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Submission to the inquiry into child custody arrangements in the event of family separation

I support the use of shared parenting as the default option on family separation. I am a father who is doing shared parenting. Whilst not quite the split of time which I would prefer the arrangements we have in place appear to be working as well as can be expected for all of us. I do not believe that shared parenting is as good as a healthy family staying together – that is often not the reality in our world and as a consequence we need to find ways to address the issue's which result and in particular the impact on children of the changed parenting arrangements.

I have tried to keep this submission brief and provide an introduction to topics that it is my hope the inquiry would keep in mind during its deliberations. I have not attempted to address all of the topics which might be of interest nor to address the topics raised in any significant detail. I am assuming that the inquiry will seek appropriate input in area's it deems to be relevant.

I believe that much of the argument I have seen against the proposal is misleading and designed to avoid the real issues. Topics such as the protection of children from abuse are used without reference to where the abuse is happening.

Arguments against the proposal seem to be largely based on four areas

- Protection of children against abuse
- Fathers not being left with sufficient financial resources following family separation to be able to house the children.
- The difficulties experienced by fathers in managing career and fatherhood and the idea that it is much easier on them if they only have to see their children every second weekend or so.
- Shared parenting will not work in every case so we should continue with the present approach.

It is my belief that

- Biological fathers are only responsible for a very small proportion of substantiated child abuse and that children are at a greater risk living full time in a single parent family.
- Changed residency arrangements will help to address some of the disparity in current property settlement's – mum won't be able to use child residency to grab most of the assets so the father may still be able to afford to have somewhere for the children to live.
- There are issues for parents trying to maintain a career at the level they may have when part of a partnership and still meet the responsibilities of parenting. We need to make it easier for people to do this – more flexible work hours,

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By Robert Stephens

allowing fathers to reduce their income without harassment from the child support agency etc.

- Shared parenting will not work in every case but it is a good starting place. What we are doing at the moment adds enormous stress and pressure to the lives of those involved in the breakup. It is destroying the lives of countless children and their fathers (and I suspect it is very unhealthy for the mothers as well). Start with shared parenting and leave enough flexibility in the system to allow arrangements to be adjusted to suit the needs of the participants over time. Avoid the initial arrangements being locked in place until the child leaves home, children's needs change and parents ability to manage the child's needs change over time.

Shared parenting will not work in every case, it is my view that what we are doing now works in very few cases. A generation of children are being denied an appropriate level of interaction with their fathers with a devastating impact on their development and on the society which they are growing up into.

It is my hope that the inquiry will make recommendations which impact on a wide range of issues within society because residency is impacted by a wide range of issues.

Our society has changed enormously yet we continue to operate in some areas according to laws and assumptions which no longer reflect the nature of our society. In particular the nature of the family in a society with no fault divorce and where separation and divorce are becoming the norm rather than the exception has a fundamental impact on aspects of family law which do not appear to have been dealt with in a meaningful manner as yet.

Sorting the wheat from chaff

It is my belief that input to the inquiry will be coloured by at least two issues. An understanding of those issues might help those conducting the enquiry separate the wheat from the chaff in regards to what is presented.

Financial impacts of residency

The financial impacts of residency should not be underestimated. In particular the impacts and benefit of various forms of child support on the income of low income earning resident parents and the devastating impact current child support structures can have on the financial situation of non-resident parents. Critics will argue that no one gets rich from child support – this is probably true but lots of people get a nice income supplement from child residency. Areas of potential financial gain which I am aware of include

- Increased share of family assets during the property settlement. There are a number of areas of concern with this.
- Child support payments from the other parent.
- Family Tax benefit from the government.
- Rent assistance. I don't know much about the conditions which apply on this payment but advice should be readily available to the enquiry.

I would recommend that the members of the inquiry familiarise themselves with some real world examples of the financial impacts of the various payments and consider the likely impact of those payments on the issue of residency of children.

Perception of Bias

There appears to be a strong perception by many fathers and people involved in support of fathers following separation that a significant level of gender based bias exists in both the Child Support Agency and the Family Court.

The impression I have received is that the CSA places a lot more emphasis on the responsibility of fathers to provide financially than it does on the responsibility of mothers in this area. There appears to be a much higher level of willingness by the CSA to believe assertions by mothers than fathers and a willingness to assume a father is guilty unless he can prove himself innocent.

I have heard that the family court is much more willing to entertain damaging claims about the character and or capability of fathers than it is of mothers.

One of the outcomes of this is that there appear to be a lot of angry dads out there who are likely to fail to get their story across because of the expressions of anger which cloud the picture. Please try to see past the poor presentation of the angry dads you hear and listen to their heartache and the hurt which they suffer which lies behind it.

