

House of Representatives Standing Committee  
on Family and Community Affairs

Submission No: 670

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Secretary: \_\_\_\_\_

1<sup>st</sup> August, 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

**SUBMISSION TO STANDING COMMITTEE ON FAMILY AND COMMUNITY AFFAIRS**  
**INQUIRY INTO CHILD CUSTODY ARRANGEMENTS IN THE EVENT OF FAMILY**  
**SEPARATION**

Dear Sir/Madam,

I would like to thank you for this opportunity to make a Submission as entitled above. I truly believe that the current system with regard to Residency, Contact and Child Support is not working. There are serious flaws that must be addressed.

I feel that I am able to approach the Standing Committee on Family and Community Affairs with a deal of credibility. My position is a little different from the norm inasmuch as I, a mother am the Contact parent to my daughter, (now almost 8 years old). As I am in full-time employment I pay Child Support to my ex-husband who is the Residency parent.

With so many areas that the Family Law Act covers with regard to Child Custody Arrangements, this submission seems rather inadequate however, these are the areas where I feel the most urgent attention lie.

Further to the points outlined in my submission are the cultural and social issues, which I haven't mentioned. These are absolutely enormous and insurmountable for a small child who is told that her mother does not want to see her. I mention this only with reference to the suggestion under the heading, *For the children and in Their Best Interests.*

Once again, thank you for this opportunity. I hope that this inquiry will expose the areas of real need for change and that the very necessary changes are quickly implemented.

Yours sincerely,

encl. Computer disk with this submission.

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1<sup>st</sup> August, 2003

**SUBMISSION TO STANDING COMMITTEE ON FAMILY AND COMMUNITY AFFAIRS**  
**INQUIRY INTO CHILD CUSTODY ARRANGEMENTS IN THE EVENT OF FAMILY SEPARATION**

**RESIDENCY AND CONTACT**

1. Given that the best interests of the child are the paramount consideration, in the event of marriage breakdown there should be a presumption that the children of that marriage will spend equal time with each parent in every case.
2. Some events may occur when a party to the marriage can show that it is not in the children's best interest to maintain this status quo such as.
  - In cases of abuse by either parent toward the other parent or the children.
  - In cases where either parent have to move a long distance away, making it impossible to spend equal time with the children.
3. In such instances changes should be implemented either by agreement or through the Family Law Court.
4. *(In my particular case my ex-husband has Residency of my daughter, mostly due to the fact that I worked and that he did not. Therefore the status quo that he spends more time with my daughter was established very early. This status quo then allowed him to move my daughter 400 kms away from me, really interrupting the natural bonding between a mother and her very young daughter.*
5. *Despite abuse allegations (physical and sexual) being raised by my daughter against her father, to which he later admitted in Court, the philosophy of status quo allows my ex-husband Residency of my daughter).*

6. In the event that either through negotiation, or through the decisions of the Family Law Court, the Residency of the children is not to be equally shared, the rights of both the children's Contact to the non-resident parent and the Contact parent's right to access of his or her children, must be upheld and given great weight in decision making.
7. It is not in the best interests of the children when the Residential parent decides of their own accord, not to allow Contact to happen. The system now is long and drawn out, unnecessarily expensive and allowing no recompense or justice when Contact is not allowed as per Court Orders. This is very stressful for the Contact parent, but mostly for the children.
8. When this occurs I would suggest the following guidelines be instigated –
  - First offence – the Residential parent to receive a fine.
  - Second offence – the Residential parent received a behavioural bond or community service.
  - Third offence – if practicable the children reside with the Contact parent (of course ensuring safety of the children at all times) and the Residential parent be fined again and/or imprisoned.
  - In all cases make up time is given to the Contact parent and the Residential parent to pay all costs associated with bringing the matter to the Court system, whether supported by legal aid or not.
9. *(In my case, that father who has Residency is continually not allowing Contact visits and although I have brought the matter to Court on several occasions, the father is still contravening and there is nothing else I can do about it, or that the Family Law Court will.*
10. *When I take my ex-husband to Court on matters of contravention of Court Orders, he is warned and cautioned not to let this happen again, however it does happen again, and again. In the meanwhile my daughter and I have lost precious time together. Further adding to my daughter's distress, my ex-husband explains to her that I do not want to see her. In the meantime, I cannot afford to go to Court anymore, so I have to resign myself to the fact that I can not see my daughter until my ex-husband decides that he wants me to, usually only after I have paid him money on top of Child Support).*

### CHILD SUPPORT

11. The current child support formula does not work.
12. In cases where Residency of the children is shared equally, I would suggest that both parents equally share the cost of raising the children. If one parents feel that their share is unfair, an appeal may be made to the Child Support Agency to have the matter reviewed.
13. In cases where one parent has Residency and the other Contract, the whole income of the Residential parents households should be taken into account (if this parent has found a new partner than their income should be included in decided what the Contact parent should pay). Obviously if the Residential parents new partner is living with the children then they have taken on some of the financial responsibility for the children. This will prevent one parent experiencing financial hardship while the other does not.
14. The child support base assessment rate should be approximately 10% (for one child, the rate for two or more children reduced by the same rate) of the Gross income of the paying parent after a minimum living allowance has been deducted. This allows the Contact parent more financial freedom allowing a better standard of lifestyle. This will also benefit the children of the marriage as the Contact parent will be able to spend more time with the children as they will be able to better afford to make visits without suffering huge financial loss and/or bankruptcy.
15. Applications for change of assessment should be reduced to two per year, greatly reducing unnecessary paperwork and administration. This will also reduce people making unnecessary and vexatious claims. If anyone is found to be making vexatious and unnecessary applications then they should be penalised. I believe that the application for change of assessment system would be greatly simplified if the person making the application had to supply evidence that the application should be changed, prior to the other parent having to respond at all. The system at present allows anyone to make and application for change of assessment with no evidence being supplied, and the defending person must provide evidence as to why it should not be changed, instead of the applicant supplying evidence as to why it should be changed.
16. *(In my case, the father who is the Residential parent and in receipt of Child Support payments, has made several claims for change of assessment for no apparent reason. Each claim requires separate pleas in order to defend myself against outlandish and unwarranted claims, sometimes only within months of each other – only to have my defence upheld).*

FOR THE CHILDREN AND IN THEIR BEST INTEREST

17. Further to my suggestions, to ensure the best interests of the children, those of school age should receive mandatory counselling sessions, thereby providing them with a sounding board, an unbiased party with whom a professional relationship can be developed. During difficult times e.g. remarriage of one of the parents, death of a grandparent, change of school, etc. Access to this third and unbiased parent could alleviate many immediate problems and possible further problems. Of course funding from the Federal Government would be needed to provide but if this service was provided efficiently and effectively, and not over-legislated, it could greatly reduce a future for some children, which is marked by drug use, unwanted teenage pregnancies, illegal and antisocial behaviour and suicide.