

House of Representatives Standing Committee on Family and Community Affairs	
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Secretary:	

From: [REDACTED]
Sent: Monday, 1 September 2003 12:33 PM
To: Committee, FCA (REPS)
Subject: Submission to the Committee regarding parenting issues for kids.

11 SEP 2003

Dear members of the committee,

I have recently concluded arrangements for parenting in my own case of family separation and divorce – my only exposure to the system, other than as a teenager in the 70's, when things were pretty different in the law and society too.

This submission is not for the purpose of having a gripe about my own circumstances, although those circumstances have lead me to wonder about how the current environment creates underlying drivers and their subsequent behavioural outcomes which are quite undesirable at a personal, child welfare and public policy level.

Let me explain.

In my case, my wife and I separated, and initially privately agreed in principle that our daughter had as much right to a high quality relationship with both her parents, and some arrangement around week about or some variation of a 50 – 50 would be in her best interest. In fact I was the primary care giver at the time of separation.

However, for a whole series of reasons, the relationship between my wife and I deteriorated significantly from that time, and she made every effort to ensure that I was to become no more than an every second weekend Dad.

She had the lions share of the time with our daughter in the interim period until final arrangements were concluded.

The advice I have consistently received about the "shared care" option – that is, something approaching equal time with both parents – is that the courts will only award it in disputed cases where two criteria are met – proximity (which in my case was is satisfied) and co-operation between the parents. In my case, the second one was only present in the most minimal regard. In fact it was pretty much stated that if you were in front of the court, co-operation is almost assumed to not exist – a strange Catch 22!

When I reflected on this it became clear to me that my wife would have received the same advice, and that for reasons unrelated to parenting or the best interests of our daughter, it was in her interest NOT to co-operate, so that an equal arrangement would NOT be granted. (These other unrelated reasons can include property split, Child Support levels, retribution, anger etc).

To this extent, it seems to there's a fundamental flaw in the current beliefs, practices and assumptions of the Family Law regime – and that is it actually DRIVES unco-operative behaviours from one parent who may have another agenda, and no matter how much the other parent is committed to playing an active role in the child's life, no matter how much they believe in the child's right to the same kind of relationship with each parent – the unco-operative parent effectively has veto rights on shared care.

This can't be right!

In my case, I am a Dad who wants to, and financially and time wise can spend a lot of time with my daughter, yet, the uncooperative behaviour, which of course was well documented (again, it was in her interests to document her own unco-operative behaviour) denied both my daughter and I the best outcome.

So I was delighted to hear that the committee is looking into the issues around this.

It seems to me that the onus and presumptions are currently the wrong way around. IF the presumption was shared care to start with (acknowledging that some parents won't want it) then the co-operative behaviour driver could be reversed. That is, a parent who is UN co-operative (as this behaviour is not in the best interest of the child) would possibly have the child for less than an equal amount of time.

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Then the system would drive a whole different series of behaviours!

Imagine separated parents falling all over themselves to show how co-operative they've been with each other! They might even learn that it works if you practice it long enough!

I'm sure over time there would emerge a set of principles as to what constitutes co-operative or unco-operative behaviour, or behaviours based on the best interests of the child, so every one would be clear about where they stood.

I'm certain that had this regime been in place in my case (and thousands of others like it) the behaviours my daughter and I encountered would have been quite different, because even if you can't legislate to get desirable behaviours, you can have it so lawyers lean on their clients to behave in a way which will maximise their clients interests. At the moment, the way to maximise your interests is as I have described above, to be unco-operative as much as possible, to maintain the veto effect.

In my work, I advise businesses on how to manage people more effectively, and one of the lynchpins of that work is how "systems drive behaviour", so I couldn't help looking at my experience through this lens, and hence my submission.

I know this is hard for everyone, and what I hear the lawyers in the area say is "They'll never do it" about your work. I seriously hope those people are wrong. I have spent 2 years striving to be an involved and committed father – the opposite of the non caring fathers everyone laments – and yet at every turn I've been told, and experienced, that "you won't get shared care if she opposes it, so get used to it", and "Look, Dad's just get the wrong end of the stick here, it's just the way it is, so you may as well get used to it".

Others tell me that I'm rare because I'm a Dad who wants to have a significant role in the child's life and up-bringing, but that unfortunately, I'm tainted with the brush of all those other fathers who don't want to accept their full role as a parent, and substitute financial support for their true role. To me, that is not only unacceptably unfair, but totally contrary to the kind of fathers behaviours we say as a society we want!

After two years struggle, I came very close to giving up and going with the "every second weekend" Dad deal – it was all too hard. In the end, what was best for my daughter and I was the motivation that just got me there, to a place which is far from 50 – 50, but not as bad as the standard.

I was lucky – I had good legal advice, I have the time, and some degree of resourcefulness to put into this. Most people don't, and so get stuck with the standard issue – an appalling (and publicly sanctioned) outcome for the kids, the relationships they lose with their Dads, and their Dads with them.

We don't say in any other area of public policy to people who are in a significant minority, and receiving what is acknowledged almost universally as second rate treatment "just get used to it", and here it's fundamentally important for our kids that we don't do it here any more.

How will we ever get men to become true fathers and accept their responsibility if we make it so hard for them to do that?

I hope this submission is useful for the committee in seeing how things need to change, at least in some way. I have tried to draw on my experience as a learning experience for me and others.

It's not meant to be, or sound like a "poor me" piece, because I don't feel "poor me" at all.

However there's important work to be done and I wish the committee the best in it.

Regards,

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