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Secretary:

Committee Secretary
Standing Committee on Family and Community Affairs
Child Custody Arrangements Inquiry
Department of the House of Representative
Parliament House
Canberra ACT 2600

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Contact: Mark Ryan
Direct dial: (07) 3228 5260
Direct Fax: (07) 3221 8500
email: markr@macgillivrays.com.au
Our ref: MPR:HLD:00000

Dear Sirs

CHILD CUSTODY ARRANGEMENTS

I am writing as an accredited specialist in Family Law with experience in this area of more than 15 years.

I support responsible and co-operative shared parenting by couples and separated parents, but I do not believe that a presumption of 50/50 shared parenting would achieve this goal. I agree with the concerns raised by other groups including the Family Law Section of the Law Council of Australia, Positive Shared Parenting Alliance and National Community Legal Centres about a presumption that children will spend equal time with each parent. Such concerns include the following:

- it privileges the rights of adults over the rights of children;
- it denies children the right to unique consideration of their needs and wishes, which change over time;
- it is not evidence base, but driven by narrow ideological and political interests;
- it will expose abused mothers and children to further danger;
- it will disadvantage mothers who have sacrificed careers and education to be a stay-at-home parent;
- it will provide some parents with opportunities to reduce their child support obligation, while not leading to more equitable sharing of core parenting work;
- it ignores evidence that enforced joint custody does not lead to more co-operative parenting or less conflict between parents;
- it ignores evidence that share residence works for only some families and can be disruptive and distressing for young children in particular; and
- it will increase litigation and prolong instability and uncertainty for parents and children.

In my experience as a family law specialist a shared care arrangement only works in a small minority of cases. A number of factors must be present to ensure success. One of these is a high level of communication and co-operation between the parents. Under the present law it is open to parents to make arrangements for their children to spend equal amounts of time with each parent. If they have to resort to legal intervention and litigation it is an arrangement which is unlikely to work.



Craig Green, Guy Edgecombe, John McGaw, Greg Young *Acc. Spec. (Pers Inj.)*,
Peter Dwyer, Mark Ryan *Acc. Spec. (Fam.)*, Peter McLeod, Phil Heraghty, Ian Commins, Leo Hopsick
Senior Associate: Gary Woodman **Associates:** Malisa Craig, Margie Kruger, Tony Newton
Consultants: Lynden Stone, Jackie Knowlman *Acc. Spec. (Succession)*
ABN 36 932 329 001

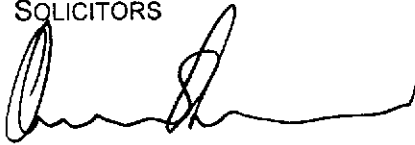
Level 2 The Anzac Square Building 200 Adelaide Street GPO Box 2582 Brisbane 4001 Australia
Telephone (07) 3221 4550 Fax (07) 3221 8500 DX 160

email: macgill@macgillivrays.com.au Website: www.macgillivrays.com.au

A presumption that children should spend equal time with each parent simply cannot be applied across the board to all Australian families upon the separation of the parents. The provision that such a presumption may be rebutted in certain circumstances does not take account of the further stress to the parties and the children of having to go through that process.

If the best interests of children are to remain the paramount consideration, a presumption that children should spend equal time with each parent should not be introduced.

Yours faithfully
MACGILLIVRAYS
SOLICITORS



Mark Ryan
Partner
ACCREDITED SPECIALIST
FAMILY LAW