

SUBMISSION

making suggestions and recommendations

House of Representatives Standing Committee
on Family and Community Affairs

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Secretary:

Child Custody Arrangements in the Event of Family Separation

Presented to this Parliamentary Inquiry for Consideration in Child Support Issues

by

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This Submission is presented 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, Australia

Authorized by Mrs. Rona Joyner
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Dated 8th August, 2003
Signed Rona Joyner

This Submission to the Child Custody Arrangements Inquiry addresses the advertised *Terms of Reference*.

Preface to Submission:

The Ideas, Suggestions, Arguments and Recommendations presented in this Submission are the outcome of faithfully considering the **best interests** of the **child** and of all **those affected** by parental separation/divorce, including **Society** itself.

The Government Response to this Inquiry should become a step in that direction, and those responsible are to be highly commended for initiating this move.

Main Points Summarized:

Terms of Reference (a): the best interests of the child are the paramount consideration.

Terms of Reference (a)(i): other factors deciding the need for access time by each parent.

SEC.I. Special Protection Needed for the Child at Risk During Custody Access [Protection, TR(a)(a)(i)]

- The child should receive special **protection** from a **Guardian** or an **Access Supervisor**, to be present at all times, if investigation reveals his/her **safety** is in jeopardy when a parent with domestic or health problems or other negative factors, moves in for individual access with the child **in the family home**.

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Terms of Reference (a): the best interests of the child are the paramount consideration.

Terms of Reference (a)(i): other factors deciding the need for access time by each parent.

Terms of Reference (b): whether the existing child support formula works fairly for both parents in relation to their care of, and contact with, their children.

SEC.II. Existing Child Support Formula has Failed Entire Family. [faulty child support ToR(a)(a)(i)(b)]

It is confidently argued herein that the existing **Child Support Formula** does not work fairly for both Parents nor for their extended family members, because the **Best Interests of the child** of the separated parents have NOT in the past been fully addressed nor achieved by Child Custody rules.

SEC.III. Existing Child Support Formula has Failed Society. [Faulty Child Support, ToR(a)(a)(i)(b)]

It is also confidently argued herein that the **Best Interests of Society** have NOT in the past been fully achieved either, because of the same indifference to the best interests of the CHILD.

SEC.IV. Child Support Formula Failed both Family and Society collectively. [ToR(a)(a)(i)(b)]

Many examples [See Section 1A & B] of failure seen in the lives of those from broken homes or foster care and institutions, illustrate the need to change the faulty existing Child Support Formula.

- **The Rights of the Child and of Society** must therefore be rescued and reinstated, and this we are attempting to do in making this Submission.

SEC.V. Improving Society by Improving Existing Child Support Formula [(Society/child, ToR(a)(a)(i)(b)]

- **Improved benefits for Society** should also be achieved simply by **changing the existing child support formula** in ways that are suggested herein.
- **Court Orders:** The court should make its orders in full appreciation and understanding of the fact that the **benefits of an intact family** are good for the **child**, and what is good for the **child** is also beneficial to the whole of **society**.

Terms of Reference (a): the best interests of the child are the paramount consideration.

SEC.VI.Stability of Residence and Living Environment. [Child's Best Interests, T of R(a)]

- The child of separated parents should become the legal **Sole Permanent Occupant of the Family Home**, which must then be conditionally relinquished by both parents (in rotation), unless and until they agree to move back home and resume their full marital duties

SEC.VII.Stable Relationships with Parents, Extended Families and Others. [No Deprivation, T of R(a)]

- The child should maintain normal '**Stable Relationships**' with parents, in rotation, together with their extended families and other persons, involving visits to or from grandparents, etc.so that the child is not deprived of the knowledge of his/her identity and family roots, and future connectness.

Terms of Reference (a): the best interests of the child are the paramount consideration.

Terms of Reference (a)(i): what other factors might determine the respective time spent with the child by each parent?

SEC.VIII.Respective Time Spent with the Child by each Parent. [Access Time, TofR(a)(a)(i)]

- the child should not be deprived of the enjoyment of **access time** with each parent, in rotation, when there exist significant factors that favour such a decision.

SEC.IX.Deciding Time Spent with the Child by each Parent be Equal. [Equal Time, TofR(a)(a)(i)]

- the child should not be deprived of the enjoyment of equal **access time** with parents, in rotation, when there exist significant factors that favour such a decision.

SEC.X.Deciding Time Spent with the Child by each Parent be Unequal. [Unequal Time, TofR(a)(a)(i)]

- the child might, when circumstances demand it, **need to spend unequal time** with each parent because there exist significant factors that favour such a decision.

SEC.XI.Deciding Time Spent with the Child by a Parent be Supervised. [One supervised, TofR(a)(a)(i)]

- that a **presumption of equal unsupervised access** be **rebutted**, one parent instead to have **only supervised contact** with the child (equal or unequal, as determined), e.g. with an **Access Supervisor** always or sometimes present, as determined.

