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Standing Committee on Family and Community Affairs
Child Custody Arrangements Inquiry.**

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Overview

This document begins with a dot point summary of my situation to give some background why I believe that equal parenting is the most workable solution to child rearing in the event of parents separating.

In summary I believe that equal parenting is the best solution for children of separating parents because it;

- Acknowledges that both parents are equally important in raising children after separation by making them actively and equally responsible. The current resident and contact arrangement makes one parent responsible for the day-to-day raising of children and the other, in many cases a fortnightly visitor who provides financial support through child support payments.
- Acknowledges the societal change that parents in married and de-facto relationships are sharing the load of raising children more than ever before and that the current resident/contact arrangements no longer reflect the joint parenting taking places in modern families.
- Severely limits the ability of one parent to “turn” their children against the other parent. Since children would be spending equal time with both parents the children will tolerate much less the antics of an embittered and vindictive parent and will encourage parents to work constructively in the raising of their children.
- Will encourage separated parents to overcome their bitterness towards each other (if it occurs) and act towards each other in a mature, courteous, business-like nature so that they can be effective responsible parental role models to their children. Initially mediation services would be needed in cases where conflict occurs.
- Will reduce the emotional and financial strain associated with litigation in the family court. By placing each parent on an equal footing in the event of separation there is much less need for one parent to seek extensive legal assistance just to maintain contact with his or her children.

I do however acknowledge that there are obstacles to equal parenting, in particular the issue of relocation. The obstacles to equal parenting are not insurmountable and I believe are less of a problem than those posed by the current residence/contact arrangements that are typically in place for the majority of separated parents.

The current system revered by so many for so long in legal and government circles has not served our children and their separated parents effectively because, it facilitates the alienation of non-resident parents, encourages conflict, and deprives children of meaningful contact with the non-resident parent. The very existence of this inquiry is testimony to the problems with the current family law child residence system.

Thoughts on Equal Parenting.

I believe that equal parenting is essential for the well being of children of separated parents. Children were designed to be brought up in a family environment, receiving guidance from each parent and benefiting from the differences that men and women have to offer as parents. I am of the firm belief that the only way children can experience this after separation is to have equal time with each parent.

With equal parenting, each parent actively shares the responsibility of the child's upbringing. This in turn forces parents to take responsibility for their children and provides children an active example of parental responsibility that they will take into adulthood when they become parents.

Equal parenting would mean that society actively acknowledges that both mothers and fathers are equally important for the social and psychological development of children.

Equal parenting would bring positive consequences to the "no-fault divorce" arrangement we have in place now. The spectre of equal parenting would mean that once parent could not just pack up the kids and leave, or a parent desert their family because they no longer wish to be married. Equal parenting would be a separation deterrent. It would encourage arguing parents to provide greater effort to relationship counselling and even if they do separate, encourage parents to cooperate constructively in the raising of their children.

Equal parenting would give each parent time to themselves. It would allow separated parents to engage in other pursuits and new relationships. It would reduce the martyrdom attitude of many single parents who use the excuse that they are looking after the children all the time and they don't have time for anything else.

I have spoken to a number of parents both men and women who have adopted joint parenting arrangements and in all cases they believe it is the most workable outcome for both the children and the parents post separation. They generally have put their children's needs and concerns above their own and relate positively to the other parent for the best interest of the children. One parent I have spoken to has an equal (week on, week off) parenting arrangement, which he is happy with. This was the initial mediated agreement in place. Since seeing her lawyer his ex has requested full residence with alternate weekend contact (His belief is that her lawyer informed her of the financial benefits in terms of both property settlement and child support, which changed her support of the previously agreed joint parenting arrangement).

Thoughts on the Current System

Most contact-residence orders open with a statement saying to the effect that both parents are jointly responsible for the welfare and raising of their children. To me this is just "lip service" by the family court. In many cases the non-residential parent's contribution is financial only. They get very little say in the day-to-day parenting and influence of their

children. Only equal parenting provides practical enforcement of the notion of joint responsibility.

I believe that the current family law system is lop-sided, encourages conflict, and has failed the children it was designed to serve. The current system pits one parent against the other in a "Winner takes all contest". The resident parent can generally dictate how smoothly the parenting and legal arrangements go. If the resident parent is reasonable, everyone wins, and time in court is minimised. If they are unreasonable, and particularly if they harbour ill feeling toward the other parent over the relationship breakdown, they can be as difficult as possible and everyone is in for an arduous contest. Only a tenacious and well-financed non-resident parent can maintain a relationship with their children in this scenario.

I believe the current "standard" regime of residence and contact is not too dissimilar from the "Stolen Generation" of Aboriginal children. In that case we had government and church organizations believing that they were acting "in the best interests" of Aboriginal children by removing them from their "incapable" parents and raised with minimal contact from their biological parents. By awarding majority time with one parent over the other in the event of parental separation are we not in fact creating a similar problem? Will we have future generations wishing to seek damages from the Government because they were systematically denied equal contact with both parents "in the best interests of the child" It was wrong to deny Aboriginal children the love and relationship with their biological parents, and it is wrong to deny any child a meaningful relationship with either parent. Thirty years ago they stopped the forced removal of Aboriginal children from their parents. When will the Family Court stop the practise of removing children from one of their parents in the event of separation?

