

CHILD CUSTODY INQUIRY:

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

House of Representatives Standing Committee on Family and Community Affairs	
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Brief Summary of Main Points contained in this submission:

- High cost/financial burden of Family Court remedies, combined with long delays means this system of resolving disputes between parties is not proving effective.
- Inherent gender inequality in the systems, such as Family Court, CSA and Centrelink. By CSA and Centrelink only making their initial contact with mothers, and not fathers at the time of separation, they inform mothers that the payment of maintenance by fathers, and welfare by government is all dependent on the length of time children are in contact with themselves. Thus effectively making the children within separations a possession that is financially rewarding for the remainder of the children's development, and worth fighting for.
- Reforms needed to address these imbalances
- Reforms also need to remove the linking of CSA and contact

Background:

I am the father of two boys. Now aged 9 and almost 11. I have been separated from their mother, my de-facto partner, since November 1995. Both parent's work and have always shared the care of their sons. From separation I continued having meaningful and very regular contact. For example, our own agreement we organised was for myself to have the boys stay 5 nights and 4 afternoons a fortnight with a lot of extra care nights/ days when needed. This continued till March 1999. At this point our relationship broke down and I was left with no choice but to initiate proceedings within the family court on the 2nd of March. Our case was among one of the '5%', which make it to hearing before a Justice on the [REDACTED]. That is a period of just over 18 months to reach a settlement. I was asking the family court to decide whether I could have the boys stay over for six nights per fortnight. That is, to have one of the afternoons I was currently enjoying a fortnight and turn that into a night and drop the other three afternoons a fortnight. I must mention that the two parties involved only live seven minutes drive apart and in established houses.

SUBMISSION:

Family Court Issues:

The **length of time** to resolve disputes is far too lengthy and unduly complicated, thus providing lawyers many means of increasing their revenue. It also means a lengthy period of time that children can be without one of their parents.

Gender inequality I believe was highlighted in the above case. The law states that each parent has equal rights; this is rarely the case in terms of access and custody from my own and fellow male peers' experience.

The current Court system provides for no way to uphold orders short of **costly litigation**. Once a contravention has been proven in the family court they have no real means of enforcement that provides a meaningful deterrent for future contraventions. The costs involved for all legal actions within the family court do make it that the wealthier you the greater the chance of success.

A rapidly changing world. The decision makers within the family court are not made up from today's present day parent's world. That is a world of shared care, shared household duties and shared earning capacities. Yet they sit in judgement of this new generation of families who, on the most part are from vastly different socio-economic backgrounds.

Child Support and Centrelink Issues:

Equity issues. For example, CSA only makes initial contact with the mother and not with the father, unless for payment of maintenance. CSA does not inform fathers fully of their rights and responsibilities at the same time of informing mothers. Fathers have to act on their own initiative, i.e. I was unaware for 4 years that I could place a counter claim against the mother to take into account her income when deciding maintenance. I was also unaware that I could receive a portion of the family payment allowance from centrelink for 4 years until I approached them to ascertain what my ex partners situation might be.

Flawed maintenance procedures. The way CSA evaluates my maintenance is that I fit into what is termed by the agency 'substantial care'. That is I have contact with my children from between 110 to 146 nights per year. In fact, I have 147 but

because I am on the 'cusp' CSA are not willing to go into it and feel that I should not pursue the issue. Currently my child support percentage is 22 % and my ex partners is 14 %, if I was to challenge this, and win, it would mean that we would both have an 18 % child support percentage. Why do the periods of time and percentage differences have to be so great in this equation? Why cannot a sliding scale be utilised for separated families?

Although, for my ex partner who has had another child with her current defacto partner, things are easier. Before my ex partners 3rd child she had an exempt income of \$18,799.00 from the child support equation with myself. But after her 3rd child to another man whom she lives with this exempt income from my own income in the child support equation rose to \$23,935.00. Does that mean that I am in fact helping to support my ex partners new child or should I go out and create more children to increase my own exempt income from this equation?

In summary:

The fact that Child support is linked to whoever has "custody" means that in many cases mothers, after learning before fathers, seek to ensure that fathers do not get over and above anything but a standard weekend arrangement. A starting point where dual residency is a reality, and where father's time with their children is factored into the equation would mean that money issues do not become confused with ownership of children. Thus, this would lead to a lowering of the burden now placed upon the family court and allow children to have very real and meaningful contact with their fathers who, in today's world, can care for them as well as mothers can.

Thankyou for your time, yours sincerely,

Mr Robert Schlesinger (submission made as an individual)
23 Beach Rd.
Lindisfarne 7015
Tasmania.
Phone 03 62431040 (home)
03 62430050 (work)
0411 478 776 (mobile)
E-mail: bobslaz@hotmail.com