SEC.XII.Deciding All Access with the Child by each Parent be Supervised. [two supervised TofR(a)(a)(i)]

- some significant **factors** indicate that a **presumption of equal unsupervised access** should be **rebutted**, so that neither parent will be allowed **any unsupervised custody time at all**.

Terms of Reference (a): the best interests of the child are the paramount consideration.

Terms of Reference (a)(ii): in what circumstances might a Court order that children of separated parents have contact with others, including grandparents?

SEC.XIII.Stable Relationships with Extended Families and Others. [grandparents TofR(a)(a)(ii)]

- the child's non-custodial parent, extended family, friends, etc., should **not** be deprived of their rightful close contact **in a normal relationship** with the child, in the child's usual living environment (as the **Sole Permanent Occupant** of the family home).

Proceeding from Terms of Reference (a) and (b), this Submission also addresses the **Interests of Significant Others**, the **Interests of Society**, and concludes with **A Great Need of Australia**.

SEC.XIV. **Australia's Great Need.** [Australia's Need TR(a)(b)]

- is bound up with the **Interests of society** which also need to be addressed, as suggested in the Submission.
- Australia corporately needs to develop a compassionate heart for children of separated parents.

The Conclusion in brief is as follows:

- The child/ren should be recognized as the **Sole Permanent Occupant/s** of the family home
- Child Custody and Support Arrangements presented are truly in the child's **best** interests.
- The child's needs are best provided for by the Suggestions and Recommendations herein, based on the understanding that the child is the **Sole Permanent Occupant** of the home..
- The concerns and interests **of all** (including **Society** as a whole), are truly addressed.
- The **Recommendations**, if carefully implemented, should work more fairly for all concerned than do the existing arrangements for Child Custody and Support
- This **Submission** aims to assist in producing better family relationships and in reducing costs to society and the taxpayer.
- The Theme, Thoughts, Reasons, Suggestions and **Recommendations** herein expressed are commended to the Inquiry for consideration and possible adoption.

N.B. **The Terms of Reference are shown in the Appendix.**

Introduction:

Before preparing this Submission much thought was put into the content of the *Terms of Reference*, and therefore the ideas, reasons, opinions, suggestions, arguments and recommendations contained herein are firmly based on those Terms, resulting in a **Submission** that is written principally to support **the child's best interests**, from a point of view arrived at through the personal knowledge of a considerable number of case histories during the last 60 years of the author's adult life.

The Basic Contention: We believe that in the past, the above important factors have NOT been fully taken into account in formulating **Child Custody arrangements**. Also in the past the interests of each parent and the grandparents have not been fairly addressed

In Brief: Child custody arrangements have usually deprived the child of **stability of residence and living environment, of normal stable relationships with grandparents, relatives and significant others, etc.**

To provide stability of residence and living environment, the child should become the Sole Permanent Occupant of the Family Home.

To provide stability of relationships with parents, extended families, and significant others, the child's contact with each parent and their extended family and friends should ideally be for a week or longer, with continued access to the usual school, church, health professionals, etc. Arrangements such as this should be made amicably with a view to the best interests of all concerned.

This Submission contains opinions, reasons, suggestions and recommendations which the **Rona Joyner Life and Liberty Literature Centre** wishes to place before the **Standing Committee on Family and Community Affairs** trusting that the Committee will find the content valuable in preparing the final Report and making Recommendations to Parliament by 31 December 2003.

It is noted that there will be public hearings, community forums and briefings in order to collect further evidence. The author will be happy to appear for questioning on any aspect of this Submission should such be thought necessary.

Body of Submission:

The arguments in this Submission are written to support the true welfare of the Family as a whole, and thus is intended also to have a positive impact on Society as a whole.

The Government Response to this Inquiry should become a step in that direction, and those responsible are to be highly commended for initiating this move.

Terms of Reference (a): the best interests of the child are the paramount consideration.

Terms of Reference (a)(i): other factors deciding the need for access time by each parent.

It is evident that the **Ideas, Opinions, Suggestions, Arguments and Recommendations** presented throughout our Submission have taken seriously the task of giving **paramount** consideration to the **rights and best interests** of the child, and of those others immediately affected by parental separation/divorce, and also of Society itself. Therefore it would appear right to deal first with the subject of **protection** of the child in separation/divorce situations.

SEC.I. **Special Protection Needed for the Child at Risk During Custody Access.** [Protection, TR(a)(a)(i)]

Having discussed the idea of “**child protection during access**” under *T. of R. (a)* “given that the **best interests** of the child are the paramount consideration”, and taking into account also *T. of R. (a)(i)* “**Respective Access Times**”,

our committee has agreed on the absolute need to pursue the ideal in *T. of R. (a)* in deciding times.

