

House of Representatives Standing Committee
on Family and Community Affairs

Submission No: 1219

Date Received: 8-8-03

Secretary:



8 August 2003

Committee Secretary
Standing Committee on Family and Community Affairs
Inquiry into Child Custody Arrangements in the
Event of Family Separation
Presumption of Joint Residency
House Of Representatives
Parliament House
Canberra ACT 2600

8 Manton Street Darwin NT
GPO Box 3180 Darwin NT 0801
Telephone • (08) 8982 1111
TTY • (08) 8982 1177
Facsimile • (08) 8982 1112
Freecall • 1800 812 953
Email • info@dcls.org.au

By fax: 02 6277 4844

RECEIVED
HOUSE OF REPRESENTATIVES

8 AUG 2003

PARLIAMENTARY
OFFICE

Dear Committee

**Darwin Community Legal Service Submission to the Standing Committee on
Community Affairs Inquiry into Child Custody Arrangements in the Event of
Family Separation**

Darwin Community Legal Service is a community legal centre providing a range of legal and advocacy services in and around Darwin and the Top End of the Northern Territory. We provide general community legal services including legal advice, casework, community legal education and law reform activities. We also provide specialist welfare rights, disability discrimination and aged care and disability advocacy services.

This service endorses the submissions prepared by the National Association of Community Legal Centres (attached), and the Top End Women's Legal Service (attached). Below is a brief summary of some issues of particular concern to us.

- The presumption of joint custody would have significant implications for Centrelink payments to separated parents. At present, both parents are not able to claim Parenting Payment. The parent who claims it first receives it and the other parent then has to claim Newstart, which is paid at a lower rate and has a more stringent income test. If this parent has the care of a child every second week, he or she will find it extremely difficult to fulfil the consequent obligations to Centrelink or the Job Network. Centrelink related problems are exacerbated by distance and isolation: the number of breaches and/or incorrect payments is extremely high for remote Centrelink clients.

residential aged care rights • disability rights • welfare rights • domestic violence legal help (darwin)
domestic violence legal service (alice springs) • free legal advice and information • human rights and public interest law

The Darwin Community Legal Service Inc.

- The NT has a highly transient population. In the event of family breakdown one or both parents may relocate to another community within the NT or interstate ("down south"). These moves are usually made in order to access support from family and friends. Identifying the best interests of the child is a very complex matter; the presumption of joint custody will not assist NT families to make difficult choices.

Finally, we must not forget that there is currently no legal barrier that prevents parents from opting for an arrangement where children spend equal time with each parent. Furthermore there is nothing to prevent the Family Court making orders for joint residency where it is in the best interests of the children. Our argument is simply that such arrangements suit so small a percentage of separating families it is not useful to make a presumption in favour of joint custody (or joint residency as it is more properly called).

A seemingly simple concept such as joint residency is not so simple in practice, does not ensure the best interests of the child are paramount, and complicates an already difficult area of life and law.-

Please feel free to contact me if you require any clarification of any issues raised in this submission.

Yours sincerely
Darwin Community Legal Service Inc



Caitlin Perry
Co-ordinator