

Dear Senate Inquiry - Shared Parental Responsibility Bill 2005

This is a my submission to the Senate Inquiry into the provisions of the Family Law Amendment (Shared Parental Responsibility) Bill 2005

Committee Secretary
Senate Legal and Constitutional Committee
Department of the Senate
Parliament House
Canberra ACT 2600
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Please find attached my submission to the Senate Inquiry into the Shared Parental Responsibility Bill 2005.

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Thank you for reading my submission

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Equal Parenting Time after separation is in the best interests of children.

One of the significant issues in relationship breakdown, where children are involved, with the current legal framework of allocating custody to one parent (in the majority of instances the mother) is that children being treated akin to an object, a chattel. The current post-marital asset division, the calculation of child support payments and government welfare payments all encourage this mind-set. A child is then attributed an 'income stream value', similar to an annuity, to the person who is granted the role of 'custodial parent'. This builds enormous resentment within an already tense interpersonal situation, as the situation is then created of increased utility of the custodial parent and the reciprocal decrease in utility of the non-custodial parent and the child.

Any process where there are biased outcomes, either towards or against parties to that process, will generate deep disharmony. This is happening continually in the area of extended families, that is, where the mother and the father live in separate households as a result of relationship breakdown. Children being a party to the present custodial process then feel the heat, consequently are left in the unenviable position of having to choose an allegiance between either mum or dad. How terribly, terribly sad. Clearly not in the best interests of our children.

Our children deserve better than to be treated as cash cows and objects of barter. A rebuttable presumption of equal parenting time (50/50) is the only sensible, logical solution. Opponents to this equality of parenting time cite examples of father's working in remote locations, making themselves unavailable for regular contact, domestic violence etc. This is a flawed argument based on the fallacy of inductive reasoning; generalising from the specific few. The vast majority of father's make decisions all the time, whether within a marriage or outside of it, on what is best for their children. The foregoing of a promotion or career move as it would cut into family time, the expense of moving house to better cater for a child's education, sporting or social needs, organising their annual leave to coincide with school holidays. The list is endless. The opponents of equal parenting time run an emotive campaign of painting a picture of the child "sitting on the suitcase swinging their legs waiting for the father to arrive" at the allocated contact time. Not really a true reflection.

In summary:

1. Instigate a situation of equal parenting time that starts with the presumption of 50/50.
2. Undertake a major overhaul of the current child support arrangements to reflect equal parenting time; for example using the average of the mother's income and the father's income as the basis for the calculation of child support requirements in the new equality regime rather than the current, odious percentage-of-obligor's gross income model.
3. Undertake a review of the government welfare policies to also support and underpin equal parenting time.
4. Encourage policy reviews for organisations to provide more "father friendly" resources, child care, flexible working hours.
5. Reinforce the need for both parents to accept responsibility by linking the level of child support and welfare support payments/penalties to adherence/lack of adherence to the 50/50 joint parenting time arrangements.
6. Remove the concept and terms of "custodial parent" and "non-custodial parent" from the legislation and processes completely to reflect the new way of thinking. Custody has the implication of 'ownership', the very concept that needs to be abolished.

This will see a fairer, more equitable arrangement for all parties to the process, because it takes the responsibility for the children away from government and government agencies and puts it back into the hands of the parents. The question should be of every parent after relationship breakdown "What is preventing you from taking responsibility and accepting

50/50 shared parenting time with your former partner?” rather than “Why should we grant you 50/50 shared parenting time?” The first creates an expectation of responsible parenting, the second creates a mind-set in the non-contact parent of being the product of a lesser god. As Ronald Henry [Comanor, 2004] wrote on this matter “Parents support children when they are permitted to be parents; slaves run away.”

There is no such thing as the perfect parent; every person who reflects on their parenting achievements in later years always see opportunities where something could have been done better. That’s not a reason for governments then to step in and set up draconian, adversarial administrators such as the Child Support Agency. Is a bureaucrat in the Child Support Agency, or a Family Relationship Centre staff member on average a better parent than an accountant in private practice, or an electrician for that matter?

Domestic Violence is perpetrated by both men and women at similar levels.

Government sponsored advertising campaigns use the most dreadful stereotyping as males being the aggressors and females being the victims. Again this is an extrapolation to tarnish the reputation of all men as violent aggressors. The anecdotal evidence that is currently being touted arises from the experience of female counsellors who work in women’s refuges. It is akin to a General Practitioner operating in suburban Brisbane drawing an incorrect statistical inference that 97% of all people who live in South East Queensland are ill, because all he sees is sick people every day. It is simply the bias of skewed samples.

No one excuses domestic violence. It is an ugly blight on our social framework; and needs to be dealt with as such. Using it as a means to leverage influence in relationship breakdown, particularly with regard to denying child contact to the father, is equally ugly and can be viewed as nothing more than an emotional abuse by the perpetrator.

There seems to be studies undertaken at an academic level of the incidence of domestic violence. Why not ask those who deal with it right across the community, namely the State police forces? A conversation undertaken with a female police officer in Brisbane a few years put the ratio at about 3:2; namely 3 male perpetrators to 2 female perpetrators. Given her experiences were in one police precinct only, nonetheless, it was typical middle class suburbia. Domestic violence in this instance was hardly a male-only preoccupation.

Sole Custody exposes children to the greatest risk of child abuse.

There is a growing body of evidence eg [Flouri, 2004] that:-

- Father involvement is associated with good parent-child relationships in adolescence and also with later satisfactory partnerships in adult life for the child.
- Children with involved fathers are less likely to be in trouble with the police.
- Father involvement protects children in separated families against later mental health problems.
- Father involvement is strongly related to children’s later educational attainment

Children are more likely to be exposed to abuse by the partner of the mother than from any other source.

References

Comanor, W.S., (Ed.), 2004, “*The Law and Economics of Child Support Payments*”, page 139, Edward Elgar Publishing Ltd, Cheltenham, UK.

Flouri, E, 2004, “*Fathering and Child Outcomes*”, Wiley Publishing, UK