May we now place before the Standing Committee on Family and Community Affairs the following

A. **Supportive Facts, Opinions, & Arguments for Section I.** [child access protection TR(a)(a)(i)]

Based on the **fact that the child is not to blame** for the separation/divorce, and should **not be put at risk**, in any way, of **abuse, aggression, harm, kidnapping or death** as a result of events that are beyond his/her control, the principal thrust of this **Section** is based on strongly-held **beliefs** -

1. that it is the **child’s right to be safe** from harm, especially **if** various domestic or other contributing factors, such as those listed also in Section XII(A)(1) viz-
 - a) the parents’ serious domestic problems
 - evident jealousies
 - expressed bitterness over property settlement, etc
 - apparent potential for abusing the children,
 - anticipated or visible potential for violence erupting against each other,
 - likely potential for vindictiveness being enacted against the property of the other parent,
 - potential for vindictiveness affecting any property shared with the other parent,
 - clear potential for vindictiveness causing harm to family pets, property, etc.
 - b) each parent’s accusations against the other
 - c) either parent’s serious mental health or associated problemscause the slightest suspicion that he/she may be at risk of -
 - d) physical violence
 - e) sexual abuse

- f) mental harm
- g) kidnapping or murder
- h) violence against
 - (a) the other parent and/or his/her belongings
 - (b) pets or other belongings of the child
 - (c) the home itself or its contents owned jointly

then the child to be provided with effective vigilant 'around-the-clock' **protection**.

2. that where, as a result of some of the factors in A1 aggravating a volatile situation., there is a worsening of the domestic situation and the anger and resentment between members of the family, perhaps even caused by a presumption that:

- a) the child will spend equal time with each parent;
- b) the child will **not** spend equal time with each parent;
- c) the child will be placed in alternative care
- d) or something considered unjust or unfair has been decided.

then the interests of the child will dictate the need for greater protective vigilance.

3. that all possible factors and significant indicators should be investigated immediately, for it is in the **child's best interests** to be provided with **stability and safety** in an enjoyable environment.
4. that in such cases **support and special protection** should be provided by the oversight of a responsible or authorized **adult**, a specially appointed **Guardian** or court-ordered **Access Supervisor**, to ensure, among other things, that risks to the child are avoided by **effective protective vigilance**.
5. that protection could be ruled by the court to be fulltime, part-time or casual, but in each case so as to ensure high standards of **safety** for the child.
6. that because the child will then **need** to be especially well **supervised and protected**, to ensure, among other things, that neither parent ever has the opportunity to be party to violence, murder or kidnapping.
7. that children in separation/divorce situations need every protection from possible danger, and every precaution should be taken against inflaming a volatile situation.

B. Supportive Recommendations for Section I [Child Access Protection TR(a)]

1. **Court Order:** That, if after investigation, the **child's safety** be deemed to be in jeopardy, the risks should be effectively countered by ordering that, for the purpose of custody access, the child remain in the normal surroundings of **his/her own home**, but that during each parent's custodial "live-in" term, there shall always be **Supervision and Special Protection** by a court-appointed responsible and accountable unrelated **third party** who shall be always present in the home for the sake of the safety of the children - the Third Party to be, at the Court's discretion, either a casual **Child Guardian**, an **Overseer** in and of the home surroundings, or a fulltime **Access Supervisor**.

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Terms of Reference (a): the best interests of the child are the paramount consideration.

Terms of Reference (a)(i): other factors deciding the need for access time by each parent.

Terms of Reference (b): comment "whether the existing child support formula works fairly for both parents in relation to their care of, and contact with, their children.

SEC.II.Existing Child Support Formula has Failed Entire Family. [faulty child support ToR(a)(a)(i)(b)]

It is confidently argued that the **Best Interests of the child, and therefore of the family**, have NOT in the past been fully addressed or achieved.

May we now place before the Standing Committee the following:

A. Supportive Facts, Opinions, Arguments for Section II [faulty child support TR(a)(a)(i)(b)]

Based on the **fact that the child is not to blame** for the separation/divorce, and should **not suffer or be put at risk**, in any way, as a result of events that are beyond his/her control, the principal thrust of this **Section** is based on strongly-held **beliefs** -

1. it has not worked fairly for all.
2. it is a **fact** that children living under the **existing faulty Child Support Formula** frequently are the victims of inconvenience, disruption, deprivation, depression, grief, worry, fear, yearning and heartache,
3. it is also a **fact** that, stemming from the deficiencies and pressures of the **existing faulty Child Support Formula**, some separated/divorced parents have been found guilty of abuse, cruelty, torture, violence, kidnapping, or murder.

B. Supportive Recommendations for Section II. [Faulty Child Support, T.of R(a)(a)(i)(b)]

- **Court Order:** Improved benefits for the child of separated parents, and his/her entire family, can be achieved as outlined in the body of the Submission, simply by **changing** the existing Child Support Formula in ways that are suggested briefly below each Section heading, so as to make it work fairly for all.

SEC.III.Existing Child Support Formula has Failed Society. [Faulty Child Support, T.of R(a)(a)(i)(b)]

It is confidently argued that the **Best Interests of the child, and therefore of Society**, have NOT in the past been fully addressed or achieved.

