

House of Representatives Standing Committee
on Family and Community Affairs

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Secretary:

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SUBMISSION TO CHILD CUSTODY ENQUIRY

Committee Secretary
Standing Committee on Family and Community Affairs
Child Custody Arrangements Enquiry
Department of the House of Representatives
Parliament House
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Dear Secretary,

The Family Law Act was introduced into the Australian Parliament in 1975.

It has NOT benefited Australian society.

The Family Court is feared and reviled through the community.

It is regarded as Unjust Unfair and Inequitable.

There is a strong conviction in Australian society that its judgements are heavily biased towards women and that belief is well founded.

Over eighty per cent of divorce applications are made by women because statistically they know that sole custody of the children is nearly always awarded to the mother. Therefore, 70 to 80% of the common property pool will also go to the woman.

Sole custody awards of children to the mother is so common by the Family Court of Australia that access by the non custodial parent, (the father) to his children is known by the court as "Standard Contact". The term denotes contact between fathers and his children as "One weekend each fortnight and half the school holidays."

The bonding between the father and his children, his ability to display a positive male role model to his children has little chance for success in that short period of contact time.

Children need a male role model in their lives and study after study have confirmed this. The biological father is by far the best person to fill that role and that should be for 50% of the children's time.

I fully support the concept of SHARED AND EQUAL PARENTING.

In the USA a presumption or preference for JOINT CUSTDY exists in at least 30 states plus the District of Columbia.

There should be a **PRESUMPTION** in the Family Law Act that **CHILDREN WILL SPEND EQUAL TIME WITH EACH PARENT.**

Only if both parents agree could custody of their children be varied

The Family Court should only be empowered to intervene in custody matters if either parent has **BEEN CONVICTED** in a County, District or Supreme Court of physical or sexual abuse or assault of their child.

In such circumstances the Family Court, having the best interests of the child in mind, would need to decide whether custody of the children should remain with both parents, one parent, a grandparent, grandparents or a blood relative of the child.

Grandparents and grandchildren have a natural right to have contact with each other. Such contact should take place when either the mother or father has custody of their children so that each parent would arrange contact with their respective parents. If the presumption that children are to spend equal time with each parent is accepted the need for grandparents to apply to the Family Court for access would be very rare.

DOMESTIC VIOLENCE.

Domestic Violence applications and Orders are used as a weapon to bolster custody applications and in the determination of the asset pool split.

I say that Domestic Violence Applications Orders or Convictions should not be admitted into the deliberations of the Family Court.

PROPERTY POOL.

Stories abound in the community about farms and businesses that have been in the family for four and five generations being forced to be sold by order of the Family Court. Then most of the assets are then awarded to the parent (the woman) who has been awarded sole custody of the children. Personal injuries awards and compensation payments meet the same fate.

Personal Inheritances including paintings photographs, personal memento's, pictures, objects de art, clothing, furniture, property and monies should be excluded from the property pool. They are to be regarded solely as the personal property of the party to whom it was left to and should be treated as such by the Family Court.

Personal Injuries Compensation Awards, Workers Compensation Awards and Victims of Crime Awards should be excluded from the "Common Pool" of assets. They were awarded solely for the use of the person they were settled on and should not be treated as property of the marriage.

3.

FAMILY LAW ACT.
FAMILY COURT OF AUSTRALIA.

Marriage Breakdown, Separation and Divorce.

The economic and social cost of producing an individual solution/decision for each marriage breakdown is placing an intolerable burden on Australian Society.

The Legal/Financial costs are ruinous to litigants, the greatest beneficiaries being the Legal Fraternity and the Family Law Industry.

This whole sorry mess can be substantially overcome by the introduction of a Charter

.It would set out the rights and obligations of parents and children, the parenting of children of the marriage and the division of the property of the marriage.

The parties should be entitled to insist on those rights and obligations upon separation or divorce. The parties may agree otherwise, but without agreement the charter would apply

EXISTING CHILD SUPPORT FORMULA.

The present formula is harsh, unfair, inequitable and excessive to the non custodial parent. The amounts produced is not relative to the actual amounts of money spent on the child.

The income limit/cap of \$113542 PA on CSA payments is excessive. One to one and a quarter times
Average Weekly earnings should be the benchmark cap for the income limit.

The current assessment base of \$11740 has no relationship to present housing/rental and living costs being paid by non custodial parents.

Non custodial parents need to be given a chance to reestablish themselves financially after divorce/separation and to be able to make a life for themselves.

The assessment base should be set on ^{50% of} average weekly earnings and adjusted annually.

Since the inception of the Child Support Act in 1989 the formula of 18% one child 27% two children to 36% for five or more children has remained unchanged. No account has been taken of the very generous increases in Family Tax Benefits that are now being paid to sole parent families.

Scope exists now for the formula to be changed to: -

- 10% For one child
- 15% For two children
- 17.5% For three children
- 20% For four or more children

A number of payments are paid to sole parents, all for the reason to help pay the costs to educate, clothe, feed, entertain and provide shelter and housing for children in their care.

Such payments are: -

Family Tax Benefits "A"

Family Tax Benefits "B"

Disability Carers Payments

CHILD SUPPORT PAYMENTS

It therefore quite logically follows that those payments should only be available to a parent for the days that the parent has the child/children in their custody.

In other words the money follows the child

THEY ARE ALLOWANCES FOR THE CHILDREN NOT FOR THE CUSTODIAL PARENT.

The Child Support Act should be amended to reflect this.

Yours sincerely,



Robert W Hetherington.