Thoughts on the Arguments against Equal Parenting.

The people who oppose equal parenting generally provide only two arguments.

- **Increased Child Abuse.** I think this is "red herring". Most fathers love and protect their children and are repulsed at such behaviour. If the fathers already have contact arrangements in place, then equal parenting would not give any rise to child abuse as child abuse would have occurred as part of the existing contact regime. Child abuse is a very serious allegation and, if proven, all-legal measures should be taken to prevent it in cases where it occurs. It should not however be used as argument to deny all children a meaningful relationship with the non-resident parent.
- **Increased conflict between parents.** The current system rewards conflict by awarding majority time with one parent on the mistaken belief that reduced contact between parent's results in less conflict. If the resident parent escalates conflict then they are rewarded by less contact with the non-resident parent. The non-resident parent has no interest in initiating conflict as the current system causes conflict to work against them in family court proceedings. Equal parenting

would mean that one parent could not have control over the other parent by escalating conflict. Where conflict occurs, intermediaries can facilitate handover. Equal parenting would force parents to eventually work together rather than holding onto grudges and suspicions long term.

Thoughts on Relocation.

One of the most difficult issues regarding the parenting of children whose parents separate is when the resident parent wishes to relocate to a city or town away from the other parent. Under the current system, if the resident parent wishes to relocate then they are generally permitted. Most times this relocation is to a town or city where the resident parent's own parents or close family live. The reason given is that they can be near their family for a support base. I believe that in many cases relocation is sought, not as a genuine desire to live where their parents or family live, but rather as an opportunity to make it difficult for the non-resident parent to maintain regular and effective contact with their children.

I believe equal parenting would alleviate the need for one parent to seek the support of their family and significantly reduce the pressing need to relocate. Both parents would be able to share the load of raising their children. Wouldn't it be better to have children spending time with either parent rather than being shuffled between one parent and their group of family and friends?

I think that where children should live in an equal parenting basis is based on the following criteria, but not solely on these criteria.

- The city or town where the children lived with both their parents at the time of separation. This would ensure continuity of schooling, friendships and involvement in other areas such as sport and community activities.
- Where the employment opportunities for both parents in their chosen field will be best served.
- Where educational opportunities are best served.
- If both parents can agree to jointly relocate to the same locality and find suitable employment then this should also be permitted.

Circumstances that the presumption of joint parenting should be rebutted.

- Proven evidence of child abuse in the form of sexual abuse, physical abuse, emotional and psychological abuse.
- Where a one parent is not able to provide care for the child due to a mental or physical disability that would seriously limit that parent's ability to care and raise a child.

Circumstances a court should order that children of separated parents have contact with other people, including their grandparents.

- In cases where one of the parents is deceased or severely handicapped. The deceased or severely handicapped parents' family (parents, siblings etc) should be able to maintain regular contact with the children.
- If a parent is not permitted contact (eg sexual abuse) it doesn't mean that that parent's extended family (eg grandparents, uncles, cousins etc) should be deprived of contact with that child.
- In cases where the separated parents do not get along with their own family there should be some contact permitted as long as the child is not in any danger.

Whether the existing child support formula work fairly for both parents in relationship to their care of, and contact with their children

- The minimum annual contribution of \$260 per year (\$5 per week) is too little to engender any responsibility by the non-residential parent.
- The maximum payment is too high. A non-resident parent can have up to half his take home salary taken out in child support. This gives him little opportunity to provide for a new family if he starts a new relationship.
- The current CSA formula makes no recognition of the cost of children who live with the non-residential parent up to 30% of the time
- There are no set guidelines to how much CSA will be reduced if the non-resident parent has to travel at significant cost to maintain contact when the resident parent and child have relocated. A large supply of paperwork including significant personal financial information must be supplied. You are then asked how much you believe it should be reduced by. It then goes to resident parent who will no-doubt object to any reduction. A rigid formula that could be incorporated into the annual tax return of the payer (to ensure that the costs are actually being incurred by providing travel receipts).

Appendix A. A New Family Bill of Rights

I have included an excerpt from page 11 of *Mom's House Dad's House* 2nd Ed. Isolina Ricci Ph.D Fireside 1980, 1997 ISBN 0-684-83078-7. I think it would be useful in drafting any new legislation and court orders especially joint parenting arrangements.

The Family Bill of Rights

- Each child has the right to have two homes where he or she is cherished and given the opportunity to develop normally.
- Each child has the right to a meaningful, nurturing relationship with each parent.
- Each parent and child has the right to call themselves a family regardless of how the children's time is divided.
- Each parent has the responsibility and right to contribute to the raising of his or her child.
- Each child has the right to have competent parents and to be free from hearing, observing, or being part of their parents' arguments or problems with one another.
- Each parent has the right to his or her own private life and territory and to raise the children without unreasonable interference from the other parent.