May we now place before the Standing Committee the following:

A. Supportive Facts, Opinions, Arguments for Section III [faulty child support, TR(a)(a)(i)(b)]

Based on the **fact that the child is not to blame** for the separation/divorce, and should **not suffer or be put at risk of delinquency**, in any way, as a result of events that are beyond his/her control, the principal thrust of this **Section** is based on strongly-held **beliefs** -

1. it has not worked fairly for all.
2. it is also a **fact** that truancy, running away, delinquency, destruction of property, drugs, illicit sex, abortion, rape, cruelty, violence (even murder) and other crimes by the younger members of Society are escalating, along with deteriorating behaviour and education results
3. We are attempting to improve Society through presenting this Submission to this Inquiry.

B. Supportive Recommendations for Section III [Faulty Child Support, T.of R(a)(a)(i)(b)]

- **Court Order:** Improved benefits for the child of separated parents, and his/her entire family, can be achieved as outlined in the body of the Submission, simply by **changing** the existing Child Support Formula in ways that are suggested briefly below each Section heading, so as to make it work fairly for all.

SEC.IV.Existing Child Support Formula Failed both Family and Society. [child support, ToR(a)(a)(i)(b)]

Having discussed "**whether the Child Support Formula works fairly regarding Society**",

our Committee has arrived at the conclusion that **the Child Support Formula** has been a failure.

May we now place before the **Standing Committee on Family and Community Affairs** the following:-

A. Supportive Facts, Suggestions & Arguments for Section IV, [child support, ToR(a)(a)(i)(b)]

1. Many of the above examples [Section IIIA2] are to be seen in the **lives of those** from broken homes or foster care and institutions, especially since separation/divorce began escalating as a result of the passing of **Senator Murphy's**

permissive *Family Law Act* in 1974 during the **Whitlam** era, and all this despite the implementation of the existing faulty Child Support Formula.

2. What is NOT in the best interests of the child is NOT good for Society either, therefore

- the Rights of the **Child** must, as a matter of great urgency, be rescued and reinstated, and this we are attempting to do in this Submission.

B. **Supportive Recommendations for Section IV [child support, ToR(a)(a)(i)(b)]**

- **Court Order:** Improved benefits for the child of separated parents, and his/her entire family, can be achieved as outlined in the body of the Submission, simply by **changing** the existing Child Support Formula in ways that are suggested briefly below each Section heading.
- **Court Order:** The best interests of **SOCIETY** as a whole can be achieved simply by **changing** the existing Child Support Formula as suggested herein.

SEC.V.**Improving Society by Improving Existing Child Support Formula [(Society/child, ToR(a)(a)(i)(b))]**

Our Committee having discussed the “**improvement to Society**” under *T. of R. (a)*: “given that the **best interests** of the child are the paramount consideration”,

may we now place before the **Standing Committee** the following:-

A. **Supportive Facts, Opinions, and Arguments for Section V [(Society/child, ToR(a)(a)(i)(b))]**

Based on the fact that the **faulty** “Child Support Formula” does **not** appear to have been sufficiently **recognized** as a likely **factor** in the **deterioration of society** as a whole, the principal thrust of **Section V** is based on strongly-held **beliefs** -

1. that the **needs** of **Society** have been and are being **neglected** because these **needs** have **not** in the past been properly addressed by the Child Support Formula, and that **that deficiency** must also be rectified at this time **through this Inquiry**, therefore:
 - **improved benefits for Society** should also be achieved simply by **changing the existing Child Support Formula** in ways that are suggested herein as being changes that will benefit the child of separated/divorced parents, and therefore also Society itself.

B. **Supportive Recommendations for Section V [(Society/child, ToR(a)(a)(i)(b))]**

- **Court Order:** Improved benefits for the child of separated parents, and his/her entire family, can be achieved as outlined in the body of the Submission, simply by **changing** the existing Child Support Formula in ways that are suggested briefly below each Section heading.
- **Court Order:** The court should make its orders in full appreciation and understanding of the fact that the **benefits of an intact family** are good for the child, and what is good for the **child** is also beneficial to the whole of **Society**.

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Terms of Reference (a): the best interests of the child are the paramount consideration.

SEC.VI.Stability of Residence and Living Environment [Child's Best Interests, T of R(a)]

Our Committee having discussed the “**child's best interests**” under *T. of R. (a)* “given that the **best interests** of the child are the paramount consideration”,

may we now place before the **Standing Committee** the following:-

A. Supportive Facts, Opinions & Arguments for Section VI [Child's interests T of R(a)]

Based on the **fact** that the child is **not to blame** for the separation/divorce, and so should **not suffer inconvenience, deprivation, etc.**, by events that are beyond his/her control, the principal thrust of **Section 1** is based on strongly-held **beliefs** -

