

THE CASE FOR CHILD-CENTERED FAMILY LAW REFORM IN MASSACHUSETTS



PROPOSED REVISION OF SECTION 31 OF CHAPTER 208
AN ACT RELATIVE TO CHILD-CENTERED FAMILY LAW

AS PRESENTED BY THE GOVERNOR'S WORKING
GROUP FOR CHILD-CENTERED FAMILY LAW

GINSBURG LESHIN GIBBS & JONES, LLP

COUNSELORS AT LAW

MICHAEL L. LESHIN, ESQ
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January 27, 2015

Dear Members of the General Court:

During the spring of 2012, Governor Deval Patrick requested that his then Chief Legal Counsel, Mark Reilly, convene a Working Group on Child-Centered Family Laws ("the Working Group"). I was asked to serve as the facilitator. The Charge to the Working Group read as follows:

to review and recommend any necessary revisions to state laws to ensure that children's rights and interests are prioritized and protected during and following court proceedings pertaining to parental decision-making, responsibility and caretaking.¹

Two years later, the Working Group submitted to the Governor its "Proposed Section 31 of Chapter 208" in tandem with a "Facilitator's Report of the Working Group on Child-Centered Family Laws." I've included with this letter a list of the members of the Working Group. During the ensuing months, members of the Working Group have sought to have our draft bill transformed into legislation for filing with the General Court. On January 15, 2015, Senator Anne Gobi did just that with the filing of Senate Docket No. 1061.

Through the lens of practicing family law as both an attorney and mediator for thirty years, I write to share with you my thoughts on the importance of this legislation.

1. It articulates a public policy that the Commonwealth "encourages shared parental responsibilities" and child-centric parenting plans; as well as a policy that parenting plans shall be incorporated into any order or judgment relating to parental responsibility for minor children.
2. It substitutes the following child-centric nomenclature for the regressive language of "custody" and "visitation":

¹ An AFCC (Association of Family and Conciliation Courts) "think tank" has advocated reframing "caretaking" as "caregiving", a more child-centric term.

- a. "Legal Custody" is recast as "Decision-Making Responsibility."
 - b. "Physical Custody" is recast as "Residential Responsibility."
 - c. In expanding the scope of what had been denoted as "shared physical custody", "shared residential responsibility" embraces parenting plans where a child resides with each parent for more than one-third of the time. It notes that "shared" does not necessarily mean "equal." And, as well, this term can embrace any agreed-upon parenting plan. Expanding the universe of parenting arrangements denoted as "shared" provides more parents with the status and dignity not available by virtue of the limited definition of "shared physical custody", which in practice has been primarily used only for "50/50" parenting plans.
 - d. In lieu of using the term "sole" in contrast to "shared" as set forth in the present version of Section 31, the adjective "primary" replaces "sole", and provides a more child-centric term for those parenting plans where a parent has less than one-third of the time with the child.
 - e. The term "visitation" has been replaced by the concept of "parenting time."
3. It delineates factors for courts to consider in determining how to allocate parental responsibility, including a list of "limiting factors."
 4. The litigation-oriented language providing for "a shared custody implementation plan" has been retrofitted. The revised Section 31 provides for the incorporation of parenting plans into Separation Agreements as well as orders and judgments. In addition, it sets out a comprehensive list of features that parenting plans should address.
 5. The delineation of remedies for noncompliance with a parenting plan expands upon the rather limited remedies provided for in General Laws Chapter 215, Section 34A.

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The laws of the Commonwealth of Massachusetts need to give voice to the public policy articulated in Paragraph A of this legislation, namely, to promote the best interest of children by supporting safe, healthy, and meaningful relationships between children and their parents. The language of the law and of parenting needs to embrace the child-centric focus of sharing responsibility and eliminate any use of the problematic labels of "custody" and "visitation." We promote the best interests of children when we encourage the sharing of parental responsibility.

If you have any questions about the Working Group and the process which gave birth to Senate Docket No 1061, please do not hesitate to contact me. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Michael L. Leshin". The signature is written in a cursive style with a large initial 'M' and a long horizontal stroke at the end.

Michael L. Leshin

/ml

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Working Group Members

Participant	Organization/Position
Rachel Biscardi	Women's Bar Association
David Calvo	A Father's Voice
Chief Justice Paula Carey, succeeded by the Hon. Angela Ordoñez upon her elevation to this post on July 16, 2013 and Judge Carey's assuming the role of Chief Justice of the Trial Court	Probate and Family Court ²
Senator Cynthia Stone Creem	Massachusetts Senate
Robin Deutsch	Child and family forensic psychologist
John Fiske	Boston Bar Association
Richard Fucillo	Citizen representative
Gail Garinger	Office of the Child Advocate
Richard Gedeon	Family law practitioner
Sheridan Haines	Governor's Council to Address Sexual Assault and Domestic Violence
Peter Hill	Fatherhood Coalition ³
Ned Holstein	National Parents Organization, Founder and Chairman of the Board ⁴
Joyce Kauffman	Massachusetts LGBTQ Bar Association
Marsha Kline Pruett	Researcher and clinical psychologist
Michael Leshin	Governor's Office representative - Facilitator
Representative Eugene O'Flaherty	Massachusetts House of Representatives
Christina Paradiso	Community Legal Aid
Denise Squillante	Massachusetts Bar Association
Anita Robboy	Academy of Matrimonial Lawyers, Massachusetts chapter
Congresswoman Katherine Clark succeeded by Senator William N. Brownsberger ⁵	Massachusetts Senate

² On behalf of the Probate and Family Court, as of March of 2013, Denise Fitzgerald, Manager of Legal Research Services, participated, providing thoughtful guidance.

³ Due to a disagreement with the leadership of the Fatherhood Coalition as to an October 2013 letter sent to the Governor concerning the Working Group, Peter Hill resigned from this organization. He continued to serve on the Working Group in his individual capacity.

⁴ During Ned Holstein's tenure the organization changed its name to the National Parents Organization from Fathers and Families.

⁵ In March of 2013, then Deputy Chief Legal Counsel Nicholas Martinelli invited then Senator Katherine Clark to participate in the Working Group. Following her election to Congress, her successor as Co-Chair of the Joint Committee on the Judiciary, Senator William N. Brownsberger was asked to participate.



Attorney Denise Squillante
Member of the Committee
Former President of the Mass Bar

“The parenting bill proposal took months of work from a group of various individuals with differing interests and representative groups. The proposed legislation eliminates antiquated labels for parenting, provides factors for the court to consider, and maintains judicial discretion. This proposed legislation provides a workable and understandable framework for litigants to understand important considerations that the court will utilize when the needs of a child, which are paramount, are being considered in developing the parenting plan and parental responsibilities.”

