

Response ID ANON-VPUF-TEB-F

Submitted to Review of Part 1 of the Children (Scotland) Act 1995 and creation of a family justice modernisation strategy
Submitted on 2018-07-31 12:02:35

Obtaining the views of a child

1 Should the presumption that a child aged 12 or over is of sufficient age and maturity to form a view be removed from sections 11(10) and 6(1)(b) of the 1995 Act and section 27 of the 2011 Act?

Not Answered

Why did you select your answer above? :

2 How can we best ensure children's views are heard in court cases?

If another way, please specify. :

Why did you select your answer above?:

3 How should the court's decision best be explained to a child?

Not Answered

If other, please specify::

Why did you select your answer above?:

4 What are the best arrangement for child welfare reporters and curators ad litem:

Not Answered

If another option, please specify. :

Why did you select your answer above?:

Parentage

14 Should the presumption that the husband of a mother is the father of her child be retained in Scots law?

Yes

Why did you select your answer above?:

There is no good reason why this should be changed.

15 Should DNA testing be compulsory in parentage disputes?

Not Answered

Why did you select your answer above?:

Parental Responsibilities and Rights

16 Should a step parents parental responsibilities and rights agreement be established so that step parents could obtain PRRs without having to go to court?

Not Answered

Why did you select your answer above?:

17 Should the term "parental rights" be removed from the 1995 Act?

No

Why did you select your answer above?:

There is a danger here of compromising the fundamental rights of parents to raise their children in accordance with their own beliefs and values. Parents have both rights and responsibilities in relation to their children and this is already acknowledged in law. The Named Person scheme has been a sobering experience for the Scottish Government; a scheme which threatened families with unwanted and unwarranted state intrusion in family life. Government

must take cognisance of the need to respect the principle of subsidiarity which entitles parents to be the ultimate decision maker for their children, and not the state; unless of course there are circumstances which requires intervention of services such as social work or the police.

18 Should the terms “contact” and “residence” be replaced by a new term such as “child’s order”?

Not Answered

Why did you select your answer above? If you answered yes what terms should be used? :

19 Should all fathers be granted PRRs?

Yes

Why did you select your answer above?:

Every child has two parents, a mother and a father, and their rights must be protected. This, in turn, means that both mother and father must take serious their responsibilities in relation to the child.

James Q Wilson, professor at Harvard and UCLA (University of California, Los Angeles) explains the academic consensus on the importance of a mother and father being present: “Almost everyone – a few retrograde scholars excepted – agrees that children in mother-only homes suffer harmful consequences: the best studies show that these youngsters are more likely than those in two-parent families to be suspended from school, have emotional problems, become delinquent, suffer from abuse and take drugs.”

There is a great deal of evidence which shows that a child benefits from the presence of both their mother and father, especially when the parents are married, and this is referenced in answer to Q23, below.

Denying a father automatic PRRs creates an unfair presumption that fathers are less capable to look after their children, which is not necessarily the case.

20 Should the law allowing a father to be given PRRs by jointly registering a birth with the mother be backdated to pre 2006?

Not Answered

Why did you select your answer above?:

21 Should joint birth registration be compulsory?

Yes

Why did you select your answer above?:

For the reasons set out at Q19 above. Further, Article 7 of the UNCRC states: “the child shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.” Making joint births registration compulsory still allows for exceptions such as those which exist in England.

22 Should fathers who jointly register the birth of a child in a country where joint registration leads to PRRs have their PRRs recognised in Scotland?

Not Answered

Why did you select your answer above?:

23 Should there be a presumption in law that a child benefits from both parents being involved in their life?

Yes

Why did you select your answer above?:

In addition to what is set out in our response to Q19 above and in addition to the Nuffield evidence outlined in the Consultation document, the following provides further evidence that a child benefits from having both parents in their life:

In a joint report (https://futureofchildren.princeton.edu/sites/futureofchildren/files/media/marriage_and_child_wellbeing_revisited_25_2_full_journal.pdf) in late 2015 from Princeton University and the Brookings Institute, David Ribar, from the University of Melbourne, writes: “Reams of social science and medical research convincingly show that children who are raised by their married, biological parents enjoy better physical, cognitive and emotional outcomes, on average, than children raised in other circumstances. ...Researchers have been able to make a strong case that marriage has causal impacts on outcomes such as children’s schooling, their social and emotional adjustment, and their employment, marriage and mental health as adults.”

A 2015 Research Survey (<http://familyinamerica.org/files/3214/5806/3564/Stanton.pdf>) traces the high-points of this body of literature from the early 1960s up to the present day, finding a continued increase in the knowledge that married mothers and fathers are a child’s most potent protection from poverty, abuse, school failure, criminal behaviour and serious emotional problems. This author explains, “One of the most significant determinants, if not the most significant, of whether a man, woman or child live some large part or all of their lives in poverty, is the family form they grow up in and those they go on to form—or fail to form—in their adulthood.”

A 2013 journal article (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3904543/pdf/nihms547588.pdf>) by scholars from Princeton, Cornell and University of California, Berkeley used advanced research designs to see if father absence really does have a causal rather than coincidental impact on child well-being. Reviewing 47 various studies on the topic, these scholars explain that “we find strong evidence that father absence negatively affects children’s social-emotional develop” and these affects stretch into later adolescence and beyond. They conclude, “The evidence is strongest and most consistent for outcomes such as high school graduation, children’s social-emotional adjustment, and adult mental health.”

