

My submission to Child Support Inquiry 5/8/03

House of Representatives Standing Committee
on Family and Community Affairs

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Committee Secretary
Family and Community Affairs Committee
Child Custody Arrangements Inquiry
House of Representatives
CANBERRA ACT 2600



Dear Sir/Madam

Please find attached my submission to the inquiry into child custody arrangements in the event of family separation.

Unfortunately I have not been in a position to complete comments on the existing child support formula in detail. However, if there is an opportunity to address the committee or the inquiry in the future, I would be very happy to do this.

Thank you for the opportunity to comment on this vitally important social matter.

Yours sincerely,

Kaylene Doré
Enclosure

This submission is based on personal experience and upon anecdotal evidence. I, as well as some of my siblings, friends and colleagues, have weathered the storm of separation and divorce.

Introduction:

Parenting a child can be both the most rewarding yet challenging experience a person ever undertakes. Each child is different and they respond to their parents, siblings, peers and circumstances differently in gaining their own life experience.

To raise well adjusted, confident, socially responsible young men and women is the challenge every parent faces. Parents must be supported and encouraged by governments, service providers, as well as by the wider community, in this vitally important role. Unfortunately today, more young people are lacking in self-esteem, confidence and social skills than in the past. This is evidenced through their higher drug use, participation in at-risk behaviours, youth violence, youth suicide and teen pregnancy (Australia has the 6th highest teenage pregnancy rate and 3rd highest abortion rate among OECD countries).

When two people become parents, they usually make a commitment to raise their child in a safe and happy environment. That commitment does not necessarily mean that both parents will spend equal time, energy, or financial resources in achieving that goal. Parenting arrangements will change, as a child's needs change and the family's circumstances change. Parenting needs to be flexible.

Separation and divorce rarely happen when parents are happy, cooperative and in a satisfying relationship. Rather it occurs when two people have reached a point where frustration, anger, disagreement and sometimes violence is destructive to the relationship. Unfortunately it is often in this environment of anger and dysfunction that parents are required to make decisions about future arrangements for their children trying to keep "the best interests of the child/children" in mind. Separation is an emotional and distressing time for all family members. It is a time of great uncertainty and instability. Parents are often unable to make rational and logical, long-term decisions in this emotionally charged environment.

The challenge of "deciding respective time with each parent" cannot be simply a matter of determining the hours per day/ week or month each parent should spend with their child - that is clearly too simplistic. Good quality time spent with each child should be the aim of every parent whether or not they are living with the child and, unfortunately, this cannot be legislated by Government.

Social policy – Australia's future:

A supportive, nurturing environment & relationship with their parents is vital to the well-being of a child. The well being of Australian children is of vital importance to all Australians.

This Inquiry has been asked to call for submissions into child custody arrangements in the event of family separation. The Australian Government is to be applauded in taking this action. The goal of good Family policies must be to help family members enjoy and participate in positive relationships, particularly between parents and children – whether or not all family members live together.

The Family and Community affairs Committee, of the Australian Government, has been ask to investigate -

- (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 their 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 separation 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.*

What factors should be taken into account?

Separation of parents is a stressful time for all family members and it can be difficult for parents to focus on meeting their children's needs while they are overwhelmed by the conflict between each other. But children need to be safe, nurtured and feel loved; be guided and empowered to live satisfying and productive lives. Their lives cannot be put on hold, they must go on.

Children's needs change. Parents must have flexibility in planning how they can best meet those changing needs, particularly if the time children spend with each of the parents is limited.

- Age of Child/children: How each parent provides love / care / control / happy environment / stability for their children – **changes as the child grows up.**
- Children with special needs: Children with special needs need additional care and support, and so will their parents.
- Importance of quality time: How parents demonstrate love / care / provide control / a happy environment and stability for their children – **varies according to their own experience/ their personality /temperament and the personality/temperament of the child.** Some people speak the “love language” of quality time, others appreciate words of affirmation, or gifts.

- Provision of financial stability: Some parents spend considerable time away from their children without being separated from their partner. If a parent is in the armed forces, travel long distances for work etc. they may be away from the children for extended times. The needs of these children are just as important as the needs of children from separated parents, and balancing “equal time” may be harder on these families if the parents separate or divorce.

To prescribe a “time requirement” on parents may create as many problems as it seeks to address.

The Assumption of equal time following separation:

Both parents are equally responsible for the creation of the child, for the provision of a suitable environment for the child and for adequately providing for the financial, social, emotional and physical needs of their children. Children deserve to have a positive relationship with both their parents whether or not they all live together.

Therefore it would be reasonable to expect that children should have equal access to time with both parents following separation.

In the majority of cases this would be the fairest starting point. Unfortunately there are circumstances where equal time is not going to be appropriate or practical and rebuttal necessary. If these circumstances exist, and it is determined that children will not have equal access to both parents, parents should be encouraged to strive to reach the position of equal time with their children. Any agreement about parenting arrangements under these circumstances could include plans to reach the goal of equal access to the children for both parents at some point in the future.

