

Shared care does ^{not} = equal time
Family Conferencing

Submission No: 1555

Date Received: 25-9-03

Secretary:

RELATIONSHIPS AUSTRALIA NORTHERN TERRITORY

Helping Parents to Put Children First

Relationships Australia does not support the introduction of an equal time presumption.

The Family Law Reform Act 1995 enhanced the principle of the 'best interest of the child' and introduced changes to move away from simplistic notions of custody and access. It is critical that we do not lose this intent by returning to a situation in which parental rights take precedence over children's interests.

The current Family Law Act already contains a presumption of shared parental responsibility: *'all parents, whether married or not, have shared parental responsibility unless the Court otherwise orders'*.

Despite this provision, some parents (primarily but not exclusively fathers) feel that the law or legal practices in some way restrict them from adequately exercising their current obligation of shared parental responsibility. This may be largely to do with the slow pace of change and the reliance on traditional rather than contemporary views of parenting. More emphasis is needed on education and reform to give the existing provisions greater application and recognition.

In our experience, the question of the amount of time spent with each parent is not the critical issue for children. What is important for children is to have long-term quality relationships with both parents.

Quality over Quantity

One of the most robust findings in the research literature is that children's emotional adjustment to parental separation is not associated with custodial arrangements. Rather, factors that are associated with children's emotional adjustment include the extent to which parents remain involved and responsible.

Child-Parent Relationship

Children do not need to spend equal time with each parent to have quality parental relationships. Research has consistently demonstrated, across various settings, that it is the quality of interaction between children and their non-custodial (non-residential) parents, rather than the quantity that is more important for both the child and their relationship with that parent.

The characteristics of 'quality' relationships are those that meet the need of the child. These include strong bonds, regular contact, durability, open communication and resilience to overcome problems. The research into parent-child relationships after separation tells us that some important factors in building quality relationships include the extent to which parents undertake meaningful activities with children and the nature of interaction between the parent and the child.

Inter-Parent Conflict

Thirty years of research on families in separation conflict indicates that the negative impact of separation on children is largely due to inter-parent conflict both before and after separation. This is particularly true when the children are caught up in the conflict and/or they experience emotions such as stress, insecurity, agitation, fear for their own safety, and unresponsiveness from parents.

There is substantial evidence linking the degree of conflict and cooperation in the co-parental relationship to children's adjustment post-separation. Unresolved, enduring parental conflict can violate children's core developmental needs and threaten their psychological growth. Children in joint residential arrangements may be particularly vulnerable to conflicts of loyalty, which is exacerbated by enduring conflict.

High conflict separated parents have a relatively poor prognosis for developing cooperative parenting arrangements without a great deal of therapeutic and legal intervention.

Parental Adjustment

The psychological adjustment of the parents, particularly the parent with primary care for the children, is a central factor in the adjustment of children.

Child Developmental Stage

The nature of post-separation arrangements that may be appropriate for an infant and those appropriate for a ten year old child or adolescent are clearly very different.

Contemporary research tells us that custodial orders should recognise and respond to the age and developmental stage of children. As children grow, they develop an increasing ability to tolerate change and lengthier separations from their parents.

Gender of the Child

The Prime Minister has suggested that one of the driving forces behind the need for this inquiry is the lack of male role models in the lives of boys who have limited contact with their fathers post-separation.

There is some evidence that the gender of the child is significant in considering primary residential placement. However, these findings are contested and very complex. Some authors have suggested that the results may be an artefact of demographic differences between mothers and fathers who are primary custodial parents.

Recent Australian research found that when single parent families are compared to two-parent families there are some positive outcomes for boys living with mothers and some negative outcomes for boys living with fathers. However, the factors that contribute to these outcomes are more complex than gender alone and single parent families cannot be considered to be a homogenous group.

New Approaches

Services supporting families around the time of separation and after separation need to be as integrated, connected and networked as possible. This is one of the clearest recommendations of the Family Law Pathways Advisory Group, and is particularly important in the case of highly conflictual separations involving children.

The higher the level of conflict and the more entrenched and adversarial the conflict is, the more crucial it is to have robust and effective relationships

between the Family Court of Australia, the Federal Magistrates Service, family law practitioners, and organisations such as Relationships Australia. Relationships Australia urges the Inquiry to consider alternative solutions to the challenge of supporting shared parenting responsibility. We believe that a national strategy is needed with the following components:

- Strengthen the Use of Parenting Agreements;
- Individual, Family and Community Support;
- Professional Education;
- Capacity Building and Problem Solving;
- Involving Children in Developing Arrangements; and
- Better Mechanisms to Support Extended Family Relationships.

Paul Mackay
Relationships Australia
25.7.12