The Report, “Why Marriage Matters, Third Edition: Thirty Conclusions from the Social Sciences,” (<http://www.americanvalues.org/search/item.php?id=81>) reported on the multiple benefits of marriage, including the advantages for children. A diverse team worked collectively on the report, including family scholars from U.C. Berkeley, Rutgers University and the Universities of Texas, Virginia, Minnesota, Chicago, Maryland and Washington. They found that children who lived with their own married parents, in general: Live longer, healthier lives both physically and psychologically; Do better in school; Are more likely to graduate from high school and attend college; Are less likely to live in poverty; Are less likely to be in trouble with the law; Are less likely to drink or do drugs; Are less likely to be violent or sexually active; Are less likely to be victims of sexual or physical violence; Are more likely to have a successful marriage when they are older.

A 2017 article (<http://thefederalist.com/2017/11/03/research-proves-no-1-social-justice-imperative-marriage/>) reviewed a number of studies showing marital status is one of the most important factors determining whether women and children will spend any of their lives in poverty. It reports that,

- o Adjusting for family size, family income is 73 percent higher for married women compared to that of their unmarried peers.
- o Married men benefit from an average annual economic “marriage premium” of at least \$15,900 per year compared to their unmarried peers.
- o This investigation also finds that the marriage premium is even more substantial for the most disadvantaged.

Another research organization that focuses on children, youth and their families is Child Trends. In a 2002 brief (<https://www.childtrends.org/wp-content/uploads/2002/06/MarriageRB602.pdf>) that reviewed the literature, they conclude: “Research clearly demonstrates that family structure matters for children, and the family structure that helps children the most is a family headed by two biological parents in a low-conflict marriage. Children in single-parent families, children born to unmarried mothers, and children in stepfamilies or cohabiting relationships face higher risks of poor outcomes than do children in intact families headed by two biological parents. Parental divorce is also linked to a range of poorer academic and behavioural outcomes among children. There is thus value for children in promoting strong, stable marriages between biological parents.”

Sociologist Professor Paul Amato of Pennsylvania State University has researched and written for decades about how family structure affects children, In 2005 he wrote, “Research clearly demonstrates that children growing up with two continuously married parents are less likely than other children to experience a wide range of cognitive, emotional, and social problems, not only during childhood, but also in adulthood.”

Professor Amato also published findings of his investigation of numerous research studies, in an article titled, “The Impact of Family Formation Change on the Cognitive, Social, and Emotional Well-Being of the Next Generation.” He wanted to know the differences between children raised in two-parent households versus one-parent households. He found that children who grow up in households with two continuously married parents are less likely to experience a wide range of problems. Children from single parent families have “more behavioural problems, more emotional problems, and lower levels of school engagement (that is, caring about school and doing homework).”

The reasons are simple, children who grow up in stable two-parent families have a higher standard of living. Hence they “receive more effective parenting, experience more cooperative co-parenting, are emotionally closer to both parents, and are subjected to fewer stressful events and circumstances.”

Even though divorce is now common, and 50% of marriages will end in divorce, children of divorced parents “continued to have lower average levels of cognitive, social, and emotional well-being.” The effects of divorce continue into adulthood where they often attain “lower socioeconomic attainment”, as well as experience “lower psychological well-being, poorer marital quality, and an elevated risk of seeing their own marriage end in divorce.”

Evidence shows that children flourish and experience better outcomes when they are raised in the presence of both parents, especially when those parents have committed their lives to one another and their offspring through the bond of matrimony. The number one social imperative for the Scottish Government must be to encourage marriage and family life, whilst always remaining attentive to the needs of those affected by marital and family break-ups. Government must provide the optimal social conditions to encourage marriage and openness to new life for it is here that we find the key solution to many of society’s ills.

24 Should legislation be made laying down that courts should not presume that a child benefits from both parents being involved in their life?

No

Why did you select your answer above?:

For the reasons set out in response to Q23 above.

25 Should the Scottish Government do more to encourage schools to involve non-resident parents in education decisions?

Not Answered

If other, please specify.:

Why did you select your answer above?:

26 Should the Scottish Government do more to encourage health practitioners to share information with non-resident parents if it is in the child’s best interests?

Not Answered

If other, please specify.:

Why did you select your answer above?:

27 Does section 11 of the 1995 Act need to be clarified to provide that orders, except for residence orders, or orders on PRRs themselves, do not automatically grant PRRs?

Not Answered

Why did you select your answer above?:

28 Should the Scottish Government take action to try and stop children being put under pressure by one parent to reject the other parent?

Not Answered

Why did you select your answer above? If you selected yes, what should be done?:

29 Should a person convicted of a serious criminal offence have their PRRs removed by the criminal court?

Not Answered

If other way, please explain.:

Why did you select your answer above?:

Conclusion

53 Do you have any comments about, or evidence relevant to:

If yes, please provide your comments below. :

54 Do you have any further comments?

Not Answered

If you have answered yes please provide your comments below. :

About you

What is your name?

Name:

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Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:

Catholic Parliamentary Office of the Bishops' Conference of Scotland

If you are responding as an organisation and want to tell us more about your organisation's purpose and its aims and objectives, you can do so here.:

The Bishops' Conference of Scotland is pleased to participate in this Scottish Government consultation on a review of part 1 of the Children (Scotland) Act 1995.

The Bishops' Conference of Scotland is a registered charity (No 16650). The Conference enables the Roman Catholic Bishops in Scotland to work together, undertaking nationwide initiatives through their Commissions and Agencies.

The members of the Bishops' Conference are the Bishops of the eight Scottish Dioceses. The Bishops' Conference of Scotland is a permanently constituted assembly, which has a number of commissions and agencies that assist it in carrying out its work.

The Catholic Parliamentary Office is an agency of the Bishops' Conference of Scotland and part of its remit is to engage with the work of Parliament and

Government, including responding to consultations and calls for evidence on behalf of the Bishops' Conference.

The Bishops' Conference of Scotland thanks the Scottish Government for the opportunity to respond to this consultation.

Where are you resident?

Scotland

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response with name

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes