

House of Representatives Standing Committee
on Family and Community Affairs

Submission No: 429

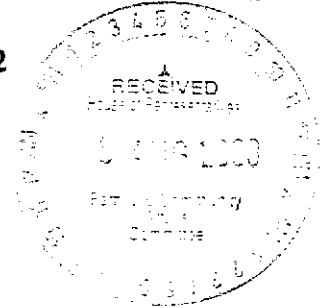
Date Received: 8-8-03

Secretary:

SUBMISSION RE INQUIRY INTO CHILD CUSTODY ARRANGEMENTS

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Introduction

Note: I was divorced in 1997 and have been paying child support for one child since then. I repartnered in 1998 and have a second family with a 3 year old child born in 2000. I have experienced the 'rough end of the stick' at the hands of my ex-wife, the Family Court, and the CSA and so have first-hand knowledge of what can happen under the current system.

I suffer from 'RSI' and have difficulty typing, which is the reason for the 'rough' nature of this submission.

From the outset I would query the terms of reference of this inquiry. Given that it is 'in the best interests of the children' to grow up with the love and protection of BOTH parents, don't we need an inquiry into why marriages/relationships are breaking up so frequently these days? Don't the current terms of enquiry very much represent a 'band-aid approach'? A bit like the 'devolution' of the former 'Marriage Guidance Council' to the current 'Relationships Australia'?

SUBMISSION

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1. Main Problems with Current System

1.1. Cheats the Taxpayer

The CSA was set up, not just to 'stop children living in poverty', but because the Courts were ordering assets splits and maintenance amounts that guaranteed mothers full social welfare payments on top of generous settlements, thus placing a large part of the financial burden caused by marital break up on to the taxpayer. Lawyers who achieved these outcomes for their clients were assured of recommendations and plenty of continuing work.

The current system, by encouraging 'double dipping' (extra property shares awarded to custodial mothers in property settlements do not affect the amount of either parenting payment or future child support from fathers), and avoiding the payment of 'spousal maintenance' ensure that the taxpayer continues to shoulder the burden of paying for both mothers and children. In effect, Family Law lawyers and Family Court Judges are conspiring to cheat the taxpayer in order to guarantee themselves a steady income flow. This situation is none other than a 'rot' of massive proportions and needs to be stopped.

1.2. Provides incentive for women to break up marriages

Without going into the detail (which others such as the "Divorce Doctor" have already done for us), the current system provides a massive financial incentive for women to walk out of marriages. It also provides work for the feminists and male feminist sympathisers who fill 'the system' with its counsellors, family court officials, and the like. One estimate of the ratio of rabid feminists in the Child Support Agency, for example, is around 70% of the total staff. Such people, believe it or not (I certainly didn't when it was first brought to my attention) are dedicated to the demise of what they see as the 'patriarchal' family system, and do their utmost to ensure that fathers are removed from families.

1.3. Does not provide for children

Recent analyses of statistics provided by the Child Support Agency itself show that the average amount of child support received per child per week under the current system is a little under \$30 per week. This is LESS THAN children were receiving prior to the setting up of the CSA in 1989 – remembering that this was one of the claimed reasons for setting up the CSA in the first place.

If we use the BSU figures (see 'Development of Indicative Budget Standards for Australia' SPRC UNSW March 1998) as a guide – and these are the ONLY accurate, 'properly proved' cost of children figures for Australia - the much-maligned child support 'formula' tends to provide less than is necessary to cover the basic costs of a child when the liable parent's income is less than around \$45,000 p.a., and more than necessary when this is more than \$45,000.

1.4. Pushes Fathers into Under/unemployment

Activities of the CSA such as the Part 6A atrocities carried out by the Change of Assessment Team and the Registrar Initiated Change of Assessment Team, coupled to some extent with no doubt a dislike of handing over hard-earned income to their ex-

wives, have created a large pool (some 40 – 80% of the total?) of under- or unemployed liable parents. Consequently the average payment per child is very low, and continuing to decline as the CSA attempts to pursue ever tougher policies against hapless liable parents.

1.5. Allows CPs to harass NCPs without limit

As 'second wives' know only too well, the current system allows the 'custodial mother from hell' to create never-ending strife for the second family. So not only do NCP fathers have to put up with denial of contact, inadequate care of the children, and a host of other problems, they have to constantly be prepared to deal with assaults on their income and/or assets by the custodial mother, assisted by the CSA, the Family Court, and Legal Aid. There is no closure at all.

