

House of Representatives Standing Committee  
on Family and Community Affairs

Submission No: 120

Date Received: 23-7-03

Secretary: \_\_\_\_\_

22<sup>nd</sup> July 2003

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

Email: [FCA.REPS@aph.gov.au](mailto:FCA.REPS@aph.gov.au)

Dear Committee,

I am a recently separated father that has been through a very stressful period and I would like to offer the following information to help you in your decision on how to calculate Child Support Agency Payments. I do not have all the answers, but I know the current arrangements only causes hardship, frustration and at times the feeling that there is no point in even getting out of bed in the morning as it is all just not worth it.

I will give a brief outline of my case and then go into more details on some of the problems.

I was happily married with two children, I was working long hours to ensure the children could live a life they deserve in a decent house in a nice area. My wife was also working and we had two incomes coming in. I decided to spend more time with the family and change jobs and take a job paying \$10,000.00 per year less plus I had to borrow \$15,000.00 to buy a reliable car to allow me to get to the new job as it involved traveling to different sites. My wife encouraged me to do this, but little did I know that at this time she was already keen on a fellow workmate and was planning to leave me. Over the next few months she started to run up a few bills buying a new fridge, a new queen size bed for the spare room and even convinced me to take the family on an overseas cruise. At the time, with two incomes coming in I was not too concerned. Then she announced the marriage was over and that she would be leaving me for a man she had been keen on for eight months.

On separation, we were heavily in debt with the car, house and personal loans. I took over all debts, let my wife take all of the major household equipment, her car and a large cash lump sum for a deposit on a new house. I was left owing more than I had in assets but as I was aware that my CSA payments would only be about \$66.00 per week so I thought I could struggle by.

On separation, I was the major caregiver for the children with them staying with me 9 nights per fortnight. When my wife (Tracy) went to the CSA to claim for payments, the

figures were worked out on last years' large income and this resulted in an excessive payment being calculated nearly \$100.00 per week above what it should be on my current pay. When I approached the CSA for a change of assessment it was because I knew I should only be paying around \$66.00 per week and not the large figure of nearly \$100.00 per week more. Even though I finally ended up with the payment being agreed on at \$66.00 per week, the CSA wrote to me and told me if I was to get rid of my asset (that is the family home), and rent for \$200.00 per week then I could afford to pay Tracy the calculated amount. How is this in the best interest of the children to be pushed out of their family home in the middle of a separation and be asked to move into a rental property, bearing in mind this was still when I was the major caregiver.

Finally the CSA had set my payments to \$66.00 per week, Tracy then decided to simply take the children, to enable her to gain a higher payment from me. After large legal bills, I now have the children back for only 6 nights per fortnight, my payments have now jumped to \$162.00 per week, I can do nothing until it finally goes to court and a Court Order is issued, which could be 12 months away. In the mean time, no one from the CSA cares that I may loose my house while I await the outcome.

To date, I have been the victim in all of the above, (Tracy sets me up with massive bills, leaves me for some one else, steals my children, quits her job and I am still expected to pay her \$162.00 per week even though I may loose everything) yet she can do what she likes and it doesn't matter what happens to me, or the children's family home, as long as the payments are made as per the CSA formula.

In September 2002 the CSA put out a paper Called "Frequently Asked Questions/Issues". I would like to highlight some of those questions and make comments on the answers given by the CSA.

**Blue and Red- Original question.**

Blue- The answer given by the CSA

Black- My response

**Why should I have to pay child support when my ex was the one that ended the relationship?**

- The scheme's main objective is the financial support of the children.
- Children have the right to be provided for by both of their parents regardless of the circumstances that led to separation of the parents.

The government itself, is ruining family life as we know it. My ex was told by her friends and others, that if she left me and took the kids she would receive \$324.00 per week from me, over \$200.00 per week from Centrelink, Rental assistance, family tax benefit A and B and so on. I am not surprised that she took up the offer as she would end up taking home more than the average working Australian. So what incentive is there for a family to stick together when such a carrot is dangled in front of a woman that wants to go off and have an affair.

By making me pay the ex does not guarantee that that money will support the children. I am in a shared care situation. My bills do not go down because my ex looks after the kids some of the time. I still have house payments, rates, electricity, car registration, car

maintenance, phone etc, etc. If the wife decides to leave the family home it should be up to her to find a solution to how she pays for things. If she left because of violence etc then that is different but the fact she left simply to be with another man, then I should not have to pay. Forcing me to pay my ex only lowers the care that I can provide my children, and prevents me from ever getting ahead as what doesn't go in tax gets taken by the ex.

The second point raised by the CSA they say "the children have the right to be provided for by both of their parents regardless of the circumstances that led to separation of the parents". They are only referring to financial support. The CSA has previously suggested I sell my house, when I was the major caregiver, so I could afford to pay my ex the amount she required. This would force myself and the children out into a rental property. How can this be classified as "providing for the children". In share situations the formula needs to be reconsidered to ensure that the payer does not lose his ability to care for the children just so the payee can.

