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# Divorced Fathers Claim Gender Bias in Family Court

## Private bill calls for changes to Canada's Divorce Act

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Aug 27, 2008

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DADS MATTER: Fathers 4 Justice wants to raise awareness about equal shared parenting after separation or divorce and is calling for an end to the removal of either parent from children's lives by family courts. (Photos.com)

times.

In equal shared parenting, both parents remain as custodial parents and children are spared being embroiled in the conflict over who's going to win custody.

F4J and other father's rights groups say that with the mother being granted sole custody in about 85 per cent of disputed custody cases, the family court system is unfairly stacked against them.

Gender bias, they allege, is rampant in the system and they want change.

"I think when these laws were drafted, the will of Parliament was meant to be maximum contact for both parents," says Kris Titus, national coordinator for F4J.

"Unfortunately the language was too loose and too open for interpretation at the court level. We want to see that sewn up so it is very clear to the courts and the parents what is expected when the family breaks down."

After her own divorce 10 years ago, Titus' ex-husband was allowed to have the children only every other weekend. When both parents saw the negative effect this arrangement was having on their two sons, they decided to go back to court to request equal custody.

It took two tries, but the court eventually saw it their way and the difference in the kids' demeanor was almost immediate, says Titus.



Fathers 4 Justice "superheroes" travel across Canada in their Barney Mobile. ()

Driving across the country in a large purple "Barney Mobile," a group of parents dressed up as the Hulk, Spiderman and other superheroes are hoping to spur change in Canada's family court system.

Through its Cross Country Crusade, which will make 30 stops between Vancouver and St. John's, Fathers 4 Justice Canada aims to promote the concept of equal parenting after divorce.

Legislated equal parenting, says F4J, would do away with the current "adversarial system" in place in family court in which one parent usually gets sole custody while the other — most often the father — has to make do with seeing the child only during designated

F4J is calling for an end to the removal of either parent from children's lives by family courts and advocates the dismantling of Canada's family law system to be replaced by a "fair, balanced and transparent rules-based environment."

Department of Justice (DOJ) spokesperson Carole Saindon says that because family circumstances can vary greatly, the Divorce Act does not dictate or favour any particular type of parenting arrangement.

"All decisions must be based solely on the best interests of the children, given the particular circumstances of each case," she says. "Courts currently have the discretion to order that custody be shared equally if they feel that it would be in a child's best interests based on the facts presented to them and the input from both parents."

However, University of British Columbia sociology professor Edward Kruk, Canada's foremost expert on custody, says the removal of one parent from the life of the child is widespread. He calls the family court system "a national shame."

"I don't actually see this issue as one that only affects fathers because there are increasing numbers of mothers who are losing their children and children who are losing their mothers," says Kruk. "I like to see it more from the child's perspective because it is a form of child abuse to have a fit and loving parent forcefully removed by a court in the absence of any child protection concerns or issues."



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Numerous studies show that equal parenting is best for children and is actually desired by children themselves. Growing up fatherless can result in a host of problems, including depression, teenage pregnancy, delinquency, bullying, drug abuse and suicide.

Non-custodial fathers, too, are "a very at-risk group," says Kruk, with homicides and suicides disproportionate to the rest of the population.

And while a 2007 survey by SES research found that 80 per cent of Canadians support equal parenting, Kruk says Canada currently has one of the highest removal rates in the world.

The divorce industry is booming in many western countries including Canada, where a contested divorce costs an average of \$25,000, according to F4J. This is why, says Kruk, "there's a very strong vested interest in maintaining the status quo on the part of the legal professionals."

"It almost guarantees that the conflict will be ongoing and protracted if one parent gets sole custody, then the other one is always fighting for more access, so it drags on. Parents can lose their life savings over a custody battle and it's set up that way to benefit the legal profession," he says.

Saindon says that while many parents prefer to retain the services of a lawyer, that's not a requirement. DOJ provides funding to develop and implement family justice services that assist families in resolving their issues "in the least adversarial manner possible," she adds.

Perceived unfairness in the family court system is also an issue in the United States, where dozens of father's rights groups are pushing for equal parenting and custody laws like those already in place in Maine and Iowa. In Britain, the U.K. chapter of F4J has staged several high-profile stunts to raise awareness about custody rights.

Australia has gone further than other countries in that it now has a law stipulating that when parents divorce and can't agree on custody arrangements, joint custody will automatically be implemented.

"In most jurisdictions that put forth some sort of shared parenting norm, the overall divorce rates have dropped and the number of parents entering the court system has dropped," says Titus. "You really remove the incentive to even go to court in the first place."

Equal parenting also reduces false allegations of assault or sexual abuse, which is a common occurrence and monopolizes the court system, says Titus.

Steven Howitt, a house builder in Calgary, says his wife falsely accused him of assaulting her after he refused to sign authorization allowing her to take their two-year-old daughter out of the country. Although the charges were eventually dropped, he lost everything.

"After 10 days in the women's shelter...she decides to go to court with a story that gives her the house, gives her custody of the children, she already had my car, she cleaned out my bank account so she had my money, yet I still had to pay for the mortgage, food and everything else," says Howitt.

Howitt believes the "ex parte" system is unfair. In ex parte proceedings, designed to protect women in emergency situations, one party can appear in court without the other party's knowledge and without having to provide any evidence.

"That's a really good weapon for women to wield because 10 minutes in court she gets everything and the man is basically kicked out."

Howitt's wife took him to court seven times using legal aid although she is not a Canadian citizen. She now lives in Germany and is attempting to use the courts there to have Howitt pay her \$5,000 per month in living expenses and child support.

Howitt is fighting on this end to have his daughter, who he says was illegally taken out of the country, returned to Canada and have the courts here decide who should have custody.

Equal parenting is also being championed by MP Maurice Vellacott, who introduced a private member's motion in April seeking "more equity" in the way Canadian courts decide on custodial and access questions.

With an estimated 40 per cent of Canadian courts' legal time taken up with custody and access disputes, maybe it's not surprising that Vellacott's motion, which comes up for debate in the fall, has received some backing.

The Legislature of the Northwest Territories unanimously passed a supportive motion for Vellacott's initiative, and it also has the support of some Conservative and Liberal MPs.

"I think we have to fundamentally challenge that whole notion that the court has that authority to remove custody from a fit and loving parent in the absence of any kind of proven abuse," says Kruk.