Further, the end result in many cases is TWO impoverished families instead of just one – a mother depending on social welfare will by definition be living in poverty, and a father who is then prevented from earning or saving = as happens when a punitive 'tax' such as child support is applied on top of income tax etc. = will often also end up in poverty, at the very least accruing little or no superannuation for his retirement years.

1.6. Costs the nation billions of dollars per year with no return

A 'cost-benefit analysis' of the activities of the CSA will show that, provided we include the 'other costs' caused by the child support system, such as forgone tax payments by under-/unemployed fathers, the system which was supposed to save the taxpayer money is actually costing billions of dollars per year.

1.7. Is the cause of up to 3 suicides of fathers PER DAY in Australia

This horrible aspect of the current system whereby fathers have their children taken from them, and are then forced to pay for this 'privilege', is kept out of the limelight by Australia's policy of not publishing details of suicides. As a result, fathers who can not overcome their grief at losing their children die at their own hands on a daily basis, and the general public has no real knowledge of what is going on.

When the 'violence to self' becomes 'violence to others' for the same reason of grief, as with Robert Parsons in 1997, the authorities take great pains to ensure that any blame does not fall on 'the system'. Mr. Parsons, for example, was convicted of murder because he was said to have been angry at being forced to pay child support, thus reinforcing the popular 'dead-beat Dad' stereotype. The amount of perjury and concealment of evidence necessary to achieve this completely wrong verdict has to be seen to be believed (refer to enclosed copy of Royal Prerogative of Mercy Submission – all Mr. Parsons wanted was to be allowed to protect his children, but 'the system' went all out to frustrate this 'best interests of the children' desire, and cover up the truth afterwards.)

As in Mr. Parsons' case, it is the Part 6A 'deem and destroy' activities of the Change of Assessment Teams which probably do the most damage. I also am a 'survivor' of this treatment, which even now threatens to destroy my ability to support my current family.

1.8. Creates fatherless homes and children with concomitant social problems

2. How to Fix 'the System'

2.1. Prevent Double Dipping

During property settlement,

Many fathers willingly hand over assets, large amounts of money, agree to pay mortgages and the like out of a desire to continue to protect their now 'broken' families. In other words, they pay their child support up front. But 'the system' does not allow for this (refer to paragraph 1.1. above), and any father desiring to have these contributions recognised for what they were faces a daunting uphill battle in court (in fact no one has ever tried it, to my knowledge). This means that many fathers, i.e., those who have paid 'up front' in this way, are being forced to pay 'double child support'. If they are then targeted by a RICAT or COAT, then they can even be forced to pay triple or quadruple what they should be paying.

2.2. Give the economically viable parent the option of becoming the custodial parent

2.3. Use correct 'cost of children' figures

There is only one 'correct' cost of children study, and that is the BSU mentioned above. However, for the reasons outlined in para. 1.1. above, people in 'the system' have tried to bury this study, and instead use discredited studies such as the Lee figures. If one takes the trouble to look at the Family Court of Australia Home Page on the internet, one can see that the FCA still uses these figures, in spite of the fact that they were long ago discredited by the 1994 Joint Select Committee on Child Support.

2.4. Ensure that Legal Aid does not provide a means for CPs to harass NCPs through never-ending legal action

When my ex-wife denied me access to our son over the Christmas holidays, when I was entitled to 3 weeks with him, I was forced to go to the Family Court for relief. I was surprised to note that Legal Aid was paying for a barrister and solicitor for her, even though she had clearly disobeyed court orders.

2.5. Remove all financial incentives for parents to walk out of marriages

2.6. Ensure that government 'child support' for children is based on BSU figures

In Australia, if we become unemployed, or unable to work for some reason, we have the right to receive a basic living allowance of currently around \$11,000 p.a. A fair and simplified child support system would provide for the government (= taxpayer) to pay this minimum amount PLUS an amount for the child/children.