Denise Squillante

SENATE No. 834

The Commonwealth of Massachusetts

PRESENTED BY:

Anne M. Gobi

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to Child-Centered Family Law.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>James E. Timilty</i>	<i>Bristol and Norfolk</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>
<i>Viriato M. deMacedo</i>	<i>Plymouth and Barnstable</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Theodore C. Speliotis</i>	<i>13th Essex</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>
<i>Jeffrey N. Roy</i>	<i>10th Norfolk</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Shawn Dooley</i>	<i>9th Norfolk</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>

<i>Diana DiZoglio</i>	<i>14th Essex</i>
<i>David T. Vieira</i>	<i>3rd Barnstable</i>
<i>Michael D. Brady</i>	<i>9th Plymouth</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>
<i>Anthony W. Petruccelli</i>	<i>First Suffolk and Middlesex</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>
<i>Bradford R. Hill</i>	<i>4th Essex</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Shaunna L. O'Connell</i>	<i>3rd Bristol</i>
<i>Carole A. Fiola</i>	<i>6th Bristol</i>
<i>Donald R. Berthiaume, Jr.</i>	<i>5th Worcester</i>
<i>Paul Tucker</i>	<i>7th Essex</i>
<i>Walter F. Timilty</i>	<i>7th Norfolk</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>

TAB 1

Proposed Legislation

SENATE No. 834

By Ms. Gobi, a petition (accompanied by bill, Senate, No. 834) of Anne M. Gobi, Sal N. DiDomenico, James E. Timilty, Jason M. Lewis and other members of the General Court for legislation relative to Child-Centered Family Law. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to Child-Centered Family Law.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 208 of the General Laws is amended by striking out section 31, as
2 appearing in the 2012 Official Edition, and inserting in place thereof the following section:-

3 Section 31. Parenting of Children.

4 A. Public Policy Statement. It is the policy of the Commonwealth to promote the best
5 interest of children by supporting safe, healthy, and meaningful relationships between children
6 and their parents. Each parent has a right to parent his or her child absent any limiting factor to
7 the contrary and subject to the court’s determination of each child’s best interest. The
8 Commonwealth encourages shared parental responsibilities and parenting plans that prioritize the
9 unique needs and evolving maturity of each child consistent with the safety and well-being of the
10 child. A parenting plan shall be incorporated into every temporary order, judgment of divorce
11 nisi and modification judgment involving parental responsibility for minor children.

12 B. Definitions. For purposes of this section, the following terms shall have the meanings
13 set forth below:

14 1. “Decision-Making Responsibility”

15 a. Shared. Both parents shall have mutual responsibility and involvement in major
16 decisions regarding the child’s welfare including matters of education, medical care, and
17 emotional, moral and religious development, in accordance with the best interest of the child.

18 b. Sole. A parent shall have the responsibility to make major decisions regarding the
19 child’s welfare including matters of education, medical care, or emotional, moral and religious
20 development, in accordance with the best interest of the child.

21 2. “Residential Responsibility”

22 a. Shared. A child shall have periods of residing with and being under the care and
23 responsibility of each parent; provided, however, that such periods shall be shared by the parents
24 in such a way as to assure a child frequent, continued and developmentally appropriate contact
25 with both parents and in accordance with the best interest of the child. Time with each parent
26 may but shall not necessarily be equal. Unless the parents agree or the court determines
27 otherwise, a child shall reside one-third of the time or more with each parent.

28 b. Primary. A child shall reside with and be under the care and responsibility of one
29 parent for at least two-thirds of the time, and have reasonable parenting time with the other
30 parent, unless the court determines that such time with the other parent would not be in the best
31 interest of the child.

32 3. "Parental Responsibility." This term shall encompass both decision-making and
33 residential responsibility.

34 4. "Parenting Plan." A written plan describing parental responsibility relative to each
35 child.

36 C. Decision-Making Responsibility Prior to the Entry of Court Order or Judgment.
37 Parents shall have shared decision-making responsibility of any minor child of their marriage
38 until a court orders otherwise.

39 D. Determination of Parental Responsibilities. In determining parental responsibilities,
40 both at the time of entry of temporary orders and judgment, the court shall be guided by the best
41 interest of the child, and shall consider both G. L. c. 208, § 31A1, if applicable, and the
42 following factors:

43 1. The relationship of the child with each parent.

44 2. The reasonable wishes of the child, if the child is of sufficient age, capacity, and
45 understanding. When considering the child's wishes, the court shall also give due consideration
46 to factors which may have unduly influenced the child's preference.

47 3. The ability of each parent to communicate and cooperate with the other parent and
48 participate in making joint decisions concerning the child.

49 4. The present and expected physical, emotional, and geographical availability of each
50 parent.

51 5. The present interest, desire, and abilities of each parent to fulfill caregiving functions,
52 as well as the history of caregiving functions provided by each parent. Caregiving functions are

53 tasks that involve direct interaction with the child or arranging and supervising the interaction
54 and care provided by others.

55 6. The ability of a parent to foster a positive relationship and frequent and continuing
56 physical, written, electronic, telephonic, and other contact between the child and the other parent.

57 7. Any other additional factors the court deems relevant.

58 Any award of temporary sole decision-making responsibility shall be supported by a
59 written rationale.

60 E. Limiting Factors. Factors that may restrict parenting time include, but are not limited
61 to, the following:

62 1. A parent's emotional abuse of a child.

63 2. A parent's having inflicted abuse on the other parent or child as provided for in G. L. c.
64 208, § 31A.

65 3. A parent's abuse of drugs, alcohol, or another substance that interferes with a parent's
66 caregiving of the child or exposes the child to harm.

67 4. A parent's incarceration.

68 5. A parent's involving or attempting to involve the child in the parents' dispute through
69 manipulation or coercive behavior.

70 6. A parent's obstructing or impeding communication, cooperation, parenting time, or
71 shared decision-making or attempting to do so.

72 7. A parent’s interference with the other parent’s access to the child, absent a reasonable,
73 good-faith belief as to protecting the child, parent or household member from physical or severe
74 or persistent emotional harm by the other parent, and subject to judicial findings as to any such
75 reasonable, good-faith belief.

76 8. A parent’s knowingly providing false information to any court regarding parenting.

77 9. A parent’s conviction for a child-related sexual offense.

78 10. Any other additional factors or behaviors that interfere with a parent’s caregiving of
79 the child or expose the child to harm, as the court deems relevant.

80 F. Parenting Plans.

81 1. A parenting plan shall be incorporated into any separation agreement concerning a
82 minor child. Further, a proposed parenting plan shall be filed simultaneously with any request
83 that an order or judgment pursuant to this section be issued or at such other time as permitted by
84 the court.

85 2. A parenting plan shall include the following as applicable:

86 a. Decision-making responsibilities, which may detail provisions for consultation
87 between and notice to parents;

88 b. Residential responsibilities;

89 c. Legal residence of a child for school enrollment;

90 d. Parenting schedule, which may detail the following:

- 91 1. Weekdays;
- 92 2. Weekends, including holidays and school in-service days preceding or following
93 weekends;
- 94 3. Holidays, school vacations, birthdays and summer and such other vacation planning;
- 95 4. Child's extracurricular and school activities;
- 96 5. Transportation and exchange of the child; and
- 97 6. Process for periodic changes to the schedule;
- 98 e. Information sharing and access, including telephone and electronic access;
- 99 f. Notice and protocols as to travel with the child;
- 100 g. Relocation of a parent within the Commonwealth of Massachusetts;
- 101 h. Safety of the child;
- 102 i. Safety of each parent;
- 103 j. Nondisclosure of a child's or parent's address on any academic or health record if
104 necessary to ensure his or her health, safety or welfare;
- 105 k. Procedure for review of the plan; and
- 106 l. Methods for resolving disputes.
- 107 3. A parenting plan may also include other provisions that further a child's best interest,
108 as well as provisions which address foreseeable changes in a child's or parent's circumstances.

109 G. Compliance. Upon a finding of contempt for noncompliance with a parenting plan, as
110 additional remedies, the court may order any of the following:

111 1. Adjustment of the parenting plan as informed by any such failure of a parent to comply
112 with the parenting plan;

113 2. Reimbursement for any of the following incurred as a result of the other parent's
114 failure to comply with the parenting plan:

115 a. reasonable child care and related expenses;

116 b. reasonable travel and related expenses; or

117 c. lost wages.

118 3. Attendance at an appropriate parenting education course; or

119 4. Award of counsel fees and costs.