Rebuttal may be appropriate in the following circumstances:

1. Violence in the home: Children should not be in a violent or abusive relationship or environment. All children deserve to be safe. Unfortunately there are many cases where separation and divorce are as a result of violence in the family. In these cases it might be more appropriate for the presumption of “equal time” to be rebutted.

However each case should be very carefully considered. When there is violence between the parents it does not automatically mean the children are going to be in danger. Counselling of the parties, assessment by a psychologist and / or the police and the possibility of initial custody visits being “supervised visits” etc could all play a part in finding the “best outcome for the children” by keeping them safe and helping parents maintain access to their children.

There are many practical difficulties in implementing the “equal time with both parents” option. These practical difficulties include:

1. Lack of Skills: Some parents may need help to develop the skills required to meet their children’s changing needs, particularly if they haven’t had experience in meeting them in the past. Some parents do not know how to meet the emotional needs of their children and need education in this area in particular. Methods of discipline and control, giving the child time and attention are all skills we must learn and develop. Some parents need more instruction in what it takes to meet their child’s needs than other parents. This inexperience and lack of skill should not be grounds for rebuttal, however both parents should be encouraged to seek to “make the most” of the time they spend with their children. It may be worthwhile to include an education component in counselling sessions for couples who are separated, if there are children involved.
2. Distance: When parents separate, one or either of the parents may choose to leave the former family home and move to another town/city or interstate. Often this is so they can access family support or adequate services which will help them to adjust to their new circumstances. Unfortunately this can make the practicality of “equal time” with both parents difficult to achieve. Distance should not necessarily be grounds for rebuttal, and the importance of the distant parent maintaining as much contact with the children as possible should be stressed. The child’s school attendance and social networks would be seriously jeopardised if children had to spend equal time with each parent when long distances are involved.
3. Unavailability of a parent: Children who have a parent who works shift work – is at work in the evenings (after school); or who is in the Armed Forces going away to sea/on exercises; is a travelling sales representative or an executive who is away from the home for extended periods on a regular basis – can not necessarily spend “equal” time with their children.

Time requirements of children may simplistically be divided into “care and control time” and “recreation time”. When parents enter into an agreement about parenting their children, particularly if they are living in two separate locations, there must be every effort made to balance the “care and control” and “recreation” time between both parents, rather than one parent having all one and none of the other.

“FAIRNESS OF TIME”
must be the aim, not just
“EQUALITY OF TIME”

The Family Law Act appears to have moved away from “granting custody of the children to one or other parent and the other parent having access” towards recognising that: “each of the parents of a child who is not 18 has parental responsibility for the child” which is a step in the right direction. (Section 61 Division 2)

Under the “old system” men have particularly felt disadvantaged. With the starting point of equal access/time with both parents, many fathers believe they’ll have a better opportunity to remain involved with their children.

Conclusion:

All families go through change and sometimes those changes are difficult and stressful. During our lives – we move house, change jobs, and may even end a marriage – but parenting is a commitment for life. A parent is a parent forever and most people genuinely want to be good parents.

- ❖ As a society, we must place value and importance on positive relationships;
- ❖ We must provide and encourage education in positive family values;
- ❖ Parents must be enabled and encouraged to seek what ever assistance they need to help them to be the best parents they can be. This will enable them to raise socially well-adjusted young men and women who will go on to make a valuable contribution to the lives of others. This is surely the goal of all Australian parents;
- ❖ We need to have, and to be, positive role models;
- ❖ We need to demonstrate to our children how to resolve conflict with the minimal negative impact on ourselves and on others.

Future directions:

Education is vital: Education of the community generally (children, adolescents, adults, parents, grandparents and social commentators); of family law system service providers; teachers and educators; police and crisis service providers; government and policy makers all need to share in the vision of a stable and positive future for all Australian children.

The path of a relationship from Happy Marriage to Happy Family Unit although parents are separated or divorced.

Aim: to facilitate the transition with the minimum negative impact upon children during and following separation. Best achieved if the conflict between the parents doesn't become a wedge or a weapon between the parents and children.

A Happy Marriage : (happy, well balanced family members)

Two people meeting the needs of their children by providing love / care / control / happiness / stability ... to the best of their ability

An Unhappy Marriage : (dysfunction & instability)

Two people unable to meet the needs of their children if their own needs for love / care / happiness etc are not being met

An Unhappy marriage working towards reconciliation/separation (striving for stability and a return to happiness):

Two people striving to meet the needs of their children by addressing their own needs and by genuinely making decisions that have the child's best interest at heart

Reconciling or Separated Parents: (achieving greater stability and happiness for all)

Two people striving to meet the needs of their children by addressing their own needs and by genuinely making decisions that have the child's best interest at heart

Reconciled or Divorced Parents sharing responsibilities for their children:

(Happy, well balanced family members who may or may not all live together)

- * Two people meeting the needs of their children to the best of their ability recognising that those needs are always changing
- * Achieving the best possible outcome for their children and themselves
- * Enjoying stability - love, care, control and happiness in all their lives.