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Secretary

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To: Committee, FCA (REPS)

Subject: Joint Custody



7th August 03

This letter is a submission to the Committee's Child Custody Arrangements Inquiry:

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:*

The best interests of the child can only be paramount **when each child is entitled to unique consideration of its interests and circumstances** - rather than any presumed model of parental division of the child. I am therefore opposed to any presumed division of children of separated parents: As it is there are so many many instances of where the best interests of the child is **NOT taken into consideration - Child Rep reports are given without the child rep even speaking to the child. I am therefore opposed to any presumed division of children of separated parents.**

The factors listed in Section 68F of the Family Law Act to define a child's best interests should be weighted towards safety as the threshold determinant of a child's best interest. The Government should establish a national child protection service for the family law system to assist the courts in the investigation of safety issues where violence or abuse is alleged. Where violence or abuse is established on the balance of probabilities there should be a rebuttal presumption of "no contact" with the person who has used violence until they demonstrate how contact would not pose a threat to the safety of the child or other family members. The service should also be able to investigate and review the outcomes for children following orders which allegedly expose the child to risk of violence, abuse or other harm arising from the orders.

ii) *In what circumstances should a court order that children of separated parents have contact with other persons, including their grandparents:*

Current family law provisions enable grandparents to make applications with respect to grandchildren when they cannot make agreements without court intervention, therefore the provisions do not have to be changed.

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

The existing child support formula imposes modest requirements on payer parents after exempting a self support component and capping the income to be considered and it should therefore be maintained. The percentage formula does not reflect the actual costs of raising children, but child support makes a valued contribution, which, when it is paid, reduces child poverty and improves outcomes for children of separated parents. The percentages of payer contact used to calculate changes in the formula should not fall below the current definition of substantial care as there is no proportionate reduction in costs to the primary carer parent. Closely tying child contact and financial outcomes for parents also directs parental focus away from children's needs and interests to dollar outcomes and therefore functions in practice against children's best interests.

To reduce child poverty in single parent households the threshold of the maintenance income test should be increased by 50% and the FTB taper rate on child support received should be reduced from 50 cent to 30 cents in the dollar. The payees' income should be disregarded as a factor in calculation of child support payable because that income does not change the obligation to contribute to the child support of their child.

I urge the committee to please consider the full implications of shared custody - whether we as a society like to admit it or not - most marriages or relationships fail due to violence and abuse - Bearing that in mind the shared custody does not apply in the best interests of the child - In my 8 years of working with this Network I

have seen only two instances of where shared custody worked - to a certain degree - the children still felt lack of stability different sets of friends for each week etc. In the best interests of the child - stability safety is essential for them to grow up as secure young people - I do not see shared custody achieving the same result - definitely the reverse - the shared custody might reduce child support debt and sole parent costs but at the risk of the child's best interest. **Young children are our future generation of adults and leaders - let's invest in the right way for the growth of our country**

yours faithfully

Geraldine Ellawala
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