TAB 2

Summary of SB 834

Summary of the Provisions of the Proposed Bill

The Governor's Working Group on Child-Centered Family Law, convened by Governor Patrick, produced a complete re-write of MGL 208, Section 31. The proposed bill incorporates the following features:

- Applies to divorce only, not to out-of-wedlock children
- Preserves undiminished judicial discretion
- Preserves "best interest of the child" standard, referencing this phrase seven times
- Preserves untouched all existing statutory and case law protections against domestic violence, for instance, MGL 208, Section 31A
- Incorporates hostility-decreasing terminology such as "primary residential responsibility" instead of "sole physical custody"
- "Encourages", but does not mandate, nor establish any presumption in favor of, shared parental responsibility
- Defines shared residential responsibility as a parenting schedule in which the child spends at least one-third of the time with each parent, but does not mandate nor establish any presumption in favor of this arrangement
- Identifies the "present interest, desire, and abilities of each parent to fulfill caregiving functions", as well as the "history of caregiving functions provided by each parent" as factors in determining parental responsibilities
- Identifies the ability of each parent to communicate and cooperate with the other parent as a factor in determining parental responsibilities
- Identifies the ability of a parent to foster a positive relationship and frequent contact between the child and the other parent as a positive factor in determining parental responsibilities, and the reverse
- Requires the preparation of a parenting plan addressing the most frequent issues regarding division of parental responsibilities
- Establishes new sanctions that the court may employ, in addition to a finding of contempt, for parents who fail to comply with the court-ordered parenting plan

TAB 3

Current Statute

Current Massachusetts Custody Statute for Children of Married Parents

MGL Chapter 208 Divorce

Section 31. For the purposes of this section, the following words shall have the following meaning unless the context requires otherwise:

“Sole legal custody”, one parent shall have the right and responsibility to make major decisions regarding the child’s welfare including matters of education, medical care and emotional, moral and religious development.

“Shared legal custody”, continued mutual responsibility and involvement by both parents in major decisions regarding the child’s welfare including matters of education, medical care and emotional, moral and religious development.

“Sole physical custody”, a child shall reside with and be under the supervision of one parent, subject to reasonable visitation by the other parent, unless the court determines that such visitation would not be in the best interest of the child.

“Shared physical custody”, a child shall have periods of residing with and being under the supervision of each parent; provided, however, that physical custody shall be shared by the parents in such a way as to assure a child frequent and continued contact with both parents.

In making an order or judgment relative to the custody of children, the rights of the parents shall, in the absence of misconduct, be held to be equal, and the happiness and welfare of the children shall determine their custody. When considering the happiness and welfare of the child, the court shall consider whether or not the child’s present or past living conditions adversely affect his physical, mental, moral or emotional health.

Upon the filing of an action in accordance with the provisions of this section, section twenty-eight of this chapter, or section thirty-two of chapter

two hundred and nine and until a judgment on the merits is rendered, absent emergency conditions, abuse or neglect, the parents shall have temporary shared legal custody of any minor child of the marriage; provided, however, that the judge may enter an order for temporary sole legal custody for one parent if written findings are made that such shared custody would not be in the best interest of the child. Nothing herein shall be construed to create any presumption of temporary shared physical custody.

In determining whether temporary shared legal custody would not be in the best interest of the child, the court shall consider all relevant facts including, but not limited to, whether any member of the family abuses alcohol or other drugs or has deserted the child and whether the parties have a history of being able and willing to cooperate in matters concerning the child.

If, despite the prior or current issuance of a restraining order against one parent pursuant to chapter two hundred and nine A, the court orders shared legal or physical custody either as a temporary order or at a trial on the merits, the court shall provide written findings to support such shared custody order.

There shall be no presumption either in favor of or against shared legal or physical custody at the time of the trial on the merits, except as provided for in section 31A.

At the trial on the merits, if the issue of custody is contested and either party seeks shared legal or physical custody, the parties, jointly or individually, shall submit to the court at the trial a shared custody implementation plan setting forth the details of shared custody including, but not limited to, the child's education; the child's health care; procedures for resolving disputes between the parties with respect to child-raising decisions and duties; and the periods of time during which each party will have the child reside or visit with him, including holidays and vacations, or the procedure by which such periods of time shall be determined.

At the trial on the merits, the court shall consider the shared custody implementation plans submitted by the parties. The court may issue a shared legal and physical custody order and, in conjunction therewith, may accept the shared custody implementation plan submitted by either party or by the parties jointly or may issue a plan modifying the plan or plans submitted by

the parties. The court may also reject the plan and issue a sole legal and physical custody award to either parent. A shared custody implementation plan issued or accepted by the court shall become part of the judgment in the action, together with any other appropriate custody orders and orders regarding the responsibility of the parties for the support of the child.

Provisions regarding shared custody contained in an agreement executed by the parties and submitted to the court for its approval that addresses the details of shared custody shall be deemed to constitute a shared custody implementation plan for purposes of this section.

An award of shared legal or physical custody shall not affect a parent's responsibility for child support. An order of shared custody shall not constitute grounds for modifying a support order absent demonstrated economic impact that is an otherwise sufficient basis warranting modification.

The entry of an order or judgment relative to the custody of minor children shall not negate or impede the ability of the non-custodial parent to have access to the academic, medical, hospital or other health records of the child, as he would have had if the custody order or judgment had not been entered; provided, however, that if a court has issued an order to vacate against the non-custodial parent or an order prohibiting the non-custodial parent from imposing any restraint upon the personal liberty of the other parent or if nondisclosure of the present or prior address of the child or a party is necessary to ensure the health, safety or welfare of such child or party, the court may order that any part of such record pertaining to such address shall not be disclosed to such non-custodial parent.

Where the parents have reached an agreement providing for the custody of the children, the court may enter an order in accordance with such agreement, unless specific findings are made by the court indicating that such an order would not be in the best interests of the children.

TAB 4

Rationale

Rationale for The Proposed Bill Revising the Massachusetts Child Custody Statute



Child Centered Family Law Reform

SB 834

Rationale for The Proposed Bill Revising the Massachusetts Child Custody Statute

Summary

The proposed legislation will benefit Massachusetts for numerous reasons.

- It will be a four-way win for children, women, men and the larger society.
- There is a broad consensus that Section 31 of MGL 208 is outdated.
- The proposed re-write of Section 31 was authored by a diverse group of distinguished representatives of all major stakeholders, a group appointed by former Governor Deval Patrick.
- It enjoys broad support from legislators, media, and the general public.
- It honors the best interest of the child, referencing that standard seven times, and judicial discretion. It maintains all protections against domestic violence.
- It makes no changes to the way child support orders are calculated.
- It favors parents who seek to cooperate with the other parent, and who support the child's relationship with the other parent.

- It gives the court additional powers to punish parents who ignore its parenting time orders.
- It replaces harsh language such as “custody” with terms such as “parental responsibility.”
- It encourages, but does not require, the court to award at least one-third of the parenting time to each parent. This is a win for children. A large majority of child development researchers have now reached the consensus that shared parenting leads to happier and more successful children in most cases. Yet rates of shared parenting in Massachusetts remain low.
- Aunts, uncles and grandparents will no longer be in danger of losing contact with children they love because of being on the wrong side of the family after a sole-custody decision. Children will not lose their loving bonds with half their extended family.
- Shared parenting is overwhelmingly favored by Massachusetts men and women if there has been no domestic violence and both parents are fit.
- Numerous media have supported shared parenting.
- Sixteen common myths often put forward by opponents of shared parenting are unsupported.
- Women win when their children and grandchildren thrive.

- Women will be able to compete in the workplace more successfully, and progress will be made towards closing the gender wage gap.
- Bitterness between ex-spouses will diminish.
- More child support and college expenses will be paid.
- Non-biological lesbian mothers will be protected from any possible bias of the family courts in favor of biological moms.
- Fatherlessness will decrease. Neither men nor women will suffer the heartbreak of losing most of their contact with their children.
- These reforms come at no cost to the taxpayer, in fact, diminished costs of the social safety net are likely because children will do better.
- As better adjusted and more successful children emerge into adulthood, society as whole will benefit.