1. that in the separation/divorce situation, the child **needs** the benefit of **stable place of residence and living environment**, to ensure, among other things, that the child, after parents separate, will **not be deprived** of -
 - the continuity/availability of the child's special activities or interests, e.g., piano-practice or other involvement requiring **being at home**.
 - the time and conveniences for activities set by the school, e.g., week-end homework, assignments, projects, study.etc., that are best done **while at home**.
 - childhood enjoyments, e.g., being surrounded by close friends, pets, toys, hobbies etc, that are part and parcel of **being at home**.
 - the present enjoyable **comforts of the home environment** and all that is associated with that, e.g. residential living with a fireplace, living space, air conditioning, etc., as opposed to perhaps the **discomforts** of a caravan park, a cramped unit, or other **makeshift accommodation**, where a non-custodial parent (frequently the father) may be forced to live, and where there may be **no** access to friends, pets, music, singing round a piano, etc, hobbies or playing cricket with Dad, if such are available **while at home**.
 - continued access to **normal living**, e.g., visits to and from paternal and maternal extended families, and friends, extra-curricular team sports, athletics, tennis, horse-riding, or dog obedience training sessions, and/or interacting with familiar teachers at the normal school, pre-school, or Sunday School, as if still **at home**.
2. that **the child's interests** will probably best be served by the child (as opposed to either one parent) becoming the lawful “**Sole Permanent Occupant of the Family Home**”, but **not as its legal owner or tenant**, and only during the separation.
3. that if the **family home** is mortgaged or rented, let it be legally arranged that the relevant existing **contracts**, or any future contracts, **mortgages**, or **rental** bonds or agreements, as well as **maintenance** of the children, are to continue to be **as they were** before separation - the responsibility of each parent **not** changing, unless the **court decides** a new arrangement is to be implemented.
4. that instead of **children** of separated parents being continually **uprooted** from the comforts of their home environments, so as to stay with the non-custodial parent, and suffer possible discomforts of makeshift accommodation, well out of contact with their special and/or educational activities, and their childhood enjoyments, let **the children** stay where they are in the **family home** which must be conditionally relinquished by both parents (in rotation), unless and until they agree to move back home and resume their full marital duties. Let each parent, by turn, come to the child/children in **the home environment**.

5. that it should be the **parents** (not the child) who have to pack up and move back and forth, coming and going alternately to **the family home**, each for whatever lengths of time might be relevant given the circumstances of each case and/or the court's ruling.
6. that the **departing parent** must always ensure that the child is **not** left unattended. Children must always be supervised by either one of the parents or a suitable adult (perhaps a **grandmother**, as could have been normal in earlier circumstances).
7. that **children** should be deemed to be the ones for whom **the home environment** is maintained, so as to provide them with continued access to normal living conditions.
8. that if there is any potential risk to the **child's safety**, this contingency has been dealt with in Section 1.

B. Supportive Recommendations for Section VI [Child's Best Interests, T of R(a)]

1. **Court Order:** That the child be named as the lawful **Sole Permanent Occupant** of the **family home**, to remain in the normal **living environment**, under the care at all times of either of the parents by rotation, or a responsible adult.
2. **Court Order:** That, if after investigation, the **child's safety** is found likely to be in jeopardy, a responsible or authorized **adult**, a casual **Guardian** or a fulltime **Access Supervisor**, be specially appointed as the Court may direct.

SEC. VII. Stable Relationships with Parents, Extended Families and Others [No Deprivation, T of R(a)]

Our committee having discussed this under *T. of R. (a)* "given that the **best interests** of the child are the paramount consideration" in post separation cases,

has concluded that the child should **not** have to suffer as a result of their parents' separation.

Therefore, may we now place before the Standing Committee the following -

A. Supportive Facts, Opinions, and Arguments for Section VII [No Deprivation, T of R(a)]

Again based on the fact that **the child is not to blame** for the separation/divorce, and so should **not suffer deprivation harm, unhappiness or inconvenience** in any way by events that are beyond his/her control, **the principal thrust of this Section** is based on the strongly-held **beliefs** -

1. that in the separation/divorce situation, the child **needs** the benefit of **stable two parent and extended families relationships**, as much after parental separation as before, in order that the child might still be able to experience equivalent circumstances with each side of the family **in the family home**.
2. that after parents separate, it is necessary for the **child** to be under the care of first one **parent**, then the other, each living temporarily in the family home for a stated period of time, **in rotation**, in order to **ensure**, among other things, that the **child** is **not deprived of** -
 - **personally** knowing his/her biological roots and **family identity** and future connectedness.
 - **equal maternal and paternal** association, comfort, attention, guidance, interest and loving influence
 - being able to **know** and enjoy having close association with **maternal and paternal relatives**
 - **socializing** with maternal and paternal significant **friends of the family**

but is given every opportunity, not only to socialize with his/her grandparents and other relatives, but also to have easy **contact** with his/her friends and easy **access** to usual family doctor, dentist, hospital, naturopath, chiropractor, etc.

3. that in the separation/divorce situation, **the child's interests** will usually be best served if the **needs** of parents, grandparents, extended families and friends are also addressed.

