

Submission No. 1486

18-8-03

Secretary: .....

Inquiry into child custody arrangements in the event of family separation.

SUBMISSION

by



*As this submission contains personal information, I ask that identifying aspects of this submission be kept confidential.*

Summary

- I am the child of joint residence parents, and do not recommend this method of sharing the children.
- I had a child in a relationship that ended in physical, emotional and verbal abuse. A presumption of joint residency would put myself and my child at continued risk of harm.
- The status quo would be negated, to the child's detriment, with a presumption of joint residency.
- I question the assumption that boys will be automatically better off if they have a male role-model (preferably the father)
- Joint residency would negatively impact on our monetary situation.
- Any decision made by the inquiry must take into account the age of the child. Ordering joint custody for very young children (up to the age of five), where the child is separated from the primary caregiver for extended periods, will have deleterious long-term effects on the child.
- The child support formula works well - if the payer pays. The father has a sizeable debt with the Child Support Agency (CSA). The CSA is unable to collect undeclared cash earnings.
- I do not agree with the forgiving of old, sizeable child support debt.

Argument

Preface

- I note the title of this inquiry uses the term "custody". This term was deleted from legal language in the 1995 Family Law Reform Act, because it was emotive, denoting 'ownership' of the child. My understanding is that this term continues to be used by father's rights groups, and their supporters (such as the journalist, [REDACTED]) - because of its emotive value, helping depict contact parents (mostly fathers) as victims. I am concerned that the use of this word is an indicator of a pre-determined outcome of this inquiry.

- The father of my child (described below) is intelligent, cunning and plausible. His letters to the editor on child support have been published numerous times, whereas my letters to the editor on domestic violence have not. He could be *any* of the fathers who write a submission to you. How will you know? I say this to make the point that every submission you receive (from mothers, fathers or other interested parties) has at least two sides you may not hear - the other parent of the child, and the child himself or herself.
- **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**

I strongly disagree with the presumption of Joint Residence, for the following personal, and researched, reasons.

#### As a child of separated parents

My parents separated when I was three years old. My mother cared for me during the week, while my father cared for me from Friday night to Monday morning. I would not recommend shared care - whether in this arrangement, or week, or month, about. Please note - I have an excellent relationship with both my father and mother. My parents have always cared about, and respected, each other, and encouraged this respect for each parent with their children.

My reasons for *not* recommending shared care include:

- Negative effects of moving between households. After 30 years, I can still remember how confused and wrenched I felt when having to move between households. I used to call this being "mummy sick" or "daddy sick". I would withdraw from the parent I was visiting for quite a while, during the first day of my time with them. This impacted on my relationship with my parent of the visit.
- Lost social opportunities. Moving between households, particularly as I became older, became problematic in keeping my social networks.
- Lost sense of stability.

#### As a separated parent

I left the father of my child when my child was eight months old. This relationship failed because of physical, verbal and emotional abuse. The father was unable to control his anger, and his hatred of me was overwhelmingly evident during our five years of continued court battles. For these reasons, amongst others, he was denied access to his child for three years. He now has contact with his child each fortnight, and half of the school holidays.

If there had been a presumption of joint residence (as being investigated by this committee), then:

- (i) a very young child would have been torn from his primary care giver for substantial periods of time. There is evidence that attachment is extremely important for infants, giving them the foundation of a secure childhood and adult life. This child was attached to me - I was his primary carer. Shared residence would have impacted negatively on his emotional well being.
- (ii) The existing status quo would have been demolished, and would not have benefited the child. The father worked long hours. I cared for the child, the father and the house. The father would come home from work, play with the baby literally for five minutes, then bring him in to me while I was in the kitchen preparing dinner - so that I could continue caring for the child. The father had rarely changed his nappy, or cuddled him when he cried. This father, in fact, thought the child just looked 'funny' when he cried. The father laughed when his eight-month-old son fell down and knocked his head on the wooden corner of the table. Not once has his father kissed this child. I question the wisdom of presuming this father is fit to suddenly care for a child for 50% of the time, when previously he cared for the child approximately 10% (or less) of the time. He did not have the skills, or the emotional ability, to care for a young child.

My experience mirrors the research. The most recent Time Use surveys that women in relationships still do the bulk of caring for children and domestic work: 90% of women and 63% of men spent time on housework such as cooking, laundry and cleaning. While the Time Use Survey shows that both men and women spend time caring for children (23% of men and 34% of women spend time caring for children) women spend just over 8 hours per day while men only spend 5 hours per day. Further where child care was noted as the main activity women spent twice as long as men caring for children and were more likely than men to provide direct care that includes feeding, washing and dressing.

