

House of Representatives Standing Committee  
on Family and Community Affairs

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Secretary: .....

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6/8/03

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

Dear Sir or Madam,



Unfortunately, I have only recently seen details in regards to the abovementioned inquiry and therefore my submission is both last minute and brief.

I have two children, a daughter, [REDACTED] aged 9 and a son, [REDACTED] aged 6.

They are, always have been, and always will be the most important part of my life.

Initially following separation I had our children every weekend collecting them on my way home from work on a Friday afternoon. This arrangement continued for a number of months and during this time we attended mediation (Via Relationships Australia) to resolve contact and financial issues. I was seeking shared care of our children and I discussed a number of options with my wife to achieve this aim. Mediation was unsuccessful (I felt also the level of expertise provided by RA was sadly lacking in this regard.)

Following breakdown of these discussions I sought legal advise as did my wife following which I received correspondence from her that I was "entitled" to have the children every second weekend and for a few hours in the evening in my off week. I strongly disagreed with this arrangement and the only course of action left open to me was via legal action. My wife also sought an early neutral evaluation via a firm of Brisbane solicitors which was completed by a retired Family court judge (Mr Bully). I was not privy to this meeting and was not advised of deliberations other than "your husband had employed a high powered solicitor and she should do likewise" (she was referred to a senior partner in the firm who had completed the evaluation!)

Our children have always had a substantial amount of contact with my parents who have also provided a tremendous amount of support to our family (they cared for our daughter for two days per week after my wife returned to work until the birth of our second child). My Wife's parents have only ever had limited contact with our children, and there support has been minimal or non-existent. They have relocated on a number of occasions (always further from our family) and shortly after our separation they relocated from Qld to Tasmania. (When you would think the children and their mother could do with their support).

To enable me to facilitate shared care of our children I had the ongoing support of my family and I had arrangements approved with my employer to "job share" two to three days per fortnight to assist me in their care. My wife however continued to insist that this could not work and that the children "needed their mother's care and stability more"

With the proceeding of the legal process to resolve this matter we attended mediation at the Family Court in Brisbane. The Family Court mediator advised that "whilst there was a little bit of a change in thinking away from the old two days per fortnight, that shared care would be unlikely unless both parents agreed to this"

My solicitor also advised me that it was unlikely that I would be successful in obtaining shared care but that given my position she was confident that I would get "better than the old two days per fortnight"

Armed with the advise of Solicitors, Family Court mediators and the general perception in society it is easy to see why my ex wife was confident in her resolve (she couldn't lose) to not negotiate suitable shared care arrangements that would benefit both the children, ourselves, and extended family

In addition and related to the child contact issues is the financial settlement which also shows a distinct bias. Again, on the advise of solicitors my wife was advised that she was "entitled" to between 60 or 70% of our asset pool regardless of what assets we had each brought into the relationship. (When we met I owned my own home and had a reasonable asset position in relation to my age that I had worked hard to build up. My wife had limited assets and savings) My wife used the "need to look after the children" argument to justify this reasoning.

In the end after expending a substantial sum of money on legal expenses and a day in the Family Court I now have interim contact arrangement as follows;

I collect our Children on the Thursday morning before school and they are with me on the Friday, Saturday and Sunday nights then being collected by their Mother on the Monday evening after dinner of each fortnight.

I also see the children for a couple of hours on my off Thursday and have them for half of their school holidays.

This arrangement is "just short" of Family support guidelines in the number of nights the children are with me for shared care.

I have attempted to negotiate with the children's mother to collect the children on the Wednesday evening after I finish work in lieu of Thursday morning and have the children stay with me overnight on the Monday. These arrangements constituted no disruption to either the children or parents and could be easily catered for.

As this would constitute shared care my wife has refused even though these arrangements provided more stability for the children, an opportunity for me to be more involved in their day to day schooling.

Our financial settlement has now been finalized by mutual agreement with me handing over in excess of 50% of my assets with no allowances for what we had before we met. Whilst I do not think the agreement was in any way fair or justifiable I had little option to negotiate with my legal bills escalating.

Final orders are still to be completed in relation to our children and with recent media coverage of the current system and (possible?) moves to a more equitable system my ex wife is now pushing ahead to have this matter finalized as soon as possible. In this regards I assume that I will have the choice of accepting my current lot, having my time with the children reduced, or going back to the courts again to try to obtain a more equitable arrangement.

Shared care will not work in every instance however when both parents are committed to their children and are capable of maintaining an arrangement I believe it should be the first option considered by parents and if that fails the Courts.

There are far to many marriages breaking down in society today with children being left without the love, care and nurturing of both of their parents. I believe the system is assisting in this regards in that with the current bias there in no compulsion on the mother to either make an attempt to work things out as she knows that she will retain major care of the children, an ongoing income stream from the father, and the bulk of financial assets.

I am a committed father. I want to be there for my children, to support and help them and to share in their joys and achievements. I believe there are too many other fathers out there in this same position who are being denied this opportunity due to an incapacity to deal with a biased Court and Legal system and the perceptions of society in many instances promoted by the media

Children need both their mother and their father and if both parents are capable, willing and able and committed to this goal the system should be supporting this goal.

I hope that this inquiry brings these matters to the fore and that we can have a speedy and constructive result.

Yours faithfully

  
John Forrester