

Submission No: 1671

Date Received: 4-11-03

Secretary:

Submission for child custody review.

a) given that the best interests of the child are the paramount consideration:

- **(i) what other factors should be taken into account in deciding the respective time each parent should spend with their children post separation, in particular whether there should be a presumption that children will spend equal time with each parent and, if so, in what circumstances such a presumption could be rebutted; and**
- **(ii) in what circumstances a court should order that children of separated parents have contact with other persons, including their grandparents.**

1. The court takes too long to process and hear applications made under the family law act. I have personally spent 2 years in the court attempting to gain visitation with my daughter. This is a ludicrously excessive delay.
2. Custodial parents who breach the family law act should be forced to rectify the situation. If a custodial parent leaves a state without the written consent of the non-custodial parent then the court should force them to return to the state of origin with no argument entered into. The law is in place for a reason but it seems that custodial parents can breach this law at any time without penalty.
3. The duration of the court causes excessive expense. This is due to the judicial registrars and judges taking their time or not hearing cases because they are tired. This causes working members of society to pay high legal fees for representation while persons on social welfare are represented by legal aid counsel. Due to this many custodial parents are excessively obstinate in delaying proceedings to cause expense to the non-custodial parent. To resolve this the legal aid system should not represent anyone in the family court. If a system is to be truly equal then all pay, not just functional members of society and not social welfare parasites.
4. By facilitating equal custody then naturally relationships between the children involved and other relatives will occur. In my own case my daughter lives with my former partner and the maternal grandparents. Meanwhile for 2 years she has no idea who her father is or any of her Aunts, Uncles, Cousins, Paternal grandparents or other extended family. This situation is directly contributed to by the existing perception of courts that fathers cannot be as good parents as mothers. But is denying a child relationships with 50% of her relatives in her "best interest"? No. It is also discriminatory.
5. The judicial registrars and judges forget that there is a person at the end of the line. Often this is a father who loves his children who has to put up with allegations of violence that are completely unfounded. This is because the mothers have heard that they only have to claim domestic violence to have judgements passed at the detriment of their former partners. As a firearms owner who has complied in full to both State and Federal law governing the ownership of

firearms I have nevertheless been accused of violence against my former partner for no other reason than I own firearms.

(b) whether the existing child support formula works fairly for both parents in relation to their care of, and contact with, their children.

The following can rebut this:

6. Welfare handouts are too easily obtained. This facilitates many custodial parents having a larger disposable income than a non-custodial working parent. But the welfare income is not assessed by the child support agency. This is discriminatory in the extreme. A sole parent can obtain over \$30000 per annum in social welfare as well as claiming child support at the highest rate from the non-custodial parent. To resolve this all welfare income excepting disability pensions should be assessed by the child support agency.
7. Child support should not be paid without visitation for the non-custodial parent. If one has to pay then visitation must be a qualification for the custodial parent to submit a claim.
8. Child support should be auditable. Custodial parents should have to prove by documentation the amounts of money spent directly upon the child for whom they are collecting the money. If this cannot be done then only the amount they can prove has been utilised to directly support the child should be paid in future. This should not be used to increase the amount of child support liability either.
9. Capacity to work is not taken into account. Many custodial parents are capable of working but choose not to as they are in receipt of social welfare payments and child support payments. This gives them such a comfortable existence with little effort that they see no reason to work. If a person is physically capable of working then they should not receive social welfare assistance.

In conclusion, the only way to effect true and equitable change is for new legislation to be drafted which allows for initial 50% shared custody with neither parent paying child support as both would be caring for the children of a relationship equally. This is not only in the child's best interest but also non-discriminatory against either parent.

For your consideration

Mr Benjamin Williams