to hateful, fearful or to scared of the other or has a agenda of its own. Since my own marriage breakdown I have spoken with many single parents (men and women) and in quite a few

cases it was mothers! fanatically fighting to keep access to a minimum (including the grandparents). And sad enough it is was all about money and the fear to lose some of the Maintenance Payments, Family Tax Benefit or Sole Parent Pension.

Child support formula:

Child support formula should consider Property Settlements, very specific it should differentiate for who has no (or minimal) costs for housing. Housing costs are a considerable part of the cost of living. In fact housing costs me 30 % of my net salary or 42 % of what is left after I paid maintenance.

It looked like there was a provision in the child support law to take care of that, so I requested a change of my child support assessment for that reason. This was an unclear, biased, prejudiced process, which left me where I was.

Payments should be half or less of the full rate in the case of shared custody, in the contrary I still have to pay 24% compared to 32% (full rate). This is only a reduction by a ¼.

But in the case of shared custody one has to provide housing suitable for school weeks, space for recreation, all in all a complete household, that is much more than you have to provide when you have only access every second weekend. There are also additional costs for school like arts council and excursion and sports. Most of which I would not have to pay for, if I only had so called substantial care. And as it is in my case, the children's mother is not willing to pay for any of those costs, while the children are in my care, despite the fact she collects 550 \$ a month as Maintenance.

The possibilities of claiming any of those costs as NAP's are close to zero! The list of prescribed payments and NAP's is too vague, and the practise of the CSA is, they phone the mother and ask whether she agrees (She doesn't by default) to accept this as a maintenance payment.

The solution is either to give much clearer guidelines of what is paid with the maintenance payment or reduce the amount to substantial less than half of the full rate.

Shared custody also means to set up a complete working second household. This means also to carry half of the costs of living, which in essence should eliminate the need for a maintenance payment at all.

The whole financial dilemma many men are facing starts in the Family Court with the property settlement in favour of their wives with settlements around 65/35%. And read this right, this is not a mere 15% more for the wives, this means the wives are getting double of what the men are getting. Very often the given reason for this is very unjust division is the higher income earning capacity of the men.

But this higher earning capacity is totally taken away by the Child Support Formula. This might be different when there are no dependant children.

Have a look at my case, with three dependant children I have to pay 24% (after the threshold). One might argue that is not much, but this are not the real costs to me, the figures are very distorted by the fact this is not tax deductible, in reality I pay this as net, but also pay the tax and super for it. This increases the gross amount to around 150% of the net payment. And this gets worse the more you earn. I see only 32 % of every raise now and this can drop to around 27 %, Tax and Maintenance gulp the rest. This is not

even enough to make up for inflation. In fact for every additional dollar maintenance I have to pay now will cost me 1.75 dollars of my gross salary.

Because the money I spend on maintenance payments is still considered as income; I receive only basic family payments and have no access to other benefits. This is quite different on the receiving end of maintenance payments.

Maintenance should phase out (instead of being capped) after a basic amount is paid. It is hard to understand that costs to care for a child is directly linked to the family income. This might be only the case where the income is just not enough to provide. If there is higher income, parents will not just spend more on their children; this will very much depend on age, interest and performance and of course on the interest and hobbies of the parents.

Working full time and looking after children is difficult to manage and more costly than staying at home or partly staying at home. There are financial costs to maintain your social relations and as a single parent it is even more important to keep them up. Higher income also increases the expectation of work colleagues, friends and family.

All in all Maintenance payments are too high and are used to improve the personal lifestyle of the recipients. My ex-wife has just returned from her second overseas trip in two year. The durations were seven weeks and four weeks. She earns from her part-time job 22000 \$ a year, but there is also Maintenance, Family Tax Benefit and Sole Parent Pension.

I am deeply disappointed and feel betrayed and cheated by the whole setup, as many others are. The current legislation and practise of the Family Law does not help to keep families together and it offers a too easy escape for the one party if there is a problem. Good Relationship are not given and are not always conflict free, but current practise is that men are getting penalised for providing and being involved in their families. Surely there will be family separations but when it happens it must be fair.

[REDACTED]