

Submission No: 1187

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Secretary: [REDACTED]

18 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  
Australia

Dear Sir or Madam:

I am writing to provide input, into the upcoming discussion on the involvement of fathers after separation. This input is based on my personal experience as a committed and concerned father to two children aged 4 and 7 and I am hoping will highlight some of the issues I believe have been overlooked during this debate.

### Background

A brief background on my personal situation is summarised below:

- I separated from my former wife [REDACTED] and divorced in 2001
- My wife settled in an adjoining Perth suburb with my two children (at the time my son [REDACTED] was three and my daughter [REDACTED] six months old).
- Based on the ages of the children, and that we both worked fulltime, a mutual agreement was made that I would have custody on alternate weekends and every alternate school holidays, a level of care of 60 -70 nights. This access to the children equated to a level of care less than 'substantial' as financially defined by the Child Support Agency definition.
- To facilitate the children's visits I maintained a three bedroom house/unit and furnished it to only a slightly lesser extent than my former wife house
- Last week my former wife moved interstate with the children leaving me with limited access to them, except for school holidays. My financial situation will not allow me to travel regularly interstate for visits however I will be endeavouring, within limited financial circumstance to see them as often as is financially possible.
- Legal proceedings were commenced by me to stop this when I was informed of her intentions (approximately 3 months ago). The Children's Court Magistrate summation of the ruling on my application for an interim injunction, in this case weighted the decision heavily 'on the **freedom of my wife to carry on with her life**'. It was my strong view, (and that of my friends and family familiar with this case) that the loss that regular contact with myself, would have on the children, was not considered adequately enough.

With this background I would like to make the following regard to term of reference

### Submission 1 – Terms of Reference a(i)

Shared contact would have been extremely difficult in my case based on the ages initially of the children and the need for me to continue working full time to support myself, my former wife and my children. This solution I believe would only be a workable arrangement in a small percentage of all cases. There would have to be a good relationship between all parties and in most cases, this is not the case.

I believe this enquiry is missing a critical issue, and one that I would have thought needed to be addressed prior to this debate. This is that the court's need to recognise the importance of both parents input into the upbringing of the children, hence the 'best interests of the children' being that they have the interaction and guidance from both.

Current debate should not be focussed on the point of deciding on a shared (50/50) parenting, but in ensuring that both parents are given the opportunity to readily contribute on a level applicable to the particular situation.

In my case, by allowing my former wife to relocate, the Court has effectively said that my input is of little or diminished value when compared to my former wife's right to carry on with her own life. It has also indicated that my input can be provided over the phone or on two holiday periods during the year. This seems entirely at odds with the present debate that **'each parent' should have the ability to spend 'equal' time with the children.**

This decision has caused me considerable pain, most specifically in regards my belief that it is not in the best interests of my children to reduce our interaction. My friends and family would attest to the significant and positive contribution I have made to the lives of my children since their birth and through our separation and divorce. The decision made by the Court has interfered with the rights of my children to equal access to me.

I submit therefore that a better mechanism is established for ensuring that children had ready access to both parents before pursuing the more difficult task of deciding how a 50/50 sharing arrangement could or should be worked.

**Submission 2 – Term of reference (b)**

The existing child support formula does not take into account the cost that the non custodial parent incurs in maintaining a residence in which the children can reside for overnight stays.

In reality housing, furnishing and day to day items required during contact periods are purchased by the non custodial parent also. This would be the case if the level of care was 5 nights per year of 180 nights per year. In my case a 45% reduction in child support payments would be applicable if my level of care was greater than 110 nights, but would incur no more substantial costs in doing so. The formulae for non-custodial parents providing over night care should take this into account.

I trust this information is useful in your deliberations and would be happy to answer further questions or provide other information if required. I can be contacted at the above address or by phone

[REDACTED]

Regards

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