

From: [REDACTED]
Sent: Wednesday, 6 August 2003 11:38 PM
To: Committee, FCA (REPS)
Subject: Submission to Child custody arrangements inquiry

House of Representatives - Standing Committee
 on Family and Community Affairs

Submission No: 701

Date Received: 6-8-03

Secretary: [REDACTED]

6 August '03

Committee Secretary
 Standing Committee on Family & Community Affairs
 Child Custody Arrangements Inquiry
 Dept. of the House of Representatives
 Parliament House
 Canberra ACT 2600 c/of email : FCA.REPS@aph.gov.au

Dear Sir/Madam,

Re : Inquiry into child custody arrangements in the event of family separation

I am [REDACTED], a 38 year old lawyer and father of two wonderful children aged 10 and 7. Approximately two years ago my wife and I separated.

It is my submission that the current structure and combined effect of the Family Law Act, the welfare system and means of assessment of child support :

- (a) encourages mothers to separate from the fathers of their children and deny those children genuine contact with their fathers (rather than encourage families to stay together);
- (b) is grossly unfair to those fathers ; and
- (c) fails to protect and care for the best interests of those children.

A. Encourages women to separate .

The integrity of our family structure should be to keep families together wherever possible. Our current structure has a circular contrary effect whereby mothers ;

- (i) May elect to separate safely in the knowledge that they will receive government benefits as soon as they have removed the husband from the home ;
- (ii) Do so in the knowledge that they will receive child support based on a percentage of the fathers income ;
- (iii) Are encouraged to deny or minimise contact between the children and their father as this will maximise the level of child support that they receive ; and
- (iv) Are discouraged to earn their own income as this will have a direct effect on the level of benefits and child support that they receive.

B. Unfair to fathers .

In every direction a father is placed in a helpless position.

7/08/2003

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- (i) He is prevented from seeing the children (against their interests and wishes) at the whim of the mother ;
- (ii) The courts presume it is in the best interests of the children to remain with the mother unless he can prove otherwise ;
- (iii) Is given little or no choice but to leave the family home ;
- (iv) Despite the circumstances behind the separation is forced to virtually give the mother almost all family assets and is forced to bargain for the right to see his children ;
- (v) Is bound to pay a percentage of income as child support based on "nights" the children are with him creating a situation where mothers allow only "day" contact ;
- (vi) Child support formulas, the system of distribution of assets and taxation leave the father with very little personal income and little or no possibility of re-establishing a reasonable lifestyle ;
- (vii) Must resort to court proceedings and face the daunting task of proving to a court that the children should be able to spend more time with him – this of course means the children would have to be put through a traumatic process , over and above the trauma of the separation itself;

C. Fails to care for childrens best interests .

Any system that inhibits the right of children to have ready and genuine contact with their father is failing to look after their best interests .

- (i) A child's wishes and interests will not be considered unless and until that child has endured court hearings/proceedings, being interviewed by strangers who know nothing about them and their relationship with their parents ;
- (ii) By being removed from regular and constant contact with their father they are subsequently distanced and removed from contact with grandparents and cousins/aunts/uncles ;
- (iii) They are subsequently placed in a situation that engenders a thought process that one parent has abandoned them.

Conclusion

A rebuttable presumption that children spend equal time with each parent will :

- (1) Encourage mothers to work at keeping a family together ;
- (2) Allow children greater genuine contact with each parent ;
- (3) Create a level of fairness for fathers.

I have endeavoured to keep this paper as short and concise as possible, given the limited time and enormity of the task faced by the Committee in receiving and assessing submissions . I am prepared to appear before the Committee for the purpose of oral presentation if the Committee so elects.

Yours faithfully,

A large black rectangular redaction covers the signature area, obscuring the name and any handwritten notes.

6 August 2003