



September 2003

Committee Secretary  
Standing Committee on Family and Community Affairs  
Child Custody Arrangements Inquiry  
Department of the House of Representatives  
Parliament House  
CANBERRA ACT 2600

House of Representatives Standing Committee on Family and Community Affairs	
Submission No: .....	1479
Date Received: .....	15-9-03
Secretary: .....	

Dear Sir/Madam

We are writing to the Committee on behalf of our son and ourselves as grandparents. We would like to briefly outline the circumstances of the family law case we have been involved in and then make some suggestions about how the family law system might be improved in view of our experiences.

Our experience has been that the family law system is biased towards the mother and the father is treated unfairly. In our son's case, this has been markedly so. The mother left when our son wasn't home (without a word). She took the two children and went to Queensland. Our son was advised by legal representation that the children should be returned to the status quo. In court the magistrate said that this should be done, however in the interests of the mother he granted her interim custody. Our son appealed this decision but to no avail.

When the final property settlement case was heard in court almost two years later, our son's solicitors advised him against also going for custody of the children at this time, as it was very unlikely that he would be successful. This was particularly given that the mother had already had interim custody for almost two years. They also added that it was unusual for him to want custody of his children, as most fathers don't. We do not believe this to be the case. Rather it is that the family law system presents far too many barriers for fathers in gaining custody of their children. It does not support them in pursuing custody, or even in pursuing increased access.

In the lead up to the final settlement, the court counsellor interviewed the children. She stated that the girl (aged 12 years) wished to stay with the mother, as apparently she didn't say she wanted to be with either but with both. The boy (aged 6 years) stated that he wanted to live with his father, but as he was young, the counsellor said he should stay with the mother. The boy is very unhappy and unsettled and at the time of the final

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property settlement he wrote a letter to the judge (copy enclosed) asking that he be able to live with his father. This was disregarded.

In our son's case the mother therefore continues to have custody. Our son has access every second weekend and half the school holidays. He also has phone contact with the children three times in one week and twice in the next week. He can't ring them up at any other time and they can't ring him. The mother refuses to have any contact or discussion other than through the lawyers, including about issues related to the wellbeing of the children.

Although my son can't afford it, with the help of family, he has and will continue to fight for his children as he considers they are beyond price. A lot of fathers are not in a position to do this or may not be prepared to go to such lengths in the face of the barriers that are present in the family law system.

Our son pays a large amount of child support, however has very minimal contact with his children and no say in matters related to their upbringing, education or welfare. He can't even go to their sporting events or school functions.

Prior to separation, we as grandparents looked after the children 60-70 per cent of the time and had significant involvement in many of their school and out of school activities. We are now only able to see them when their father has them. When they are with their mother we are not allowed to see them or ring them and they are not allowed to ring us. We are unable to go to their school functions or sporting events. The significant role we played in their lives prior to separation has gone completely unrecognised by the family law system.

We suggest to the Committee that:

- Judges, instead of automatically giving custody to the mother, look at each case on its merits and either consider the father for custody or consider more equal arrangements. Fathers who want a significant role in their children's lives should at the very least have equal access or shared custody where practical. Most modern day fathers are very capable parents who care a lot for their children.
- Non-custodial fathers who pay their maintenance should have shared say in their children's welfare, upbringing and education and be able to participate freely in their children's activities such as school functions and sporting events.
- In considering custody arrangements the desires of the children be listened to and respected. Some children, even at younger ages may be very certain about where they want to be. If the wishes of these children are ignored then they have to stay where they are unhappy.

- The valuable role of the grandparent in children's lives needs to be considered more fully, particularly in cases where the grandparent has had significant involvement in the lives of the children prior to separation. Many grandparents would wish to have regular contact with their grandchildren assured, including phone access and attendance at school and sporting activities.

Yours faithfully

To the Judge

'my name is

I would like to

suggest that I

~~would~~ would

love to ~~live~~ live

with my ~~dad~~ dad.

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