

CUSTODY OF CHILDREN

Family First recognises the unique and irreplaceable role undertaken by mothers and fathers. Parents have the primary responsibility for the nurture, raising and education of their children.

Family First will seek to promote and support reform to Family Law that gives greater assistance to families under pressure and provides the framework for meaningful parent child relationships as far as is practicable after the breakdown of the parents' marriage or de-facto relationship

Family First believes that the present operation of Family Law that delivers mostly sole residency is not serving children's best interests and in many cases leads to significant negative impacts on the relationship between the "non-custodial" parent and their child as well as increased stress on the "custodial" parent. Whilst the principle of Shared Parenting or Joint Guardianship is important and beneficial to the child, it does not go far enough.

Our Proposal:

Family first supports the introduction of a rebuttable presumption of joint residency for children after relationship breakdown such that the meaningful involvement by both parents in the life of their children is maximised in terms of time and the exercise of parental responsibilities.

Children alternating their residence on a regular or routine basis between the two parents might achieve joint residency, in many cases.

The advantages of joint residency include:

- Joint Residency would facilitate and enhance both parents' capacity to participate fully in overall parenting concerning significant decisions under the principle of "joint guardianship" or "shared parenting".

- Joint residency would help to ensure that strong and meaningful relationships are continued with both parents and the children. Such relationships have been shown to be vital for children's wellbeing.
- Such residency arrangements would also greatly facilitate the continued relationships of the child with extended family members. Such relationships are important to children's development, providing a greater sense of purpose, belonging, and inheritance. Participation in extended family life improves children's chances of building resilience. It is crucial, therefore, that the child be permitted contact with his or her wider family on both sides, unless it can be established that such contact would cause the child physical, emotional or mental harm.
- Most studies indicate that children, themselves, favour this outcome.
- The operation of such a presumption of joint parenting would give both parents a clear understanding of their expected responsibility during any discussion prior to separation and it would place each parent on an equal footing at the commencement of any proceedings concerning residency orders.

The presumption of Joint residency could be rebutted in a number of circumstances:

- One Parent may argue to the court that joint residency would not be in the interests of their child in their particular circumstances perhaps because of work or travel commitments.
- The Court may determine that it could not be ordered because residency with one of the parents is likely to pose a threat to the physical, psychological or emotional well being of the child.

The benefits for the children include less psychological problems in later years, far greater academic achievement, and a reduced likelihood that they will become victims of sexual abuse.

Sole custody arrangements have caused a lot of distress amongst fathers in the community. Because of the way the Family Court follows precedents in

determining residency orders, most parties are faced with strong incentives to pursue sole residency orders, and in too many cases the father loses.