Rationale In Depth

Background

There is a broadly-held consensus that the current custody law for children of divorcing parents, MGL 208, Section 31, needs to be updated. It is composed of a patchwork of amendments to an old core, is badly outdated, and fails to give courts guidance that is consistent with research findings on the best interests of the child.

The proposed re-write of Section 31 was written by a distinguished Working Group convened by former Governor Deval Patrick, and has been co-sponsored as legislation by nearly 25% of the state legislators. The members of the Working Group were members of the Massachusetts Bar Association, the Boston Bar Association, Massachusetts LGBTQ Bar Association, Academy of Matrimony Lawyers, The Women's Bar Association, The Probate and Family Court, The Commonwealth's Child Advocate, The House and Senate Co-Chairs of the Judiciary Committee, Governor's Council to Address Sexual Assault and Domestic Violence, leading child development researchers, and the National Parents Organization. All members of the Working Group endorsed the final bill.

The proposed bill enjoys broad support, as indicated by the diverse stakeholders and experts who developed it. It is a win-win-win for children, mothers and fathers.

A Win for Children

The proposed bill preserves judicial discretion, the “best interest of the child” standard (referencing this standard seven times in the text) and all statutory and case law protections against domestic violence. It makes no changes to the way child support orders are calculated. It incorporates child-friendly language, such as “responsibility” instead of “custody,” that will decrease parental hostility and conflict, to the advantage of children. It benefits the child by incentivizing parental cooperation and each parent's fostering of the child's relationship with the other parent. It provides stronger tools for sanctioning parents who fail to abide by the court's orders concerning parenting time.

It recognizes that the present intentions and abilities of each parent to perform the role of child caretaker are as important as the couple's historical division of labor. Thus, for example, if the historical breadwinner is also a talented caregiver, this provision allows the court to award parenting time such that the child will benefit from ample time with this parent too, which happens rarely under the current statute.

Shared Parenting Better For Children

The proposed bill encourages, but does not establish a preference for or presumption of, shared parental responsibility, defined as residence with each parent at least one third of the time. A strong consensus has emerged among child development researchers that shared parenting leads to the best outcomes for children in a large majority of cases, with obvious exceptions such as domestic violence or other forms of parental unfitness.

Children are the greatest beneficiaries of shared parenting. Massachusetts recognized this as long ago as 2006. Working with the “encouragement and support” of the Massachusetts Probate and Family Courts, a panel of child development and legal experts of the Association of Family and Conciliation Courts (AFCC) concluded that, “Children do best when both parents have a stable and meaningful involvement in their children’s lives,” (“Planning for Shared Parenting,” 2006, pg. 1).

In 2014, a momentous series of publications appeared. Three separate consensus statements by groups of child development experts supported shared parenting as the preferred outcome for children of divorce if both parents are fit and there has been an absence of domestic violence.

In January, 2014, the American Psychological Association published a paper reviewing decades of child development

research. Authored by Dr. Richard Warshak at the University of Texas, the paper concluded, "...shared parenting should be the norm for parenting plans for children of all ages, including very young children." This conclusion was endorsed by 110 eminent authorities around the world. A brief paper by Dr. Warshak summarizing these findings can be found at the end of this section.

In April, 2014, the AFCC published the recommendations of 32 family law experts. This group concluded, "Considered as a body of work, the efficacy of shared parenting has been supported for children of preschool age and older." They also stated, "Parents who choose these arrangements have reported that their children are better adjusted across multiple measures than their sole-custody or step family peers." While these experts expressed numerous caveats, they clearly endorsed shared parenting whenever possible. Two members of the Governor's Working Group served on this distinguished panel.

Finally, in July, 2014, the First International Conference on Shared Parenting drew researchers from over 20 mostly European countries to Bonn, Germany. Their consensus statement included the following, "There is a consensus that shared parenting is a viable post-divorce parenting arrangement that is **optimal to child development and well-being**, including for children of high conflict parents." [emphasis added]

Thus, three large groups of experts, drawn from over 20 developed countries in Europe, North America, Australia, Israel, New Zealand, Japan, and Africa have for the first time summarized 30 years of child development research and concluded that shared parenting by fit parents after divorce in most cases leads to better outcomes for children.

Public Support For Shared Parenting

Experts are not the only ones who favor shared parenting. It is overwhelmingly favored by the Massachusetts electorate as well, as shown by the results of a non-binding ballot initiative in which 86% of about 700,000 Massachusetts voters supported shared parenting as the usual outcome. The exact wording and the ballot results are reported district-by-district elsewhere in this booklet. These results refute the idea promoted by some that shared parenting is “controversial.” And with 86% of the vote in favor, it is obvious that both men and women overwhelmingly support this idea.

Shared Parenting Unusual Today in Massachusetts

Most people assume shared parenting is the usual outcome after parental divorce in this day of gender equality. But in fact, this remains an unusual outcome.

Only two studies have been carried out of custody decisions in the Massachusetts family courts. The first was a 1993 unpublished doctoral thesis by Joseph McNabb, now a professor at Northeastern University. McNabb looked at 501 consecutive divorce outcomes in 1993 in Worcester County. He found that shared parenting (joint physical custody) was the outcome in only 6.4% of cases. Fathers received sole physical custody in 8.8% of cases, and mothers received sole physical custody in 83.2% of cases.

It is often argued that McNabb’s data is obsolete and that shared parenting is far more common today. But recent data suggest little has changed since 1993.

Data has now been gathered by a recent graduate of New England School of Law. She pulled all of the available files for divorce

cases filed in Middlesex County, Massachusetts during May 2011. There were 243 divorce filings. There were minor children at issue in 144 of these cases. Only 7.5 % of these children ended up with true shared parenting or "joint physical custody." Mothers won sole physical custody of the child(ren) in 84% of cases, and fathers won sole physical custody in 8.5% of cases. Data from other states give comparable results in most cases.

Single Parenting Not Working Well

The alternative to shared parenting is a continuation of the damaging one-size-fits-all tradition of sole custody to one parent. Unfortunately, being raised by a single parent, despite exhausting and courageous efforts by such parents, is one of the strongest predictors of negative outcomes for children, stronger even than socioeconomic status or race for many measures. The majority of children with serious developmental difficulties grow out of this incubator.

The Centers for Disease Control, the Department of Justice, the Bureau of the Census and numerous researchers have reported alarming outcomes for the 35% of children who are raised by single parents. These problems for the most part have not been significantly improved by over 20 years of amply-funded measures to collect child support, nor by 50 years of the social safety net, so money alone does not seem to be a curative factor. Children raised by single parents account for:

- 63% of teen suicides
- 70% of juveniles in state-operated institutions
- 71% of high school drop-outs
- 75% of children in chemical abuse centers
- 85% of those in prison
- 85% of children who exhibit behavioral disorders
- 90% of homeless and runaway children

Whether the problem is emotional disturbances of children, drug use, alcohol use, teen pregnancy, poor performance in school, trouble with the law or running with gangs, being raised by a single parent is a powerful risk factor. Conversely, children on average do much better on all these measures if they have shared parenting. Children ardently desire shared parenting in most cases, and are happier with it.

Sixteen Shared Parenting Myths

Like zombies, certain myths concerning shared parenting inevitably spring to life whenever there is a legislative proposal that encourages this arrangement. Many times these myths have no basis whatsoever in fact, yet they seem to live forever. Here is a brief treatment of many of recurring myths.

***Myth 1:** Children do better if parenting time is allotted in proportion to the amount of time each parent spent in childcare during the marriage.*

Response: This is refuted in an article by Professor Linda Nielsen reprinted at the end of this section.