#### **Why do I have to pay child support on my gross income?**

- **By the time I pay tax and child support, there is no money left and no incentive to work.**
- **With the amount of child support I have to pay, I would be better off unemployed.**
- A Parent's taxable income is generally a reliable and accurate indication of his or her financial capacity.
- Additionally, the child support percentages are designed to reflect child-rearing costs in families with varying numbers of children. If the liability were determined on the basis of after-tax income, the percentages would need to be higher in order to provide an appropriate amount of support for the children.
- This would disadvantage paying parents earning lower incomes, as they pay lower levels of tax, and would therefore pay a higher proportion of their after-tax income in child support.

I have a situation where I was paying my ex \$66.00 per week and I was looking after the children 9 nights per fortnight. My ex realized that this was all she was getting and decided to take the children totally, after a great deal of stress on the children and a lot of solicitors letters I ended up having the children 6 nights per fortnight. I was now expected to pay \$162.00 per week. By my ex having the children for the extra few nights a fortnight did not reduce my bills, yet I am suddenly to find an extra \$100.00 after tax to give to her. I still had to pay electricity, house payments, phone, rego, insurance etc. I may have saved \$10.00 per week on a few meals, yet I am may lose the house, which is the only stability left in the children's lives because of a set formula. How can you justify an extra \$100.00 per week for an extra day and a half per week?

I am aware of cases where fathers have given up and gone on unemployment benefits, and I even know of a father that lives in his car and I can fully understand why. If my ex had have got her way with being a major caregiver for the children, I would have had to find \$324.00 per week, this would have immediately forced me to lose my house and everything I have worked for, for the past 25 years. Not much of an incentive to go to work, is it?

If I want to continue to go to work and try to get ahead that is nearly impossible. I am in the upper tax bracket. If I work hard and get an extra \$100.00 per week, tax and

medicare levy take half of that and my ex is currently taking 18%, but could get as much as 27%. So for all my extra work I get about \$30.00 in the hundred, which is probably what it would cost you in running costs to get the extra in the first place. How is this in any way an incentive to work. Any money that is paid to the ex should be added to her taxable income and removed from mine, this would be a much fairer alternative.

### **Why isn't child support based on costs rather than taxable income?**

- Child support is based on the principle that children have a right to share in the changing financial circumstances of their parents - as they would have had the parents not separated.
- The costs of the children are not fixed and most research shows that parental expenditure on children increases as household income increases.

The fact is, that the parents have separated, so if one parent decides to better themselves then they should be allowed to do this. Why should a parent that sits on their arse and does nothing, benefit from the one that is working very hard to get ahead. If I work harder to get a pay rise or a bonus then I should be entitled to spend it on my children the way I wish, not have it removed from me and given to the ex who may spend it on herself rather than the children.

In July 2003 in the High Court, in the Melchior case, the full bench handed down a decision that it costs \$105,249.00 to raise a child for 18 years. If this is the case then it should be capped at this figure. This will then allow the parent that chooses to get ahead in life, to do so without being held back with constant additional payments to the ex. In my case of a share care, it could be capped at the percentage of the care given.

If the above were implemented, then there would be more incentive for the higher paid parent to get ahead and then be able to care for the children accordingly.

### **Why don't payees have to show that they spend the child support on the children and not themselves? I want some say in how child support is spent.**

- There are a number of direct and indirect costs associated with caring for children - not all costs are easily quantifiable, for example housing and transport.
- There are a number of ways paying parents can influence how child support is spent- NAPs, prescribed NAPs, agreement, parenting plan.
- Ultimate decisions about how child support is spent are best made by parents themselves- CSA has no role in monitoring costs and spending.

The last point made here is correct, "the CSA has no role in monitoring costs and spending", yet any extra income earned by the payer is automatically given to the payee to spend as they wish. One typical incident that happened in my case was that one of the children was going on a school excursion, my ex claimed she could not afford the \$22.00 for that, even though I am giving her \$162.00 per week. I then paid for it, only to find that on the day I was told she could not afford it, my ex went out and bought herself a set of roller-blades. How is this fair?

I have another situation that shows the current system does not work. At Easter this year, I was to have the children and take them camping. They turned up for the weeks'

holiday in the clothes they were wearing, shorts and tee shirts, there were no warm clothes packed and when I asked for some from my ex, she claimed there were none that fitted them. I had no choice than to go out and buy suitable clothing. When I put it to the CSA to have it considered as some form of payment they refused, as my ex would not agree to it. Amazingly, a few days after the holidays, the children turned up at my house dressed in warm clothes that they owned prior to going camping.

I therefore believe that if the payer has no control over how the money is spent, then this amount should be removed off his taxable income and added to the payee's taxable income.

## **CONCLUSION;**

There are number of policies and procedures that need to changed immediately;

- 1) All CSA payments made, should be removed from the payer's taxable income and added to the payee's taxable income.
- 2) All CSA payments should be capped as per the figure handed down by the full bench of the High Court in July 2003 in the Melchior case.
- 3) All CSA payments to be made more affordable to the payer and then they might actually be paid.
- 4) Consideration given to the payer's welfare as he/she also has to be able to afford to give the children a reasonable standard of living when they are in his/her care.
- 5) Some responsibility should be taken by the parent, that abandons the family unit, to fund their own decision and not be a burden on the tax payer or the other parent.

**[REDACTED]**