2.7. Ensure that BOTH parents are equally responsible for BSU-based amounts

This base child support amount would be calculated by using the BSU cost of children figures as a starting point. Then, to ensure equity for all concerned, we would make the parents equally responsible, requiring them to reimburse the taxpayer at half each. The

currently terrifying use of the 'capacity to pay' principle would be restricted to reducing the burden of very low-income parents to zero if necessary, not the 'sky's the limit' use that tends to be (wrongly) popular in the CSA and the FCA.

2.8. Simplify child support system to prevent opportunities for harassment, either by CP mothers (and fathers) or by the Courts

If we had a child support system as outlined briefly above, the 'taxation' and 'ex-spouse support' elements of the current child support system would be removed. The terrifying aspects of much of the CSA and FCA processes would be removed. Liable parents would be able to earn as much as they wished, without having to worry about being penalised by 'the system'. They would not be forced to spend large portions of their hard-won assets on court costs, in turn ensuring that they will have money to retire on – thus decreasing the burden on the taxpayer for old-age pensions.

2.9. The Courts would guarantee contact and punish parents who deny contact: the only effective punishment is a threat to reverse custody.

3. Custody and Related Issues

3.1. Current Custody Laws

Strangely enough, as far as I can tell, the current Family Law Act 1975 contains adequate provision for joint custody, provided (a) the father asks for it, and (b) the court grants it. The big issue with custody under the current system is money: he/she who gets the child/children, gets the money. This situation hardly lends itself to 'the best interests of the child'.

3.2. Obstacles to Joint Custody

The first obstacle to joint custody is the father's own family lawyer, who will generally dissuade the father from seeking custody, and also recommend the 'standard custody orders' which give the father just under 30% of nights with the children, and, not coincidentally, thus guarantee the mother maximum child support. In other words, the 'standard custody orders' used by the Family Court of a maximum of 6 nights per month and half of school holidays (with normal access suspended during the mother's half) are handed down to the father, NOT for the benefit of the children as one might hope, but to ensure that Dad hands over maximum 'child support' (which often includes an unofficial 'ex-spouse support' component that no one in 'the system' acknowledges is there).

The second obstacle to joint custody of any kind is the court 'undergrowth' of counsellors, Registrars, petty officials, and the like. A surprisingly large proportion of these people are single and either 'gay', or feminist, or male feminist sympathisers, and one wonders what on earth such people are doing working in a 'family' court, or in an organisation such as the CSA whose charter is supposedly to assist parents and children. To use Mr. Parsons' case as an example once again: all this man ever wanted was to baby-sit his children on the two nights a week that the mother worked nightshift, in order to keep an eye on them in the midst of their mother's sexual promiscuity. But the court 'undergrowth' of counsellors and Registrars and the like all ignored the requirements of the Family Law Act, and kept the children away from their father to the extent he became so distressed he lost the plot and stabbed the mother 42 times outside the Family Court at Dandenong.

3.3. False accusations of child abuse and domestic violence

Presumably, the removal of any monetary incentive for divorce/custody would also lead to a reduction in the number of false allegations of child abuse (especially child sexual abuse which is so easy to allege but extremely difficult to disprove) and domestic violence. Not only the accused parent, but also the alleged child victim suffer greatly as the result of the allegations themselves and the ensuing interrogations/investigations where much time, effort, and money is spent on investigating something that quite likely didn't happen (refer to the book 'A City Possessed – the Christchurch Civic Creche Case' by Lynley Hood for a typical example of this).

3.4. Personal Experience

Two years ago the CSA RICA Team decided to target me after doing a pointless illegal secret audit of my financial affairs over a period of twelve months (I shudder to think what this cost the taxpayer). They got all their sums wrong – as they usually do - and deemed me to be earning more than THREE TIMES my actual income. I am still fighting this in the courts, to the detriment of my elder son and my new wife and child. Before the RICA targeted me, I was able to afford to take him skiing during the holidays, but legal and other costs have put paid to this kind of activity. To put all this in the proper context, I paid his mother a large sum intended as capitalised child support IN ADDITION to what I was required to give her as property settlement, but was not aware that this could have been noted in the Court Orders. As a result, so far I have not been able to get credit for this money. So in effect, under the formula I have been paying DOUBLE child support. Then, the COAT tried to (illegally) force me to pay QUADRUPLE child support, and simultaneously destroy my ability to support my current family. This is all madness, but I have no option except to fight it, or slit my throat. So far I have managed to avoid slitting my throat.

David Butler