***Myth 2:** Infants and toddlers have one primary “attachment figure” from whom they cannot be separated for long periods of time such as an overnight with the other parent.*

Response: This is refuted in an article by Professor Linda Nielsen reprinted at the end of this section.

***Myth 3:** Infants and toddlers who spend overnights with their fathers show signs of maladjustment.*

Response: This is refuted in an article by Professor Linda Nielsen reprinted at the end of this section.

***Myth 4:** Most children want to live with only one parent and to have only one home, and do not want to be dragged back and forth as “suitcase kids.”*

Response: This is refuted in an article by Professor Linda Nielsen reprinted at the end of this section.

***Myth 5:** When there is high verbal conflict between the parents, children do better when their time with their father is limited.*

Response: This is refuted in an article by Professor Linda Nielsen reprinted at the end of this section.

***Myth 6:** The amount of verbal conflict (as opposed to physical conflict) should be a primary factor when deciding how to allocate parenting time.*

Response: This is refuted in an article by Professor Linda Nielsen reprinted at the end of this section.

***Myth 7:** Both parents have to agree to share the residential parenting, otherwise these families will fail.*

Response: This is refuted in an article by Professor Linda Nielsen reprinted at the end of this section.

***Myth 8:** Most shared residential families fail, and the children end up living with one parent anyway.*

Response: This is refuted in an article by Professor Linda Nielsen reprinted at the end of this section.

***Myth 9:** The quality of children’s relationships with their fathers is not related to how much time they spend together after the divorce.*

Response: This is refuted in an article by Professor Linda Nielsen reprinted at the end of this section.

***Myth 10:** Shared parenting is a ploy to reduce child support.*

Response: Fathers who share parenting are most likely to pay child support, to give more money than called for by the child support order, and to voluntarily pay for college (references supplied on request). This bill does not change the calculation of child support in any way.

***Myth 11:** Shared parenting is a one-size-fits-all straightjacket.*

Response: What we currently have is a one-size-fits-all approach, when we see that about 84% of outcomes are the same: sole physical custody for the mother. This legislation will help to loosen the straightjacket, not tighten it.

***Myth 12:** Shared parenting is too disruptive for children.*

Response: Parenting schedules would not require any more transitions than with current “visitation” arrangements. Children would simply stay longer, minimizing disruption.

***Myth 13:** Shared parenting will create a host of practical problems.*

Response: When parents anticipate shared parenting as the likely outcome, they will plan accordingly and prevent practical problems such as long distances between homes.

***Myth 14:** Shared parenting will clog the courts with litigation and re-litigation.*

Response: There is no evidence to support this assertion. Just as now, 95% of couples will settle their cases “in the shadow of the law.” The most frequent reason fathers re-litigate their cases -- to gain more access to their children --- will be removed in most cases. A. M. Keith, former Chief Justice of the Minnesota Supreme Court, stated, “I believe this presumption [in favor of shared parenting] will help settle at least 25 to 30 percent of all child custody cases...I have been involved in over 1,200 divorces.”

***Myth 15:** Shared parenting was tried in California, but it was harmful to the best interests of children and so was rescinded.*

Response: This perennial chestnut has no basis in fact. Assembly Bill 1480 (Imbrecht), Chapter 915, Statutes of 1979, is the bill referenced which created the basis for current California custody awards. In AB 1480, one of the early versions did create a strong presumption of joint custody; however, the bill as passed and signed (Chaptered) does not. The Minority Leader in a letter to the Governor requesting signature states, "This legislation to reform California's child custody law allows a judge to award either sole or joint custody of children as a first priority in divorce cases. Under present law, only sole custody is provided as the first priority, with custody to persons in whose home the child has been

living as a second option. The judge may not consider joint custody as an alternative." (emphasis added). Furthermore, the Enrolled Bill Report which details the contents of the bill for the Governor before signing states that AB 1480 would: "Amend Civil Code Section 4600 to authorize an award of joint custody" (emphasis added).

In summary, there was created, and still exists statutorily, an opportunity for parents to request shared parenting in California, whereas prior to 1979 it was not allowed. There was never a statute favoring shared parenting, nor was there ever any evidence that such a provision, if it ever existed, failed.

***Myth 16:** Shared parenting legislation was enacted in Australia but was later rescinded because it was causing negative outcomes.*

Response: Australia did indeed pass a country-wide law containing a rebuttable presumption of shared parenting in 2006. In 2010, after control of the government had changed to the other party, it appointed Dr. Jennifer McIntosh, a known opponent of shared parenting, as the lead investigator to assess and report on the impact on preschoolers of overnights with their fathers. Dr. McIntosh issued an official report, plus numerous publications in research journals, reporting various ways that, in her view, shared parenting had produced negative results.

As a result, various jurisdictions in Australia did, in fact, pull back from shared parenting, based on the McIntosh report. According to The National Age, an Australian newspaper, "The influence of this study on Australia's family law system has been so profound that barristers have a special phrase to describe the common experience of losing the battle for some overnight care of toddlers – they joke they've been 'McIntoshed.'"

However, McIntosh came under intense criticism from other researchers in Australia, Canada and the United States, who demonstrated convincingly that her representations concerning what the data showed were clearly divergent from the data itself. They demonstrated that in fact, the data showed overall improved outcomes for children.

As a result of the obvious discrepancies between the actual data and McIntosh's interpretation of it, she retracted. She co-authored a paper in 2014 in *Family Court Review* titled *Parental separation and overnight care of young children: Consensus through Theoretical and Empirical Integration*. In this paper, the authors acknowledge that based on the current research evidence, "cautions against any overnight care during the first three years have not been supported". Around the same time, of course, the three consensus groups described above reviewed the world literature, including the experience in Australia, and endorsed shared parenting, including for preschoolers.

In summary, Australia did in fact pass a law with a presumption of shared parenting, and its courts did in fact retreat from this. The retreat was based on a politically-tinged process in which Jennifer McIntosh, a known opponent of shared parenting, was appointed to assess the results of the law. In 2014, McIntosh retracted her characterization of the Australian results in print, and three consensus groups reviewed the world literature, including the experience in Australia, and found that shared parenting is generally beneficial for children.

A Win For Women

There are at least nine reasons why child-centered family law reform is good for women.

- 1) **Kids love it.** As documented above, children desire these reforms and will do better if they are enacted. If children are happier, better adjusted and more successful, mothers, aunts and grandmothers are happier too.
- 2) **Moms can pursue ambitious careers.** The current model assigns nearly 90 percent of the parenting time to mom, which limits her time and ability to pursue career goals. When moms and dads share parenting time, moms have equal time to pursue their career goals. Since almost 30% of mothers are saddled with nearly fulltime single parenting, the “pay gap” can be narrowed with shared parenting.
- 3) **Moms will have more time to pursue a social life or other interests.** Those who choose to re-partner will find themselves more appealing prospective mates than if they carried the demands of nearly fulltime parenting.
- 4) **Moms will receive more child support.** Child support compliance increases dramatically with shared parenting, in some studies all the way to 97%.
- 5) **Moms experience less conflict and domestic violence.** Shared parenting eliminates the winner-loser dynamic we see in family court today. Research shows that as a result, shared parenting decreases bitter and expensive custody battles, decreases subsequent hostility between parents, and decreases new incidents of domestic violence.