- (iii) I would have been at risk of continued verbal, physical and emotional abuse. Limited contact occurred for four months after the separation. Hand-over was hell for me. I was subjected to loud, aggressive, abusive descriptions about my self, my family, and my worth as a human being. I would be either threatened, or totally ignored. During the times I was ignored, I would hand over the baby, and would try to discuss his health, or other matters relevant to the child's well being. The father would not acknowledge my existence. When he returned, he would glaringly hand me the child and the bag, and I would have no idea of the condition of the child. On more than one occasion, the child returned sick or sunburned.
- (iv) The child would have been at the mercy of a man who was extremely distressed and angry. If this man could not hide his contempt for me from family court judges, police and registrars - how would he fare with a defenceless young child? I suggest the child would have been subjected to continued descriptions of my, and my family's, many, many failures. I worry that the father's anger towards me would have translated in to aggression towards my son, who, in many respects, looked like me.
- (v) The father, as a role model, is suspect. During a court case, he fretted that "his son

would not be able to learn to pee standing up". The father obviously believed male role models were important. I believe it is more important for boys, as people, to learn to be considerate, caring, self-contained, independent, sociable, and to respect women. This is in preference to being subjected to negative male role-models. If a parent (male or female) has a democratic, authoritative, respectful parenting style that focuses on knowledge and control of emotions, the boy will gain life skills that far outweigh the 'need' for a male role model. For the record - my son learnt to pee standing up - without the help of a male role model!

(vi) I gave up a well-paying career to follow the father to another state, and to bear his child. I had specific skills in a specific discipline, which are not easily transferable. I have lost skills and experience by becoming a full-time carer. This, however, has been the valuable choice for both my son and myself, and one I will never regret. As a consequence, I was struggling on a sole parent pension, which occasionally was supplemented by child support. Joint residency would have reduced even further the money upon which we survived.

### Other

I question whether all parents want equal contact. That is, many parents may be happier with less contact. Having a presumption of Joint Residence will mean court appearances that previously, would have been avoided.

I have had contact with many separated women, both personally and professionally, who have been saddened and distressed by the lack of contact of the father with their children. The mothers have done everything in their power to encourage contact, but to no avail. I have personally witnessed the hurt of a child spurned by her father. How would joint residence affect these families? Would unwanted children be forced on to unwilling fathers?

In my case - once the father had contact with his child, he immediately began reducing the negotiated amount of time he actually spent with his son. This meant I could never plan my life, as I never knew when I would receive a call to collect my son early. If joint residency were presumed - would this mean I would have to return to court, to force the father to see more of his son than he obviously wanted? I would not want to see my son in a situation where his father could reject him.

### **(ii) in what circumstances a court should order that children of separated parents have contact with other persons, including their grandparents**

My understanding is that this is already provided under section 60B(2) of the Family Law Act. It is important, however, that grandparents be prevented from putting down the ex-in-law, in front of the grandchildren.

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

The father of my child has a debt with the Child Support Agency of over \$17,000. In the first five years after we separated, he has had at least three jobs where his gross salary exceeded \$80,000, and included benefits such as fully maintained cars. Coincidentally, he 'lost' the first two jobs when (a) he assaulted the manager because the manager provided information to the CSA, and (b) the CSA tracked him down. During numerous child support reviews, he made the direct threat that if he did not see his child, then he would stop working. He left his third high-paying job because he kept taking me to court, and needed the time in court (by this time, he was again seeing his child). For the last four years, I have received \$5.00 per week, from his Centrelink payment. However, even this stopped for over a year, and again, I received nothing. Contact with his child has not increased the likelihood of receiving support for the child.

I am aware that the father receives money from cash in hand jobs (gardening, etc). In my case, the child support system is doing the best it can. It cannot, however, change the views and beliefs of a payer determined not to pay. Even though the father has been regularly seeing his child, he has done all he can to evade child support payments - including not putting in tax returns. Perhaps the payer believes the money is going towards me, the mother, and he severely resents this. What he does not see, however, is that he harms his child by withholding monetary support. Child support is used to provide necessities of life such as: a reliable car, regularly serviced (to safely transport the child); utilities such as electricity, gas, phone: rent or mortgage; school fees and school excursion costs; school uniforms; out of school activities etc. The child will also suffer if the phone bill is not paid, and friends are therefore not contactable; or the car is not cared for, so cannot be used for transport.

The child support formula would work well, if I received child support. It is impossible to collect cash-in-hand moneys.

However, I disagree with the forgiving of debt - sometimes done without the knowledge of the payee (as apparently happened with me, briefly). This is debt owed to the child. If forgiven, and the payer then dies - no claim can be put against his estate. Similarly, if the payer gains a job, no claim can be put to obtain money owed.

My experience mirrors those of many payees. In 2000, a survey conducted of Child Support Agency (CSA) clients revealed that only 28% of payees reported always receiving payments on time, while 40% reported that payment was never received. CSA National Debt Recovery Data has revealed that 66% of payers did not make a payment in June 2000, and in consideration that a significant proportion made the payment in arrears, the amount of clients making their payments in full and on time may be less. The total child support debt grew at an average rate of 7% in the four years to June 2001, to a total of \$670 million. The age of child support debt increased over this period and the percentage of payers with child support debts rose from 56% to 74% in 2001. The older and larger the debt amount, the harder the debt is to recover from payers. The Child Support Agency failed to collect \$669.7 million in 2000-2001 and the debts written off by the Child Support Agency during this period rose by 27% to \$74 million.