Current practice does not mean what is done now works

It has been suggested in articles which I have read that because most residency arrangements are sorted out outside the family court at the moment then people must be happy with the arrangements they are making. I do not believe that this is the case. I suspect that in many cases the agreements which are reached are ones which many fathers are very unhappy about but over which they have little confidence that a better outcome would be achieved through the family court. It is my understanding that the Family Court is unlikely to change existing arrangements if they are viewed to be working in some form. It is my understanding that approx 70% of separations are initiated by the wife (in a marriage situation). The person who initiates a separation is in a much stronger position to prepare for the separation, the other party may find themselves being told how things are going to be with little knowledge of the law relating to residency and little or no opportunity to put in place arrangements to help them propose alternative arrangements (no time to consult with an employer about altering work hours, arrange after school care etc.). They may fail to seek legal advice for some time after the separation for a number of reasons, shortage of money, a hope that the relationship can be fixed etc. All the time an initial unsatisfactory residency arrangement is being cemented in place by time.

Enabling Fathers

A number of the arguments I have heard against the shared parenting proposal centre around the difficulty fathers experience managing both a career and being a father.

Mixing a career and parenting

Workplace reform which takes into account the issues experienced by parents trying to manage a career and parenting should be considered. If it is not within the scope of the inquiry to do so directly then I believe it should be a recommendation of the inquiry that such a review be undertaken. Items which I occur to me as likely inclusions of any such reform

- Strategies which make it easier for employee's and employers to schedule work hours around parenting. A parent who has the care of their children one

Submission to the inquiry into child custody arrangements in the event of family separation

By Robert Stephens

Page 3 of 5

week in two could possibly do a long work week when they do not have the care of the children and a shorter work week when they do have the children. Alteration of award provisions which dealing with the breakup of the working week may make it easier in many cases for parents to meet the needs of their children and their employer.

- Investigation of existing impediments to reduced working hours. I don't know the law in this area but I suspect that it may be difficult for an employer and employee to agree to reduce the employee's working week by a few hours a week to enable the employee to meet parenting responsibilities – part time roles are different to full time etc. The approach the CSA takes to fathers who reduce their income would also need to be considered.

Child abuse

It is my understanding that there is little protection for individuals falsely accuse of various forms of child abuse in the current system or processes in place for dealing with those who maliciously make such claims. I don't know how to fix this without raising the risk the in some cases people will be scared to report genuine cases but something needs to be done. Statistics I have seen indicate that natural fathers are involved in a very small percentage of substantiated child abuse claims. Critics of the proposal for shared parenting have continued to emphasise how much risk children will be placed at if the proposal is implemented. This suggests to me a willingness to use claims of child abuse to alter residency arrangements. How many children are being abused in the current system by their mothers, their mothers boyfriends and family who might not be if they spent less time in their mothers home reducing the pressure there and more time in their fathers home – shared parenting gives two parents actively involved in the child's life. If they are hurting badly in one home they are more likely to be able to tell someone they live with half the time than someone they see for a few hours once a fortnight. I've hit two aspects of the problems associated with child abuse here without clearly coming to grips with either, I will try to summarise my thoughts on the topic in bullet points

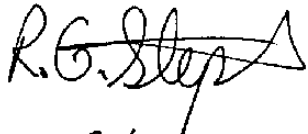
- I don't believe that biological fathers are responsible for a significant proportion of child abuse. I do think child abuse is being and will be overplayed and misdirected during this debate because of it's strong emotive impact with lots of reference to extreme cases and little reference to the rest of the picture. What are the statistics on child abuse in relation to residency arrangements? I know individual children are not statistics, any child abuse is a tragedy but care must be taken to identify where the risk's really lie.
- I suspect that shared parenting would reduce some of the pressures which lead to child abuse (mum and her new boyfriend get a break from the kids)
- I am concerned that mothers who wish to retain residency may use false claims of child abuse to try to achieve that result and that there appears to be little consequence to doing so (other than the moral issues involved).

The mess that is there now

Please don't forget the children and fathers who are already stuck in unsatisfactory arrangements. Some things can never be undone but the damage to children and their fathers stuck with residency arrangements made under the existing rules goes on. Don't abandon people who are already there.

If there is anyway which I can assist the inquiry in it's work please do not hesitate to contact me.

Regards
Robert Stephens

A handwritten signature in black ink that reads "R.G. Stephens". The signature is written in a cursive style with a large, stylized "S" at the end.

5/8/2003