

House of Representatives Standing Committee
on Family and Community Affairs

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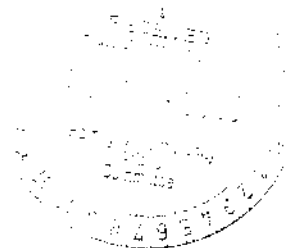
Secretary:

Forbes, Bev (REPS)

From: Jeff Threlfall [REDACTED]
Sent: Friday, 8 August 2003 2:46 PM
To: Committee, FCA (REPS)
Subject: Standing Committee on Family and Community Affairs Child Custody Arrangements Inquiry

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

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Dear Committee

This letter is a submission to the Committee's inquiry into the following terms of reference.

(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

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

(c) with the committee to report to the Parliament by 31 December 2003.

With respect to (a) (i)

Where there is no confirmed evidence of any prior abuse, mental instability, drug addiction or other child endangering habit/situation, then the child's best interests are that he/she spend equal time with both parents (shared parenting). In other words, Mothers and Fathers should be accorded equal status in a child's life and consequently should be allowed to have equal rights and equal responsibilities. This should be the starting point for all separations where there is no prior confirmed evidence of child endangering habit/situation.

If a parent claims that the other parent is not a suitable parent for reasons of violence, addiction, temperament, or mental illness of caring for a child, OR when the parents cannot agree, the Family Court needs to immediately order both parents to attend a Court Appointed Family Assessment interview. Shared parenting should not alter until and only if the allegation/claim is confirmed by thorough appropriate investigative means. A parent who is found to have made false allegations should be punished with suitably adequate deterrents such as a fine and or community service with weekend detention as a punishment for further/repeat offences. As parental alienation damages the child-parent relationship, it is detrimental to the best interests of the child, and should be viewed as a form of child abuse. When any

allegations are made against a parent, a presumption of innocence until proven guilty should apply in all cases. Unless accusations are of such gravity that they affect the immediate safety of the child, no decision to temporarily suspend residence with either parent should be made. In these cases, immediate provisional investigation to assess dangers of residence should take place, with a maximum of a two weeks' delay permitted before a decision is arrived at. Separation should not be used as an opportunity for revising the residence rights to one of the parents.

Where one parent wishes to move far away, leading to potential problems such as contact, transport costs to facilitate contact and disruption to children, this may require outside authorities to make decisions as to whether that parent can move. I would suggest that the parent wishing to move must apply to Family Court stating their reasons for wanting to move and in what way they intend to compensate the other parent e.g. by paying for a larger portion of transport costs to facilitate contact. Decisions thus arrived at must take into account all factors, including the need for a child to see both parents, the need to find a job by moving for instance, and the need to respect adult choices and decisions. However, Shared Parenting does rely on parents putting their children's interests first and foremost, which may mean refusing a move to another town/state to accept a promotion or a move to another town/state to take up a new relationship.

Parents do not even need to get on together as there should be no need for them to see each other at all. A "contact information" book could go with the children on changeover day containing any information that a parent feels the other parent needs to know. A typical changeover could be that one parent picks up the child from school on Friday afternoon and the next week the other parent picks up the child from school on Friday afternoon. This method negates the chance of conflict between parents such as may occur at a changeover at a parent's front door.

Only in the case that parents are not able to arrive at a mutual agreement should the intervention of mediators in the first instance and of the court as a final resort become necessary. Mediation should be available before, during and after divorce/separation. Mediation must be independent from the courts. It must always be a free public service, optional and gender neutral. Courts should respect mediation agreements and mediation intervention.

If a 'Custodial' parent denies normal Contact, Family Court should fine that parent not as it is at present where that parent usually only gets a "slap on the wrist". If further offences occur that parent should also be ordered to complete community service as well as a more substantial fine. Any further offences should be met with an appropriately increasing amount of punishment with weekend detention being an option for repeat offenders.

Parents in agreement should be able to sign legally valid contracts which may vary their individual rights in regard to their children, e.g. they may agree to make a non-equal division of time and finances if both so wish, due to employment circumstances or other family commitments.

With Shared Parenting being the starting point:

1. Many parents will make a concerted effort to make their marriages work thereby reducing the spiralling divorce rate. Resulting in less children being traumatised by being treated like a possession or a weapon against the other parent, less children being abused as they are currently often abused by the single parent, less single parents living on Centrelink payments, less domestic violence, less teenage homelessness BUT most importantly more children being brought up in the balanced environment of a two parent family.
2. There will be less use of the Family Court for Residence Hearings and Contravention of Contact Hearings.
3. There will be less parental child abductions.
4. There will be less demand on Legal Aid.
5. Many more children will have the opportunity to know and love both parents.
6. Many more children will have a balanced upbringing with their biological father as a role model – resulting in less crime, less drug use, less teenage pregnancy, less school drop-outs, less unemployment etc.

With respect to (b)

Biological parenthood should be established at birth by way of DNA testing. For any DNA test, all material evidence and records should be destroyed immediately the conclusion of parenthood (or non-parenthood) is reached. Child Support should not be enforceable on the “non-father” in cases of non-parenthood.

The existing child support debt management system needs to be improved so that defaulting parents who refuse to pay even though they have the financial capacity to, are sentenced to community service in addition to being pursued for arrears. However, if the defaulting parent can prove beyond doubt that they are in a situation of financial hardship, then leeway should be allowed.

Child Support should be calculated on nett wages not gross. As it currently stands, it is a form of double taxing to the detriment of many payers who struggle to survive on the meagre amount left over after paying income tax, mortgages, insurances, food etc especially the ones with a new family to support and care for.

Any parent with Sole Residence of a child who denies Court Ordered Contact to the other parent without justifiable reason should have their child support reduced by a suitable amount each and every time contact is denied. This will act as a deterrent to parental alienation, an insidious form of child abuse and a major cause of much of the present grief and stress faced by the non-custodial parent.

Yours sincerely

18/08/2003