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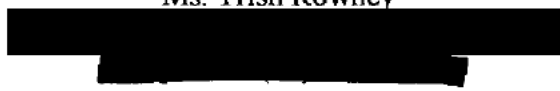
**Submission to House of Representatives Family and
Community Affairs Committee**



**Submission Paper on Proposed Changes to Child
Custody Arrangements in the Event of
Family Separation**

July 2003

Ms. Trish Rowney



Submission Paper on Proposed Changes to Child Custody Arrangements in the Event of Family Separation

1. Introduction

This paper has been prepared by me, Trish Rowney, as an individual who has previously contacted Larry Anthony MP regarding issues concerning child support. I have two teenage boys and have been a sole parent for five years. I am a Casual Respite Worker and currently in my final year of a Community Services Welfare Diploma. Opinions expressed in this Submission are my own, and also reflect those of my friends and fellow students who are sole parents.

2. Child Custody Arrangements

I am opposed to the Government legislating that a child spends equal time with each parent after separation because consideration needs to be given to the special needs of children, especially those under the age of 12 years. Some of these are:

- Children of all ages need **stability** more than anything else when parents separate. This means retaining the same primary care giver, which in the majority of cases are women, and particularly when children are young and needy and naturally more attached to their mother. Stability also means remaining in an environment that is familiar to them e.g. the same house, bedroom, and daily routine. When the rest of their lives are turned upside down much needed stability is provided when the original primary caregiver retains day-to-day care, with the other partner having regular and substantial contact.
- Children are extremely emotionally needy following family breakdown and mothers are generally more nurturing by nature and able to provide the best **emotional support**. Later, when they are approaching adolescence, they may start pulling away from their mother and may at that stage want more contact with their father.
- Children of all ages benefit greatly by having **routine** in their lives. A system whereby young children spend half their time with each parent can cause great distress as it must necessitate an extremely complex set of arrangements and routines which, until the high school years, is simply too complicated.

Joint custody may work where both partners have come to the realisation *at the same time* that a marriage or de facto relationship has reached a point of irretrievable breakdown. In a small number of cases this seems to facilitate an arrangement which works reasonably well for all parties but requires a great deal of organization, understanding, and flexibility by all concerned.

This type of arrangement can, however, result in an extremely stressful life for the child and may not be feasible for many reasons. For example, where animosity exists between parents following infidelity or domestic violence, the **complex arrangements** required for joint custody can be impossible to organise without a lot

of conflict and stress. Given the level of anger and mistrust in such a situation, how can both parties manage regular, sometimes daily, contact to make arrangements for the child? Many psychologists believe that it is not the divorce itself but rather the continuing **conflict** between parents that causes the most stress and damage to children.

Joint custody cannot work where the mother may have moved away with the children to another town or city where the cost of living is lower or where family support and assistance is available. In my own experience, had I remained in Sydney, I would not have been able to afford anything more than a two-bedroom unit and would have had to work full-time therefore having less time for my children. By moving to Alstonville I am now able to raise my children in a small, caring community and purchase a modern three-bedroom house with a yard big enough for pets. I am able to work part-time as well as study and have quality time for my children. They fly to Sydney to visit their father on school holidays and speak with him twice a week or more on the telephone and these arrangements fit in with his work and social life. The children in no way feel that he is not a part of their lives and would not under any circumstances choose to live part of their year in Sydney when their friends are here.

During teenage years many actually prefer the company of their peers to their parents and it stands to reason that they would want to be with the parent who lives where their friends do. Consideration must be given to the fact that on weekends children like to go to friends' homes for sleepovers and birthday parties, and attend sporting activities. **Joint custody simply cannot work, from a practical point of view, where parents live any distance apart.** Attempts to stop the custodial parent from moving away could result in driving a family into poverty, particularly with the now extremely high cost of housing in capital cities.

Recommendations:

A 'one size fits all' approach to contact arrangements is simply not workable because of the factors mentioned above and does *not* have the best interests of the child in mind. This is a very emotive issue dealing with people's lives, which vary greatly, and attempting to legislate across the board contact arrangements simply will not work. We must look to the future and ask what the consequences will be of such a social experiment. What will life be like for children who are forced into a shared custody arrangement? How do we know that these children will not be psychologically stressed and end up depressed or suicidal? This is a huge price to pay.

Ideally I would like to see a situation whereby:

- The child lives full-time with the mother (or father if he was the original primary care-giver) but with the other parent granted regular and substantial contact.
- The child, after the age of 12, is given the option of shared custody.
- Each case is dealt with individually by the Family Court with children having a voice once they turn 12 years of age.

- More counsellors and registrars are appointed to the Family Court to assist families reach an agreement without having to involve the current lengthy process with a judge making the final decision.
- The current system is retained where the non-custodial parent can make an application to the Family Court for more visitation rights but make the Court more accessible and less expensive to make such an application possible.

3. Child Contact with Other Persons

There can be no argument that children benefit from continued contact with grandparents and other extended family members as well as significant others. I would like to see the current system retained, but modified, to allow people to apply to the Family Court and have each case dealt with on an individual basis. Any attempt to create a 'blanket' law will, in my opinion, create huge problems.

Recommendations:

- Grandparents, extended family members, and significant others have contact rights, provided this does not create a situation where the child has to travel some distance to make extra visits over and above those required to see the non-custodial parent.
- Make the Family Court more accessible and less costly for applicants.
- Appoint more counsellors and registrars to the Family Court to assist families reach an agreement without having to involve the current lengthy process with a judge making the final decision.

4. Fairness of Existing Child Support Formula

I believe that, for the most part, the existing Formula is fair for both parties if each has a sense of 'doing the right thing'. Problems arise however where the following situations occur:

- The payer has a negative attitude about his/her responsibility for providing financially for the children. There are many loopholes available to decrease their taxable income such as receiving salary in non-monetary ways, delaying submitting a tax return, salary sacrificing large amounts into superannuation, working under a company name or working for friends.
- The payer earns a high income and the Formula results in that individual having a very good standard of living and the payee struggling to raise children on what is a very small percentage of the payer's income. To make ends meet many sole parents must return to work and this places great stress on them physically and psychologically which inevitably impacts on the children.

Recommendations:

I would like to see the current Child Support Formula remain but with more flexibility to change situations which are clearly not **equitable**. Some changes I would like to see are:

- Legislation enacted to make the payer more accountable for financial support of his/her children, rather than having Centrelink, and therefore taxpayers, foot the bill.
- The C.S.A. to have more legal power to investigate fully the payer's financial situation to see if they are deliberately avoiding child support.

5. Conclusion

Thank you for this opportunity to submit this paper and give a voice to the many single mothers I know. I hope some of the points outlined will be given serious consideration by the Committee.

Ms. Trish Rowney

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