

From:
Clive Astle
40 Cosmos Avenue
Banksia Beach QLD 4507

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| House of Representatives Standing Committee on Family and Community Affairs | |
| Submission No: | 913 |
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| Secretary: | |

To:
Committee Secretary
Standing Committee on Family and Community Affairs
Child Custody Arrangements Inquiry
Department of the House of Representatives
Parliament House
Canberra ACT 2600
Email: Fca.reps@aph.gov.au

Re: Submission to the Inquiry into Child Custody arrangements in the event of family separation

Summary

I agree that the best interests of the children should be the paramount consideration. However, the current adversarial Family Law culture and punitive Child Support formula and anti-male biased Child Support administration has undoubtedly inflamed parental breakdown and caused a "stolen generation" of children to grow up without fathers.

I support the presumption that children spend equal time with each parent. Where equal time proves unworkable, Family Law should be changed to have a presumption of sole residency/custody for the parent deemed most cooperative. This gives the necessary law incentives for parents to cooperate and reverses the current unfortunate adversarial disincentives to cooperation.

Personal Family Law Experience

I am a 45 year-old father of one. As a child of divorce I can personally testify to the best interests of children being met by spending equal time with each parent. Marriage breakdown destroyed my father, almost destroyed me, and almost destroyed my son. Injustices to the father are visited upon the children. Limiting father access is almost always in the worst interests of the children, creating children unable to have happy marriages and lives themselves, perpetuating family breakdown from generation to generation.

I saw my father only once (for my eighth birthday) between when my mother left him at my age three and when my father died many years later. I believe the absence of my father was a direct cause of my own subsequent failed marriage. I had much insecurity because of the role model of my absent father. Note that the absent father role model was a powerful influence, more important than any resident male, due to the genetic bond. I quite reasonably expected to be like the stories I heard about my father not like any other non-father male in my mother's life. I entered adulthood with no idea how to be a man. I entered adulthood desperate to marry to avoid the loneliness I saw on my mother's pained face every night. I entered adulthood full of insecurity due to the unfortunate way my father's life had deteriorated since my

mother took their children away. I feared I might end up a drunken vagabond like his role model unless I happily married.

My mother did her best raising me and I mean no criticism of her but she could not be both a mother and a father. My mother believed (wrongly in my view) that my best interests were served by lack of contact with my father. My father was devastated by the loss of contact with his two children. He lived as a drunken vagabond, beginning from the time of loss until his premature death of alcohol-related dementia. I firmly believe his sad lifestyle was caused by the tragedy of losing access to his children. I believe this because I almost went the same way when I lost reasonable access to my son, too.

I was married for some thirteen unhappy years. On separation my ex-wife and I were amicable and I had access to my 5-year-old son 6 nights out of 14. But then the desire to maximize Child Support saw my ex-wife limit access to every other weekend. Solicitors told me that it would cost me about \$100,000 (in 1991) to fight for return of the lost access and that I would lose. I found it very hard to understand how a "no-fault" divorce system meant automatic mother custody. Not having had a father myself, I was very worried for my son if he was prevented from having reasonable access with me.

Only a father who has been forced to endure the absurdity of every other weekend access knows the pain that cuts like a knife as a result. Access is too short to provide a father role – instead you feel sidelined like an uncle. Separation from your child is excruciatingly painful at the end of each access.

I emphasise that the wellbeing of the non-resident parent is a very important influence on the children, even with no access. The influence of genetics is strong and children expect to be like their parents. If limited access makes a parent unhappy that is not in the best interests of the children. Children naturally fear that they will become like their parents, just as I feared that I might become like my sad father. A happy parent is more likely to have a good career, to remarry happily, to parent better – in all these ways they make much better role models for their children. Both genetic parents are equally important in the eyes of the child. Equal access is almost essential.

I remarried some five years later (and we are still very happy some eight years later). However, my wife had a nervous breakdown due to the stress caused by ridiculously high Child Support Payments. Despite two professional incomes (and only my one child between us) we found ourselves unable to be comfortable enough to afford to have any of our own children.

My son and I endured this limited access from his age 5 until about age 15 when I reluctantly terminated all contact. I was a loving father but I terminated all contact because it was better my son had an absent father that was alive rather than a dead one. The pain of limited access was unbearable and getting worse all the time. I was close to suicide, a choice I know many fathers take due to the hopelessness they feel. The hopelessness is greatly aggravated knowing our children are effectively "kidnapped" by Child Support maximization, contrary to the best interests of our children. The demonization of fathers by the biased family court especially the outspoken Chief Justice Nicholson further worsens the feeling of hopelessness.

My son is now a man of eighteen and he resides with me. At sixteen my brave son, of whom I am very proud, ran away from his child-support-maximized mother and arrived on my doorstep requesting to live with me, his father. My son understood

intuitively that he needed his father. He understood that the family law system was to blame and that his only way to get justice was to take the law into his own hands.

I note with total disdain for our biased family law culture that it cost me \$2000 of legal costs for my son to have his desire to live with me court-sanctioned because his mother fought to retain "her" maximized Child Support even though our sixteen-year-old son freely chose to reside with me. I note that the Child Support Agency showed its usual anti-father bias in refusing to acknowledge my son was living with me without a court order (and yet my ex-wife required no evidence at all for child support to begin originally). It cost me twice as much to get residency changed legally as I was eligible to receive for the total amount of child support remaining until my son's eighteenth birthday! I had paid over \$100,000 to his mother over the years in punitive Child Support.

