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House of Representatives Standing Committee
on Family and Community Affairs

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Secretary: B. Forbes

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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



Dear Sir/Madam,

I have only the expertise of having been involved in the system but would like to make the following submission to the Inquiry:

The present system of Child Custody has two major problems:

1. Most of the conflict in Children's matters is held out to be over what is "best for the Child". However in reality the conflict is really one party not wanting to give the other the benefit of "contact to the children" when they have removed the emotion and physical support for the relationship. This is compounded by the fact that with the residence of the children comes the "benefit" to one parent of child support and the "expense" to the other.
2. The factor that most causes a disruption to resolution of conflict is the cost of the dispute. The process of entering the system to defend or change an arrangement is such that often the cost is such that the motivation is often to accept a lesser situation than to spend the cost to get what is fair. This breeds resentment and is a fault of the systems complexity and the involvement of legal profession. Simply, there is no motivation for the legal profession to make the actions resolve quickly.

My suggested solution is:

Set up a system that has a status quo that is automatic and will cover most of what the system produces anyway and vary the fees that are associated with the system.

1. ~~When the parents of a child cease to have a domestic relationship together upon one~~ of the parents having registered such cessation an automatic order is made.

That order would cover:

That both parents will have responsibility for long term decisions.

Residence of the children being equally divided and if one parent elects they can defer to the other periods of residence (so contact is effectively part of residence) and child support tied to the degree of residence.

Child support is not set on income as the primary determinant. The primary determinant is the cost of a raising (that can be based on an average) that is then adjusted for the factors of age of the children, number of children to support, the area that the children are raised in (cost of living of an area).

Capability of parents to pay is then the secondary consideration and adjustments made on the differentiation of the capacity of the parents. However, this should be not based on taxable income but spending power of the parents.

As can be done the status of the children at the time of registration be in the main maintained. I accept that this is the difficult area where inequalities between the parents, ages of the children and other factors could disport such as system. However, clever mind should be able to find an equitable formula..

2. Changing the arrangement will then be the realm of the court process.

In the court action the behaviour of the parents after separation should be a major determining factors in any decision to change and arrangement. This will encourage reasonable behaviour and discourage unreasonable action that is not aimed at a resolution.

There should be no entry fees into the system for resolution of disputes only exit fees where there has to be a judgement of the court. That way the motivation is to get out of the system by resolution.

The system should be funded by a levy on the legal profession, based of fees charged, as they directly benefit from the system.

There should also be a set standard fee for services of the legal profession that is based on a 66% discounted percentage of the average costs to run an type of case. This should be a sufficiently low figure to be a strong motivation not to have cases go longer than average length. This would then motivate the legal profession to get the cases resolved quickly.

Yours truly,



Les Blackstock
