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Committee Secretary
Standing Committee on Family and Community Affairs
Child Custody Arrangements Inquiry
Department of the House of Representatives
Parliament House
Canberra ACT 2600

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MOTHERS AND FATHERS AS PRIMARY CARERS

A telling statistic in relation to current problems associated with Family Law is one which indicates that up to 92% of custodial or 'major residency' parents are female. Whilst open to statistical correction, the undeniable fact remains, that the absence of joint parenting presumptions in decisions of the Family Court, continues the angst for parents and, paradoxically, fails to address 'the best interests of children!'

Surveys have revealed that approximately 5% of family law custody cases are contested at judicial hearing, and of these contested cases, fathers get custody in 40% of instances. Of the other 95% of cases, either amicably settled, or determined before Family Court registrars or magistrates, a large proportion of fathers are advised not to proceed with custody applications because they are likely to lose custody to the mother as the 'primary care giver'.

With respect, statistics are a politician's plasticine but the following calculations bear consideration. Forty percent of five percent is two percent, so if we look at our original figure of 92%, then males are attaining primary care of their children, presumably without completely destroying a kin altruistic financial legacy to these children, in only 6% of cases.

Joint parenting presumptions do not necessarily mean children residing with each parent on a rotating basis. In some cases this would be highly impractical and detrimental to the children. What they should mean is that both parents are truly considered as equals in determining the financial, social and emotional welfare of their children, and if one parent obstructs or reneges on their obligations, they should suffer the appropriate sanction of the Court!

Along with the necessary change in Family Court attitudes, comes the necessity to remove unfairness from the Child Support Scheme. Firstly, non-custodial parents should not have to pay child support for periods when they themselves have contact with their children, such as every second weekend and half of all school holidays. Secondly, the non-custodial paying parent who expends more than 5% of his/her child support income in order to have contact with his/her children, should be entitled to claim the costs of food, clothing and entertainment in this 5%. At present, transport, telephone and accommodation expenses are considered as the only criteria to be given some weightage in obtaining a child support assessment departure. The Family Court has deemed that these costs are applicable in enabling parent-child contact to take place, whereas food and entertainment expenses are associated with the enjoyment of the access and are therefore disallowed.

Parents have responsibilities – children have rights. I truly wonder **who** strives for emancipation in Family Law! Please accept this submission in line with the stated terms of reference.

Robert Logue

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