B. Supportive Recommendations for Section VII [Relationships [No Deprivation, T of R(a)]

1. **Court Order:** That the **child** in a separation/divorce situation, **be not deprived of two-parent and extended families relationships.**
2. **Court Order:** That the **child** in a separation/divorce situation, by remaining in the family home, **be not deprived** of contact with significant **friends** and easy access to his/her usual **health professionals.**

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Terms of Reference (a): the best interests of the child are the paramount consideration.

Terms of Reference (a)(i): what other factors might determine the respective time spent with the child by each parent?

SEC.VIII.Respective Time Spent with the Child by each Parent. [Access Time, TofR(a)(a)(i)]

Our committee having discussed “custody time” under *T. of R. (a)(i)* “what other factors should be taken into account in deciding the respective time each parent should spend with his/her children post separation”,

and having considered it under the constraints of *T. of R. (a)* “given that the best interests of the child are the paramount consideration”,

may we now place before Standing Committee on Family and Community Affairs the following -

A. Supportive Facts, Opinions, and Arguments for Section VIII [Access Time, TofR(a)(a)(i)]

Again based on the **fact** that the **child is not to blame** for the separation/divorce, and so should **not suffer** inconvenience, disruption, deprivation, depression, grief, worry, fear, yearning and heartache, or any form of abuse or harm as a **victim** of events that are beyond his/her control, the principal thrust of **this Section** is based on our strongly-held beliefs -

1. That, in separation/divorce situations, certain **factors** strongly indicate that spending **respective access time** with each parent is essential in the **child’s best interests**, viz
 - the **inconvenience and disruption** to the child’s normal routines
 - the **deprivation and depression** suffered by the child after parents’ separation,
 - the child’s **grief** because one parent has left home ‘**for good**’,
 - **worry and fear** that he/she is the **cause** of the separation/divorce,
 - the child’s **yearning** for the missing parent that is akin to loss through **death**,
 - prolonged **heartache** that makes the child desolate, forlorn, and **comfortless**.
 - and the underlying causes of some of the **abuse and cruelty** suffered.
2. that, in separation/divorce situations, other reasons show it is in the **child’s best interests** to spend meaningful **custody time** with each parent **unsupervised**, because there are -
 - things the **child** relied on the non-custodial parent to do or to be for the child.
 - **inconveniences** caused to the **child** through the lack or loss of one parent,

B. Supportive Recommendations for Section VIII [Access Time, TofR(a)(a)(i)]

- **Court Order:** That the **child** in a separation/divorce situation, be **not deprived** of the enjoyment of meaningful access time with **each parent**, in rotation.

SEC.IX.Deciding Time Spent with the Child by each Parent be Equal [Equal Time, TofR(a)(a)(i)]

Our committee having discussed “**equal custody time**” under *T. of R. (a)(i)* “in particular whether there should be a presumption that **children will spend equal time** with each parent,” and having considered it under the constraints of *T. of R. (a)* “given that the **best interests** of the child are the paramount consideration”,

may we now place before the Standing Committee the following -

A. Supportive Facts, Opinions, and Arguments for Section IX [Equal Time, TofR(a)(a)(i)]

Again based on the **fact that the child is not to blame** for the separation/divorce, and so should **not suffer any deprivation or inconvenience**, as a result of events that are beyond the child’s control, **the principal thrust of this Section** is based on the strongly-held **beliefs** -

1. That there are some significant **positive factors** favouring a **presumption** that children will **spend equal custody time** with each parent **unsupervised**, e.g.:
 - obviously friendly attitudes of the parents to one another,
 - obvious parents’ mutual satisfaction with the marriage break-up,
 - obvious potential for amicable arrangements for child custody
2. That there are also some significant **negative factors** that favour a **presumption** that children will **spend equal time** with each parent **unsupervised**, e.g.:
 - **no** evident jealousies
 - **no** expressed bitterness over property settlement, etc
 - **no** apparent potential for abusing the children,
 - **no** anticipated or visible potential for violence erupting against each other,
 - **no** likely potential for vindictiveness being enacted against the property of the other parent,
 - **no** potential for vindictiveness affecting any property shared with the other parent,
 - clearly **no** potential for vindictiveness causing harm to family pets, property, etc.

B. Supportive Recommendations for Section IX [Relationships, Equal Time, TofR(a)(a)(i)]

- **Court Order:** That the child not be deprived of the enjoyment of equal **access time** with parents, in rotation, when there are significant factors favouring such a decision.

