

Submission No. 840

Date Received: 7-8-03

Secretary:

From: Carol Alcock [REDACTED]
Sent: Thursday, 7 August 2003 3:21 PM
To: Committee, FCA (REPS)
Subject: Child Custody (Joint Residency) Inquiry

7 AUG 2003

House of Representatives Standing Committee on
Family and Community Affairs
Parliament House
Canberra ACT 2600

The Marian Centre is a large women's refuge for women and children escaping domestic violence. We welcome this opportunity to relay our concerns in regard to the Enquiry into Joint Residency Arrangements in the event of family separation. The Marian Centre believes that the Committee must take into account the danger women and children face after separation from a violent relationship.

The proposed changes assume a remarkable degree of maturity and good will on the side of the parents. In relationships where there has been violence or the relationship has ended with trauma and upset it is very doubtful that joint parenting is possible, certainly in the short term. This arrangement would not be in the interests of the child/ren.

Statistics show that most parents agree to parenting arrangements that suit both parents and the ones that end in the Family Law Court are those where there is animosity, often violence and reflect a very difficult relationship.

Shared Residency takes a strong commitment from both parents and will not work in the best interests of the child unless both parents are willing, co-operate, communicate, compromise and arrange their lives to make it a viable arrangement for children. Most importantly it needs to be recognised that Shared Residency will not work if there has been a history of domestic violence from a partner.

Our experience is that most children coming into a refuge are fearful that their father will find them and they are convinced their mother will be hurt. These fears have a detrimental impact on the development of the child and interfere with their education and social development.

Access and shared parenting is no guarantee that a father, who has shown no interest in the children and has been violent in the home in the past will make a good father after separation. It is much more likely that the children will be used to get back at a woman who has left a controlling relationship.

We notice how quickly children settle into a refuge because the stress and fear of violence and conflict have gone. Children do not cope well with violence and abuse or witnessing it in their home.

It is in these situations that we have concerns. We are concerned that violent and abusive

fathers will use this presumption that it is their right to have their children 50% of the time and that the legal system will be used to allow an unfit father or mother to have unreasonable and unsafe access to their children.

Data collected by the Australian Bureau of Statistics in 1996 in its National study of violence against women reported data on over 6000 Australian women physically or sexually abused or threatened in ways prosecutable under Australian law. It was found that 1 in 5 Australian women had experience violence from a male partner during their lifetime. This rate was higher (42%) among separated or divorced women, compared with the 8% of those in current relationships. This being so, one must question the wisdom of any amendment that puts added emphasis on shared Residency as the right of parents.

It is common sense that mothers are the primary care givers especially for young children. This change will also play into the hands of some fathers who believe for religious or cultural reasons that boy children must be with their fathers if there is a separation. Girl children can go with the mother but boy children should be with their fathers.

Children should not be subjected to power and ownership struggles. The court should be aware that the cases that come to court are where there is conflict and so the possibility of successful (for the child/ren) 50-50 parenting is a remote likelihood. Many couples agree about access and maintenance issues and do come before the courts. Very few of these would even end up in a 50-50 equally shared parenting arrangement. It is not practical for a child to be spending half of the time with one parent (perhaps another family) and the other half with the other parent (perhaps another family) unless the separated parents live across the road from each other.

What about the practicalities of the child/ren's schooling, sports involvements, social and friends if the separated parents live in different areas. It could only work fairly if the child/ren stay in the family home and the parents come and go on an equal basis.

Domestic violence must continue to be considered as a serious factor in deciding issues of access in Family Court judgements. There are too many children still witnessing violence between their separated parents, often at the time of access. There are still children who are fearful of spending time with an abusive parent and there are still unfit parents being given residency of their children.

It is very doubtful that it will enhance the lives of children at all. The proposed changes could make the situation very unsafe for many children.