- 6) **Mothers will not have to worry about becoming non-custodial parents.** As more moms become primary breadwinners in their families, more are also at risk of finding themselves the non-custodial parent, seeing their children only every other weekend and paying child support to their ex. Shared parenting protects breadwinner moms and enables the success of women in the workplace.
- 7) **Grandmothers and aunts will not lose out by being on the wrong side of the family after an award of sole custody to one parent.** With shared parenting, grandparents and aunts will be able to maintain loving relationships with children they love. Of course, it is also much better for children to be able to maintain their cherished bonds with all of their extended family.
- 8) **Lesbian “social mothers,” who are not the biological mothers of the children they are helping to raise within a same-sex marriage,** will enjoy a measure of protection against any judicial bias in favor of the biological mother. Biological lesbian mothers who are the primary breadwinners in their families, on the other hand, will enjoy a measure of protection against any judicial bias in favor of the primary caretaker mother.
- 9) **Moms will see their children grow up free of gender stereotypes.** Boys will see that cooking meals and nurturing children like their dads is manly, and girls will see that, like their moms, they can have any career they want.

Child-centered family law reform is good for women too.

A Win For Men

Men will benefit from child-centered family law reform because their children will do better and be happier. Fathers will be better able to remain active and loving parents to their children. There will be less bitterness and hostility between them and their ex-wives. Uncles and grandfathers will not find themselves cut off from children they love by being on the wrong side of the family after a sole custody decision.

A Win For The Public

The budget impact of the proposed bill is zero. Thus, many benefits would flow to children and parents at no cost to the Commonwealth. In fact with better-adjusted and better-performing children, there will likely be a decrease in the cost of the social safety net as time goes on.

If passed, the proposed bill will serve as a platform for reforming custody statutes that pertain to children of unmarried parents, who now constitute around 40% of all births in the United States.

The information in this white paper has been compiled and edited by Dr. Ned Holstein.



Parenting Time & Shared Residential Custody: Ten Common Myths

by Dr. Linda Nielsen

What is the best parenting plan for most children of divorce? Should infants and toddlers spend overnight time with their nonresidential parent? If not, why not? If so, how much time? Is shared residential custody better for children than living with one parent and varying amounts of time living with their other parent – mainly on weekends? Isn't shared residential custody only successful for a small group of well educated, higher income parents who have very cooperative, conflict free relationships – and who mutually agree to share without mediation, litigation or lawyers' negotiations? Since most married mothers do 80% of the childcare, after a divorce shouldn't the children live that same proportion of time with her?

Dr. Linda Nielsen



Dr. Linda Nielsen has been a Professor of Adolescent & Educational Psychology at Wake Forest University in Winston Salem, NC for 36 years. She is the author of five books and dozens of peer reviewed journal articles. Her areas of expertise are shared residential parenting for children of divorce and father-daughter relationships. Her reviews of 30

years of research on shared residential custody have been presented at the Association of Conciliation and Family Courts national conference and the Midwestern Family Law Conference, and published in the American Journal of Family Law and the Journal of Divorce and Remarriage. She is frequently called upon to provide summaries of this research to legislators in America and abroad.

Questions such as these generate a great deal of debate among the judiciary, policy makers and mental health professionals. Unfortunately they also generate myths and misconceptions that are frequently presented as “the research” at conferences and seminars, on the web, or in non-academic articles. At best, these myths far over-reach and exaggerate the findings from only a few of the existing studies. At worst, they have virtually no grounding whatsoever in current research. Either way, misconceptions that are not grounded on a broad spectrum of recent, methodologically sound, statistically significant empirical data have an impact on custody decisions and custody laws. By empirical data I mean research studies where quantitative data has been statistically analyzed and published in peer reviewed academic journals – in contrast to articles where opinions or theories are being presented, often without benefit of peer review. Regrettably we social scientists have done a poor job sharing the empirical research with other professionals or with divorcing parents. As a result, a handful of studies – often outdated or seriously flawed methodologically – are widely disseminated as “the research”. In that spirit, this abbreviated overview presents recent research that refutes ten of the most common beliefs related to child custody.

It is better for the children if parenting time is allocated according to the amount of time each parent spent in childcare during the marriage. Since most married mothers do at least 80% of the childcare, the parenting time should be allocated accordingly. This perspective, referred to as the approximation rule, is not based on empirical research. This is a debatable opinion – a controversial point of view that has been widely discussed in peer reviewed journals. A full discussion of this debate is provided in Richard Warshak's article in the Baltimore Law Review¹. Several facts must be kept in regard

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to the approximation proposal. First, most married couples are more equally sharing the parenting time. Employed fathers spend roughly 60 minutes on weekdays with the children while employed moms spend 90 minutes. This would be the equivalent of 120 overnights with a father after divorce.² Fathers under the age of 30 do only 45 minutes less childcare on workdays than mothers do. In two national surveys with 2000 parents, dads spent 33 hours a week with the children and mothers spent 50. Children under the age of 6 require 3 times as much parenting time as older children. And whichever parent gets home from work first or works the fewest hours generally does more of the childcare. The more time the mother works outside the home, the more time the father spends with the children. But the mothers who are most likely to stay home full time with preschoolers are the most poorly educated women who could not earn enough, if working, to pay for child care. Second, married parents' arrangements for their young children are *temporary* – they are not intended, as are custody orders, to remain in place until the children turn 18. Third, childcare hours are not synonymous with parenting. The fact that one parent spends more time with the children does not mean that the other parent is doing less parenting or that his or her daily presence is any less beneficial and essential.

Infants and toddlers have one primary “attachment figure” to whom they bond more strongly and at an earlier age than they do with their other parent. Given this, they should not be separated from their primary parent for long periods of time – especially not to spend overnight time with their father, except on rare occasion for short periods of time.

The prevailing view among most contemporary attachment researchers and child development experts is that there is not one “primary” attachment figure. Instead, infants form strong attachments to both parents and at roughly the same time. Whatever initial preferences infants might have for one parent disappears by 18 months of age. This is not to say that all researchers agree on this point. Nevertheless, recent empirical research is undermining the traditional beliefs about primary and secondary parents – the belief that an infant's relationship with the mother is more vital than with the fathers.^{3,4}

Most infants and toddlers become more irritable or show other signs of maladjustment when they spend overnight time with their fathers. Given this, there should be little or no overnighting for infants and toddlers. There are only seven studies that have assessed overnighting and non-overnighting infants and preschoolers. None of them found *statistically significant* differences in irritability or other measures of maladjustment related to overnighting per se. Given the confusion and debate on this issue, it is worth providing more details of these studies.

Four studies were conducted 15 to 21 years ago. The first assessed 25 one to five year olds who lived half time with

each parent. At the end of one year, those children whose behavior and developmental progress had gotten worse were the ones who had violent, alcoholic, inattentive, or otherwise very dysfunctional parents. The researchers also noted: “The most surprising find was that children below the age of three were able to handle the many transitions in their overnight joint custody arrangements.”⁵ The second study included 25 children under the age of two and 120 ages two to five when their parents separated. Four years later, those who had lived 30% time with their fathers were better off on all measures of emotional, psychological and behavioral well-being. Moreover 40% of those who had not spent overnight time before the age of three with their fathers no longer had any contact with him – a loss that occurred for only 1.5% of the overnighting children.⁶ The third study compared infants 12 to 20 months old: those who spent any overnight time with their fathers, those who spent none, and those who lived with married parents. The infants were classified as having a secure, avoidant, ambivalent or disorganized attachment to their mother. A year later 85% of them were assessed again. Regardless of family type, the less securely attached infants had mothers who were unresponsive to their needs. And there were no significant differences in attachment classifications between those who overnighted and those who did not.⁷ The fourth study included 18 three to five year olds. At the end of two years, those who had lived with their fathers ten days a month were more well adjusted emotionally and no different on social or behavioral adjustment. Moreover, the number living this often with their fathers increased from 25% to 38% over the two years.⁸

