



Australian Association for Infant Mental Health – South Australian Branch.

**CHILD CUSTODY (2003)**  
**Submission to the inquiry into child custody.**

The South Australian Branch of the Australian Association for Infant Mental Health commends the initiative of the Minister for Children and Youth Affairs, the Hon Larry Anthony MP, and the Attorney-General, the Hon Daryl Williams AM QC MP to inquire into child custody arrangements after family separation.

We would like to respond with reference to infants, who have the most vulnerability and whose needs can often be overlooked or misunderstood. We note that in many cases people still say that infants and toddlers are too young to understand or be affected by what happens in their parents' lives. Current research evidence strongly contravenes this.

In many cases the existing system does not work in the best interests of children.

Therefore we would like to address part (a) "given that the best interests of the child are the paramount consideration..."

We strongly believe that this section should be expanded to encompass how the best interests of very young children and infants will be assessed and to consider some general guidelines for this. In order to develop and maintain trust infants need to be in the care of someone who can provide continuity and provide predictable care i.e. "with someone who knows what happened yesterday". Infants and children need to be with carers who are trustworthy and reliable in their relationships with the children.

For example a baby of under two years, particularly under one year can be severely stressed by separation from the people he or she feels safe with even for short periods of time and ongoing stress affects the infant's brain development. In most cases babies and young children have been cared for more consistently by one parent and therefore are likely to be adversely affected by overnight separation from that parent. Individual differences eg where a baby had been equally cared for by both parents, would have to be considered. This should take place in the context of current knowledge of infant development and needs and independent expert advice from someone skilled in understanding infants' emotional development and behaviour in order to avoid the risk of disruption to attachment and compromising emotional development. This is important at least for children up to three years where they are not able to adequately voice their own needs.

If the best interests of the child is truly taken into consideration other factors will in most cases not be needed. For example we know that children are best served by having strong positive relationships with both parents and with family networks such as grandparents so that spending time with all of these groups will be in the child's best interests provided that:

- the different parties to the arrangement are not so angry with each other that the arrangement becomes more stressful than supportive

- all parties are able to communicate with each other in a civil way, do not undermine each other to the child and do not use children as go-betweens for messages or information
- the hand-over takes place in a supportive way
- the child is not stressed by the changes because of being too young, having to move around too often and having to leave a supportive environment etc.
- all of the people caring for the child are socially, emotionally and physically able to care for a child's needs and provide a secure and supportive environment
- the changeovers start slowly, giving the child time to adjust to a new situation while still being with a trusted person
- the changes are adjusted to the child's changing needs.

In a situation of family break-up parents may need assistance in considering children's needs properly, as their perspective can be distorted by their own distress. If children's needs are to be met assistance should be given to parents in resolving their own issues and understanding their children's needs.

Further, we recommend that the judiciary and legal professions involved in this work should have some training in children's early developmental needs so that there is a general understanding of what is in the best interests of the child.

The Australian Association for Infant Mental Health has expertise in young children's emotional development and would be very happy to assist the inquiry further by face to face discussion.

### **Bibliography:**

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