SEC.X.Deciding Time Spent with the Child by each Parent be Unequal [Unequal Time, TofR(a)(a)(i)]

Our committee having discussed “unequal custody time” under *T. of R. (a)(i)* in what circumstances such a presumption [*i.e. for equal time*] could be **rebutted**;

and having considered it under the constraints of *T. of R. (a)* “given that the **best interests** of the child are the paramount consideration”,

may we now place before the Standing Committee the following -

A. Supportive Facts, Opinions, and Arguments for Section X [Unequal Time, TofR(a)(a)(i)]

Again based on the **fact that the child is not to blame** for the separation/divorce, and so should **not suffer any deprivation, inconvenience, etc**, or any form of **harm or violence** as a result of events that are beyond his/her control, **the principal thrust of this Section is based on the strongly-held beliefs -**

1. That there are some significant **factors** indicating that **a presumption of equal custody time** should be **rebutted**, so that children might, when circumstances demand it, **spend unequal time** with each parent, e.g.:
 - one parent finding it impossible through work or ill-health to spend lengthy periods of time with the children.
 - one parent preferring to have custody only at week-ends, birthdays, Christmas, Easter or during holidays.
 - one parent no longer wishing to be involved in custody arrangements at all
 - both parents, through unforeseen circumstances beyond their control, becoming incapable of carrying out their custody rights and duties.
 - obviously friendly and agreeable attitudes of the parents to one another,

B. Supportive Recommendations for Section X [Relationships, Unequal Time, TofR(a)(a)(i)]

- **Court Order:** That, when circumstances demand it, **provision be made for the child to spend unequal time** with each parent because of significant factors favouring such a decision.

SEC.XI.Deciding Time Spent with the Child by a Parent be Supervised [One supervised, TofR(a)(a)(i)]

Our committee having discussed the idea of “**one parent being supervised**” under *T. of R. (a)(i)* in what circumstances such a presumption [*i.e. of equal unsupervised access*] could be **rebutted**;

and having considered it under the constraints of *T. of R. (a)* “given that the **best interests** of the child are the paramount consideration”,

may we now place before the Standing Committee the following -

A. Supportive Facts, Opinions, and Arguments for Section XI [One supervised, TofR(a)(a)(i)]

Again based on the **fact that the child is not to blame** for the separation/divorce, and so should **not suffer deprivation, inconvenience, etc**, or any form of **harm or violence** as a result of events that are beyond his/her control, **the principal thrust of this Section is based on the strongly-held beliefs -**

1. That there are some very **negative factors** indicating that **a presumption of equal unsupervised access** should be **rebutted**, so that one parent will still be allowed to spend **some access time** with the children (equal or unequal, as determined), but only under **constant supervision** by an **Access Supervisor**, e.g.:-

- a case where one parent has been diagnosed as having a health problem involving serious **mood swings** and/or **deterioration** of the personality, e.g. schizophrenia.
- a case where one parent has **threatened** violence or abuse against either the **child** or the other **parent**.

B. **Supportive Recommendations for Section XI [One Parent Supervised, TofR(a)(a)(i)]**

- **Court Order:** That that a **presumption of equal unsupervised access** should be **rebutted**, so that one parent will still be allowed to spend **some access time** with the children (equal or unequal, as determined), but only under **constant supervision** by an **Access Supervisor**,

SEC.XII.Deciding All Access with the Child by each Parent be Supervised [two supervised TofR(a)(a)(i)]

Our committee having discussed the idea of “**both parents being supervised**” under *T. of R. (a)(i)* in what circumstances such a presumption [*i.e. of equal unsupervised access*] could be **rebutted;**”

and having considered it under the constraints of *T. of R. (a)* “given that the **best interests** of the child are the paramount consideration”,

may we now place before the Standing Committee the following -

A. **Supportive Facts, Opinions, & Arguments for Section XII [Both Supervised, TR(a)(a)(i)]**

1. Some significant **factors** indicate that a **presumption of equal unsupervised access** should be **rebutted**, so that neither parent will be allowed **any unsupervised custody time at all**, e.g.:-
 - in a case where it appears that the **safety** of the **child** or a **parent** is in jeopardy through being subjected to abuse , aggression, or violence (against their persons or property), by the other parent if unsupervised during access, by reason of -
 - (a) the parents’ serious domestic problems
 - (b) each parent’s accusations against the other
 - (c) either parent’s serious mental health or associated problems
 - in a case where it appears that the animosity of the parents is such that nothing is safe from harm or death, e.g.
 - (d) anything belonging to the other parent
 - (e) anything belonging to the child, including pets, hobbies, or schoolwork, etc.
 - (f) the house, furniture or other contents being damaged or burned.

B. **Supportive Recommendations for Section XII [Relationships, Both Supervised, TR(a)(a)(i)]**

- (a) **Court Order:** that a **presumption of equal unsupervised access** should be **rebutted**, so that neither parent will be allowed **any unsupervised custody time at all**,

Terms of Reference (a): the best interests of the child are the paramount consideration.

Terms of Reference (a)(ii): in what circumstances might a Court order that children of separated parents have contact with others, including grandparents?

SEC.XIII.Stable Relationships with Extended Families and Others. [grandparents ToR(a)(a)(ii)]

Having discussed this matter of “access by extended families” under *T. of R. (a)(ii)* “in what circumstances a court should order that children of separated parents have contact with other persons, including their **grandparents**.”

and having considered it wholly under the constraints of *T. of R. (a)* “given that the **best interests** of the child are the paramount consideration”, we are convinced that the interests of Parents, Grandparents, and Significant Others should not deprive the child of his/her rights as outlined in this Submission.