Two studies have been conducted more recently. Interestingly, the one that was not peer reviewed or published in an academic journal before being released by the Australian government has generated considerable attention among mental health practitioners, the legal profession and policy makers. Indeed, it is widely cited as evidence that overnighting is bad for young children.⁹ The limitations of this report have been enumerated by a number of internationally renowned researchers.¹⁰ For example, the sample sizes in several groups were very small and the vast majority of parents had never been married to each other. Leaving aside its limitations, for children from infancy to age five, there were very few differences between those who never overnighted and those who overnighted. The mean scores were similar on measures of irritability, global health, monitoring their mother, negative response to strangers, developmental concerns, behavioral problems, emotional functioning and persistence. The four to five years olds who overnighted more than nine nights a month had more attention deficit disorders according the their mothers. But this may very well be linked more to gender than to overnighting. That is, boys were more likely than girls to be overnighting frequently – and boys in the general population are more likely than girls to have attention deficit disorders.¹¹

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The most methodologically sound study at Yale University is part of an ongoing project. This study assessed 132 children ages two to six whose divorced and never married parents had separated. Of these, 31% spent one overnight a week with their fathers, 44% more than one and 25% none. For the two to four years olds, the overnights were no different from non-overnighters in respect to sleep problems, anxiety, aggression or social withdrawal. They were, however, less persistent in completing tasks. According to their fathers, but not their mothers, the overnights were more irritable. Overall then, the differences were small. For the four to six year olds, however, the overnights had fewer problems than the other children – especially the girls. As the researchers conclude “Overnights did not benefit or cause distress to the toddlers and benefited the 4 to 6 year olds” (p. 135).¹²

The final study assessed 24 children ages one to six who overnights an average of eight nights a month. Almost 55% were classified as having an insecure attachment to their mother, which is higher than the average of 33% in the general population. Age when the overnights began and parent conflict were not related to the classifications, but mothers’ attentiveness or inattentiveness were.¹³ Taken together, these seven studies do not support the assertion that overnights has a negative impact on infants or preschoolers.

Most children want to live with only one parent and to have only one home. Shared residential parenting is not worth the hassle, according to most children. The vast majority of children who lived with their mothers after their parents’ divorce disliked having so little time with their fathers.^{14*} In contrast, the vast majority who have lived in shared residential parenting families say the inconvenience of living in two homes was worth it – primarily because they were able to maintain strong relationships with both parents.^{15*}

When there is high verbal conflict between the parents, children do better when their time with their father is limited. Because more time with their father increases parents’ conflicts, children in shared residential custody are more often caught in the middle of conflicts. With the exception of an ongoing pattern of physical conflict or violence, the vast majority of studies do not support these beliefs.^{16-18*} In married and in divorced families, parent conflict is generally related to worse outcomes for the children. However, in regard to custody and conflict, three findings stand out. First, conflict generally remains higher in sole than in shared custody families – especially if the residential parenting time is not shared. Second, most children are not exposed to more conflict or put in the middle more often in shared parenting families. Third, most children in shared residential custody and those who see their fathers frequently are better off on measures of well-being even when their parents have ongoing conflict. In other words, maintaining strong relationships with both parents helps

diminish the negative impact of the parents’ conflicts.

The amount of conflict should be a primary factor when deciding how to allocate the parenting time. Unless there is a history of physical abuse or violence, for the reasons just presented, high verbal conflict should not be used as a reason to limit parenting time. Not only can much of this conflict be reduced through parenting programs, but the conflict generally declines by the end of the first year or so after separation. Especially during custody negotiations, conflict is not a reliable predictor of future conflict. Moreover, verbal conflict is associated with fewer negative outcomes for children than having too little fathering time.^{19, 20*}

Both parents have to mutually agree to share the residential parenting, otherwise these families will fail. Shared parenting agreements fail if they result from mediation, litigation or legal negotiations. It only succeeds for a small, self-selected group who are very cooperative and have little or no conflict. In the studies that have examined how parents arrived at their shared residential parenting plan, from 20% - 85% of the parents had not initially wanted to share. For many families where the children were successfully living in two homes, the shared parenting plan was a compromise brought about through mediation, litigation, or lawyers’ negotiations.^{21*}

Most shared residential families fail. The children end up living with one parent anyway. Measured anywhere from 2 to 4 years after divorce, 65%-90% of these families were still sharing the residential custody.^{22*}

The quality of children’s relationships with their fathers is not related to how much time they spend together after the divorce. Fathering time, especially time that is not limited mainly to weekends or to other small parcels of time, is closely associated with the quality and the endurance of the father-child relationship. This kind of fathering time is highly correlated with positive outcomes for children of divorce.^{23, 24*}

In considering the large body of recent empirical research that refutes these ten myths, it is worth remembering that people can always find some study that will support each of these beliefs. Some may be based on very old data. Others are methodologically unsound. Sometimes differences that are not statistically significant are reported as “a trend”, or “a difference” or “suggestive of”. To be sure, all studies have certain limitations, including those cited in this review. But by using the social science search engines at university libraries to find the recent peer reviewed articles in academic journals, we maximize our chances of finding the general consensus among the most respected researchers. By sharing more of this research with legislators, mental health workers, judges and lawyers, children and their divorced parents will be better served. 

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* This article is based on 64 articles published in peer reviewed journals. Given the constraints of space, fewer than a third of these references are listed in this article. Please email me for the complete list of references. Linda Nielsen, Wake Forest University, nielsen@wfu.edu, www.wfu.edu/~nielsen

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- ²⁴ Aquilino, W. (2010) Noncustodial father child relationship from adolescence into young adulthood. *Journal of Marriage and Family* 68, 929-945.



If you are aware of anyone within the Nebraska legal community (lawyers, law office personnel, judges, courthouse employees or law students) who suffers a sudden, catastrophic loss due to an unexpected event, illness or injury, the NSBA's SOLACE Program can likely assist that person in some meaningful way.

Contact Mike Kinney at mkinney@ctagd.com and/or Jane Schoenike at jschoenike@nebar.com.

We have a statewide and beyond network of generous Nebraska attorneys willing to get involved. We do not solicit cash, but can assist with contributions of clothing, housing, transportation, medical community contacts, and a myriad of other possible solutions through the thousands of contacts available to us through the NSBA and its membership.

Lifting Blanket Restrictions

By: Richard Warshak

Posted: 05/06/2014 10:40 am EDT Updated: 07/04/2014 5:59 am EDT



Big changes are afoot Down Under. And these presage changes in the U.S. and Europe as well. For the past few years, a research report issued by the office of the Australian Attorney General, with statements of its lead author, has exerted a disproportionate impact on the lives of young children whose parents are separated. Bucking the trend to keep both parents regularly involved with their children whether or not the parents live together, Australia's guidelines, widely adopted in the U.S., have discouraged allowing young children to spend overnights with both parents after separation. In most cases such "blanket restrictions" mean that mothers do all the caregiving at night.

But all this is changing. Practically overnight. Australian professionals are shredding their guidelines in the light of two recent papers exposing the flawed science behind denying young children the pleasure of their dads' bedtime stories. A balanced view of the research data supports common sense. If young children can take naps during the day under their fathers' watchful eyes, they can sleep at night in their fathers' homes. If young children can be apart from their working mothers all day long, they shouldn't be deprived of quality time with their dads during the night.

Strong parent-child bonds begin at birth -- for mothers and for fathers. Caring for children at night and being there in the morning is part of the process of developing a solid relationship. The more time parents spend with their infants and toddlers, the better able they are to read their baby's signals and respond sensitively to their children's needs. In two-parent homes we encourage hands-on shared parenting night and day. It takes nothing away from mother-child relationships when dads change diapers and bathe babies.

One of the game-changing papers, I am proud to say, was mine. But I had a lot of help with it. The manuscript was improved, vetted, and endorsed by 110 scholars, from 15 countries, who are at the top of their professions: Professors Emeriti, Deans, former Presidents of professional associations such as the American Psychological Association, and department heads. Collectively the group have about 10,000 publications to their credit. We were united in wanting to make a public statement about where science stands on the issue of young children's needs following their parents' separation. Our goal was not just to clarify the accepted, settled science. We wanted to ensure that reliable science plays an important role in policy and decisions about young children's contacts with each parent.