Further, it is not uncommon for children to live with their mothers in their early "tender" years and then live with their fathers during their teenage "rebellious" years. It is common knowledge that child costs are much higher during teenage years. Yet the child support formula does not vary with age. Accordingly, mothers receive a substantial overpayment of Child Support over actual costs during the "tender years" and fathers much less so or even a deficit during "teenage years". No wonder mothers don't mind letting the children go to the father as child costs rise during the teenage years but hold them hostage during the "profitable" years.

Now my son is free to spend as much time with either his mother or his father as is appropriate. He is no longer "kidnapped" by Child Support. He is no longer legally restrained by outdated mother-only parental concepts. But he and I remain angry at an adversarial Family Law and Child Support culture propped up by vultures that profess "best interests of the children" while enacting anything but. My son has grown into a man that is personally aware of the outdated anti-male bias of Australian Family Law. He says he plans never to marry unless the laws are changed to be fair to males.

It is time to look at common sense and introduce equal parenting. It is time to ignore the vested interests of those who profit from the destruction of families and listen to those who are part of the "stolen generation" of children that were denied equal access to their fathers.

Other factors besides best interest of the child that should be taken into account in deciding respective time spent with each parent

1. Children's wishes are invariably for equal time access.

Children one day become adults. To my knowledge there has never been research on what, as adults, these children came to think of Court condescension in so often ignoring children's wishes for equal time access. How can courts be acting in the "best interests of children" by limiting father access when, as in my case, the adult the child becomes says "No, you didn't." Children's desire for equal access shows much more common sense than the court's misplaced bias against fathers.

2. Less than equal access requires justification and explanation to the child

Many children tend to blame themselves for not being able to see Daddy as much as their mother. Children need to be given an external justification to

avoid this affecting their self-concept. Again, this risk can be avoided by equal access.

3. Equal genetic contribution requires equal access.

Both parents are equally responsible genetically for their children. Children instinctively know that. They expect to be a lot like their parents. Studies increasingly show the importance of genetics over environment to child characteristics. A father role model is looked to instinctively by a child many times more than any other male in that child's life, whether the father is present or absent. Often, as in my case, the absent father role model may go unrecognized as a child and yet have substantial influence as an adult.

4. The equal access interests of the parents are in the indirect best interests of the child.

Limiting access negatively affects the father, indirectly negatively affecting the children. A dead parent is a bad role model. An unemployed parent is a bad role model. An unhappy parent is a bad role model. Children instinctively expect to be a lot like their genetic parents. Limiting father access to an absurdly short every other weekend causes high male suicide rates, high male unemployment rates, high unhappiness for all. Children thrive best if both their father as well as their mother has reasonable chances of happiness. Punishing a father with limited access and unjustifiably high Child Support punishes the child indirectly by destroying the father image children may aspire to.

5. Parental Cooperation

The current system provides incentives not to cooperate. Punitive Child Support levels encourage mothers to deny access to maximize their "incomes". Family Law precedent rewards mothers with sole residency if they demonstrate they can't work with fathers or if they falsely claim abuse. These incentives must be turned upside down. Instead, Child Support levels must be based on actual research of child costs so as to remove the "profits" available to mothers by maximizing child supports surplus over actual costs. I note that it is well known that current child support costs have no basis in research or practical experience but owe more to outdated anti-male social re-engineering agendas. Secondly, if one parent refuses to cooperate with the other than sole residency should be awarded to the cooperative parent, rewarding cooperation not punishing it.

6. Parental gender roles prior to separation are irrelevant.

A factor that is not relevant to access time is the way parents may have divided their time prior to relationship breakdown. Parents make joint decisions that optimize their married circumstances. If one is jointly chosen to be the primary breadwinner this does not in any way indicate they are not equally valid as a "primary caregiver" after relationship breakdown. In my own case I had to be the primary breadwinner because my then wife refused to work. I was stunned that her lack of cooperation in the care of our child (by not willingly contributing anything financially) should be rewarded with sole custody. Fathers and Mothers contribute differently but equally. In a supposed "no-fault" system that should be a given.

7. False accusations of child abuse should be discouraged by loss of access.

Today, the system encourages false accusations because the Family Law Court rewards mothers who do so with sole residency. Incentives must be put in place that encourage more access not less.

Rebuttal of equal access presumption

Equal access should only be rebutted:

1. If one parent is uncooperative, for example, disagrees with equal access or makes false claims of child abuse, then the one agreeing with equal access should be given sole residency as this encourages the closest outcome to the optimum equal access.
2. If one parent is unfit to be a parent as judged by independent criminal conviction for child abuse in the Criminal Court not by the biased, unfair, arbitrary Family Law Court. This ensures false claims of child abuse are not rewarded with sole residency.

Whether the child support formula works fairly

No, the current child support formula is unfair to fathers and causes mothers to greatly limit access to maximize the "profit" made given that the Child Support formula pays well above actual child costs. It is responsible for a "stolen generation" of "kidnapped" children held hostage by mothers eager to maximize their child support. Changes are required:

1. Level of Child Support should reflect actual child cost.

Currently the level of Child Support is outrageously high. Lowering the level encourages equal access as it removes the "profit" motive that causes mothers to restrict access.

2. Level of child support should not vary according to number of nights of access.

It does currently and mothers unfairly restrict access to maximize child support. I would have paid any unjust amount if only I could have seen my son for equal access.