May we now place before the Standing Committee the following

A. Supportive Facts, Opinions, and Arguments for Section XIII [grandparents, TR(a)(a)(ii)]

1. That parents, grandparents, extended families and friends have the same normal, just, and right access to, and input into, the child’s life, after parental separation/divorce as they did before.
2. That the child of separated parents remain in association with members of each parent’s extended families, at any time during the custody of one or other of the parent (or a responsible adult).
3. Children’s contact with each parent and their extended family should be for at least a week, or longer, **in their own home**, with access to the usual health professionals, if needed. Arrangements such as this should be made amicably with a view to the best interests of all concerned.
4. The Interests of each parent, grandparent and relative also need to be addressed, as under:

B. Supportive Recommendations for Section XIII [Grandparents’ Access, TR(a)(a)(ii)]

1. **Court Order:** that, if possible, the parental periods with the children be equal, and allow for visits to the family home of **each parent’s extended family** in order that the child be not deprived.
2. **Court Order:** that each parent, grandparent and relative (all things being equal after scrutiny) has the same normal access and input into the child’s life, emotionally, spiritually, disciplinary, materially, etc., as would naturally occur in an intact family where the child continued to live **in his/her own home**.
3. **Court Order:** that the child’s non-custodial parent, extended family, friends, etc., should **not** be deprived of their rightful close contact **in a normal relationship** with the child, in the child’s usual living environment (as the **Sole Permanent Occupant** of the family home).

Proceeding from Terms of Reference (a) and (b), this Submission also addresses the **Interests of Significant Others**, the **Interests of Society**, and concludes with **A Great Need of Australia**.

SEC.XIV. **Australia's Great Need. [Australia's Need TR(a)(b)]**

Having discussed this matter of "Australia's Great Need"

and having considered it wholly under the constraints of *T. of R. (a)* "given that the **best interests** of the child are the paramount consideration", we are convinced that neither the interests of Parents, Grandparents, and Significant Others nor even Society as a whole should deprive the child of his/her rights as outlined in this Submission.

May we now place before the Standing Committee the following

A. **Supportive Facts, Opinions, and Arguments for Section XIV [Australia's Need TR(a)(b)]**

1. that **Australia's Need** is bound up with the **Interests of society** which also need to be addressed, as suggested in the Submission, in order to create harmony.
2. Australians corporately needs to develop a compassionate heart for children of separated parents.

B. **Supportive Recommendations for Section XIV [Australia's Need TR(a)(b)]**

1. Australian Parliamentarians and Governments need to develop a compassionate heart for children of separated parents, and if this Inquiry is a step in that direction, the Minister for Children and Youth Affairs, the Hon. Larry Anthony, MP, and the Attorney-General, the Hon. Daryl Williams, AM QC MP, are to be commended for initiating this Inquiry.

Conclusion:

1. This Submission recommends that steps be taken to cater for the great need of children to be recognized as the **Permanent Occupants** of either the present family home of another one especially set up for the purpose.
2. It is the **contention** of this Submission that the child custody and support arrangements that it presents, and the recommendations that it offers, are much more in the **best interests the child** than the existing child support formula.
3. In addition to that, the author believes that the implementation of the Suggestions and Recommendations presented herein will be a decided improvement on the existing child support formula. This belief is based on the fact that the child's needs are best provided for by allowing the child to remain in a stable home and environment as a **Permanent Occupant**, cared for by each parent in rotation.
4. In this Submission the concerns and interests of **all those** (including **Society** as a whole), who are affected by parental separation cases, are extremely sympathetically addressed.
5. The **Recommendations**, if incorporated into the Final Report to the Government, adopted and passed into legislation, and then carefully, thoughtfully and justly applied by the court, should work, in our opinion, more fairly for **all** than the existing arrangements, while at the same time addressing particularly the **best interests of the children** of separated parents, as required by the *Terms of Reference*.

6. It is the aim of this Submission to assist in bringing about better family relationships and thus ultimately to reduce the present heartache to children and costs to society and the taxpayer. .
7. The author of this Submission commends its Reasons, Suggestions and Recommendations to this Inquiry for its consideration and possible adoption.

Appendix

Terms of Reference state that the Standing Committee on Family and Community Affairs should inquire into:

- (a) given that the best interests of the child are the paramount consideration:
- * (i) what other factors should be taken into account in deciding the respective time each parent should spend with his/her children post separation, in particular whether there should be a presumption that children will spend equal time with each parent and, if so, in what circumstances such a presumption could be rebutted; and
 - * (ii) in what circumstances a court should order that children of separated parents have contact with other persons, including their grandparents.
- (b) whether the existing child support formula works fairly for both parents in relation to their care of, and contact with, their children.

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