



House of Representatives Standing Committee
on Family and Community Affairs

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

Dear Sir,

HOUSE OF REPRESENTATIVES SHARED PARENTING INQUIRY

I have been in legal practice as a Family Law practitioner on the north coast of New South Wales for 20 years.

My work involves substantial numbers and cases involving contested children's litigation. I appear for mothers, fathers grandparents and as a child representative on a regular basis.

As a delegate to the World Congress on Children's Rights in San Francisco in 1994 with the present Attorney General, I was extremely proud of Australia leading the world in developing 'the best interests of the child' as its focus in determination of residency and contact cases.

I am a member of the Association of Conciliation Courts which is based in America and has members from most western legal jurisdictions. I subscribe to the organisation's journal and I, along with many professionals from Law and Social Science background, note with interest that most western jurisdictions are now adopting the best interest of the child as the appropriate method by which to determine children's matters.

The current proposal to come up with a 'one size fits all solution to children's matters' may simplify the issues for determination but at what expense. The very fact that relationships between parents break down and lead to conflict suggests that the relationship between the parents was dysfunctional in the first place.

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Shared parenting is an ideal that benefits many children but assumes a high level of communication and the overcoming of practical logistics in making arrangements for the children on a daily basis.

Our current system ensures that if parents cannot make adequate arrangements for their children Social Scientists can assist the Court in looking at what is the best interests of the particular child that the Court is concerned with. There are many cases where shared residency is appropriate but there are just as many where the dynamics of the particular family does not mean that the children's best interests would be served by having the time split down the middle between both parents.

If we abandon the 'best interests of the child' principle we undo decades of world class research and put the issue of children right back in the court of those people who insist that children are merely chattels to be fought over in the 'war'.

It is very easy to try and make the conflict that arises at the breakdown of a relationship go away by having a homogenised set of rules which limit conflict. Unfortunately, homogenised sets of rules do not provide for the best interests of every Australian child. The system is not broken and does not need fixing. What does need to occur is to continuing education of parents of the irreparable damage done to the psyche of their children if they subject them to conflict.

Yours faithfully,
FISHBURN WATSON O'BRIEN



HEATHER McKINNON
Family Law Arbitrator
Accredited Specialist Family Law