

Submission No: 921

Date Received: 13-8-03

Secretary:

My name is [REDACTED] I wish to make a submission to the Inquiry into child custody arrangements in the event of family separation

1. I separated [REDACTED] and have subsequently divorced. We have three children from the marriage. They are aged 14, 12 and 8. They reside with their mother. We have not settled our children contact and financial issues as my ex-wife insists the Family Court decides these disputes.
2. 30.5% of my income goes in tax, 33.5% in child support (my spouse successfully applied for extra support for their education) and 5% in compulsory superannuation contributions. I keep less than 30 cents in every dollar earned over \$20000.
3. Should I work overtime or accept higher duties or a promotion, I get to keep less than 13 cents in every dollar.
4. In dollar terms, from a gross income of \$70000, I have a net disposable income of \$26000.
5. From this I pay for 100% of costs in contacting my children and in providing for their transportation and care during half school holiday when they reside with me. I also pay for any health and related treatment costs for injuries or illnesses sustained by the children when in my care.
6. I receive no Family Tax Benefit or Single Parent Rebates or concessions. My ex-wife limits my contact with the children to ensure she receives 100% entitlement to these things and to penalise me for our divorce.
7. My ex-wife does a good job on her own caring and educating our children and they are healthy, happy and performing well at school, sport and in their cultural pursuits.
8. Prior to separation, we lived a frugal lifestyle and saved well to meet the future costs of our children's education and their establishment in life and for our own self-funded retirement.
9. My ex-wife works 20 hours a week as a permanent part-time public servant and receives over \$42000 p.a. (net of tax and compulsory superannuation contributions) from her work, child support, benefits, rebates and concessions.
10. To meet various means tests to retain her net income and attendant child support and government benefits, she spends some of this money on excessive toys and gifts, the latest in fashion and luxury furniture, household appliances and holidays.
11. The Child Support Agency advises that should I voluntarily reduce my income, they will still assess my child support liability as if I earn \$70000. Conversely, my ex-wife has arbitrarily (and without any explanation or justification) changed her hours of work so she retains 100% entitlement to Child Support, Family Tax Benefit and Single Parent rebates and concessions.
12. The Child Support Agency also advises and has ruled in favour of my ex-wife in regard to proposed "non-agency payments" for my expenditure on things like health insurance and medical and pharmaceutical costs for the children.
13. Notwithstanding the above, I'm better off than several other non-residential parents I know are. They give accounts of their ex-partner's spending of child support on drugs, alcohol, cigarettes, holidays, clothes, nightclubs and toys and gifts to bribe the affections and continued tenancy of their children. They tell of picking up every second week-end neglected, unwell, half-starved, poorly clothed children who have missed school or been allowed to run wild whilst the "ex" sleeps off the latest excess.
14. I have not been able to resolve childcare issues with my ex-wife. These matters will likely go before the Family Court. As I also have financial settlement disputes with my ex-wife, appearance before the Court is delayed. [REDACTED]. I am advised that should I separately seek decision on the contact issues before the Family

Court, it will duplicate a lot of my costs. I will also either be told to wait until the financial matters can also be heard or risk the expense that my ex-wife recontests these issues when the financial matters are heard.

15. I'm also told that even if I obtain a Court order for increased contact with my children, then my ex-wife can defeat the order by simply saying she was sick, the car broke down, she forgot, one of the children were sick, whatever. I understand that if I wish to take issue with her breach, it will be at my expense. It will apply only to that breach and that no Court in the land will penalise a single mother caring for three children providing she puts forward a semi-plausible excuse for her non-compliance. I will also have to try and explain to my non-resident children why I am causing their beloved mother (and carer) so much grief, anxiety and expense.

Proposals I would like to put forward for consideration include:

1. Restructuring of the raft of child support and government benefits, concessions and rebates that make up Australia's child care system. The current raft produces an adverse result in that it encourages the residential parent to maximise their entitlements at the expense of sharing care for the children. It also encourages the non-residential parent to limit contact with their children as they experience paying for things twice. For example, Family Tax Benefit to the residential parent reduces when they share care with the other parent. Likewise, care provided by the non-residential parent often involves paying for additional accommodation, food, clothing, travel, and medical treatment to meet their children's needs. **In essence, the current raft of measures pits against each other the financial interests of the two parents. Their children pay the price for this adversity in terms of uncertainty about where they live, holiday and spend free time and in increased and perpetuated tensions between and amongst their parents.**
2. Ready access to the components of the child support formula. I.e. An explanation of exactly what items and costs comprise the child support formula?
3. Ability to make specific purpose payments for child support either in lieu of or in addition to the formula. (The current "non-agency payment" provision is too inflexible). This includes the ability to directly meet rent/mortgage repayments and food, education, health insurance and other essential costs. This will prevent child support recipients from wasting or squandering child support on drugs, alcohol, cigarettes, holidays, clothes and toys and gifts to bribe the children to continue living with them. It will also encourage payers to meet their responsibilities, as they will see that their payments maintaining the children and not the excessive lifestyle of their ex-partner.
4. Once an annual ceiling of child support payment is reached, ability to invest money for the children's future. (The investments to be irrevocably signed over to the children). This will prevent child support recipients from wasting or squandering child support payments on non-essential items so they maintain eligibility for support or government benefits.
5. Once an annual ceiling of child support payment is reached, presumption that one half of all reasonable costs incurred by a non-resident parent so the children can have contact with them is a child support payment. Likewise payments by resident parents that exceed one half of reasonable costs so the children can have contact with the non-resident parent are to be added to the child support liability.
6. Compulsory basic health insurance of the children to be taken out by the resident parent where they have predominate care and inclusion of basic family health insurance in the child support formula. Alternatively, direct payment of child support payments to a nominated health insurer.

7. Review of the "109 day" rule whereby residential parents receive 100% of child support if they provide more than 256 days (365-109 days) of child care per annum. This rule encourages residential parents to keep contact by the non-residential parent to less than 109 days. In its place, a rebate to be given to the non-resident parent of 10% of the child support amount for every 36 days of residential care provided. The rebate is to be paid by the government. It does not reduce the amount of child support paid to the resident parent.
8. Improved service and accountability of the Child Support Agency. For example:
 1. Replacement of "first name only" rule practiced by Child Support staff with their first name and a registration number, similar to that used by police forces. This will prevent staff from hiding behind their anonymity and enable better follow up on enquiries by clients of the agency. The current level of child support agency service exacerbates distrust, frustration, non-compliance and disputes.
 2. Rebates or benefits to clients where client service standards are not met; similar to the interest paid by the Australian Taxation Office on overpayments.
9. A cheap, tribunal system like the Small Claims Tribunal where breach of Court Orders can be quickly and cheaply resolved. Better still, an incentive system for all parents to comply with Court Orders backed up with sanctions where repeated breaches occur. Such sanctions are best not financial.