We reached two main conclusions. First, just as we encourage parents in intact families to share care of their children, the social science evidence on how healthy parent-child relationships normally develop, and the long-term benefits of healthy parent-child relationships, supports the view that shared parenting should be the norm for parenting plans for children of all ages, including very young children. Second, restricting fathering time to daytime hours until children enter kindergarten is not the best arrangement for most children if we want to give them the best chance for normal relationships with their fathers. We favor, not discourage, overnights for young children and find no reason to postpone overnights until children are four-years-old.

The second paper, by Linda Nielsen, dissects the process by which the Australian research translated into worldwide prohibitions against father-child overnights. The American Psychological Association published both papers.

Naturally shared parenting is not for all families. Regardless of their children's ages, parents should consider a number of factors when creating the best parenting plan. What works for a child in one family, may not be best for another child in another family. Our recommendations apply to most families. The fact that some parents are negligent, abusive or grossly deficient in their parenting -- parents whose children would need protection from them even in intact families -- should not be used to deprive the majority of children who were being raised by two loving parents from continuing to have that care after their parents separate.

It is time to resolve our ambivalence and contradictory ideas about fathers' and mothers' roles in their children's lives. If we value Dad reading *Goodnight Moon* to his toddler and soothing his fretful baby at 3 a.m. while the parents are living together, why withdraw our support and deprive the child of these expressions of fatherly love just because the parents no longer live together, or just because the sun has gone down?

Follow Richard Warshak on Twitter: www.twitter.com/RichardWarshak

More:

Shared Parenting Children's Best Interest Custody and Child Support Overnights Joint Custody Co Parenting

TAB 5

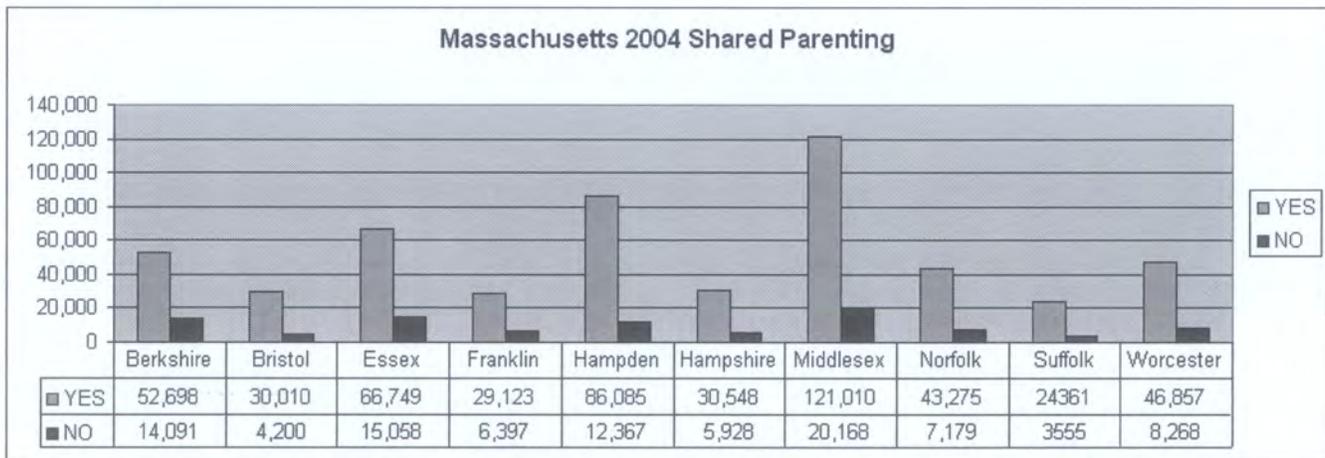
Non-Binding Ballot Results

Results of the 2004 Massachusetts Non-Binding Ballot Initiative on Shared Parenting

Summary: About 86% of those who voted supported the shared parenting ballot question below. About one-quarter of the Massachusetts electorate saw the following ballot question, with excellent geographical, ethnic, political and socioeconomic diversity of districts. Abstentions were relatively low. Results are fairly uniform from district to district. The results demonstrate that Massachusetts voters overwhelmingly support shared parenting in the usual case. The margin of victory makes it mathematically certain that the measure enjoyed overwhelming support from women as well as men.

Petition language for all districts but Berkshire 1-4 and First Hampshire, which saw similar but slightly different language

Shall the State Representative from this district be instructed to vote in favor of legislation requiring that in all separation and divorce proceedings involving minor children, the court shall uphold the fundamental rights of both parents to the shared physical and legal custody of their children and the children's right to maximize their time with each parent, so far as is practical, unless one parent is found unfit or the parents agree otherwise, subject to the requirements of existing child support and abuse prevention laws?



CHILD CUSTODY IN DIVORCE

1st Berkshire: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Savoy	1	1	267	51
Williamstown	3	3	2,451	733
Rowe	1	1	180	54
North Adams	5	5	4,186	833
Monroe	1	1	42	7
Hawley	1	1	158	22
Florida	1	1	285	67
Clarksburg	1	1	618	161
Charlemont	1	1	541	78
Heath	1	1	316	72
Adams	5	5	2,944	600
Totals	21	21	11,988	2,678

2nd Berkshire: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Windsor	1	1	368	106
Middlefield	1	1	223	49
New Ashford	1	1	111	25
Northfield	1	1	1,264	279
Pittsfield	1	1	1,100	361
Richmond	1	1	672	227
Washington	1	1	217	78
Leyden	1	1	355	62
Peru	1	1	289	67
Shelburne	1	1	877	136
Bernardston	0	1	0	0
Plainfield	1	1	276	62
Lanesborough	1	1	1,085	298
Becket	1	1	541	108
Buckland	1	1	742	134
Cheshire	1	1	1,320	305
Hancock	1	1	277	71
Ashfield	1	1	830	161
Cummington	1	1	402	86

Dalton	2	2	2,248	647
Colrain	1	1	668	113
Hinsdale	1	1	782	176
Totals	22	23	14,647	3,551

3rd Berkshire: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Pittsfield	12	12	11,109	3,909
Totals	12	12	11,109	3,909

4th Berkshire: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Pittsfield	1	1	898	284
Sandisfield	1	1	290	68
Sheffield	1	1	1,275	309
Stockbridge	1	1	783	240
Tyringham	1	1	161	63
Otis	1	1	548	111
Chester	1	1	515	68
West Stockbridge	1	1	592	187
Tolland	1	1	177	20
New Marlborough	1	1	603	140
Mount Washington	1	1	95	9
Monterey	1	1	373	114
Lenox	1	1	1,964	661
Lee	6	6	2,067	526
Egremont	1	1	568	161
Blandford	1	1	478	81
Alford	1	1	205	53
Great Barrington	4	4	2,463	712
Totals	26	26	14,055	3,807

4th Bristol: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Swansea	4	4	4,994	711
Seekonk	4	4	5,179	759
Rehoboth	3	3	4,266	578

Norton	1	1	1,350	188
Totals	12	12	15,789	2,236

5th Bristol: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Somerset	5	5	7,422	1,117
Swansea	1	1	1,233	172
Taunton	4	4	3,081	358
Dighton	1	1	2,485	317
Totals	11	11	14,221	1,964

6th Essex: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Beverly	12	12	11,761	6,342
Totals	12	12	11,761	6,342

7th Essex: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Salem	14	14	13,020	2,535
Totals	14	14	13,020	2,535

13th Essex: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Topsfield	1	1	2,914	457
Danvers	8	8	10,372	1,726
Peabody	3	3	3,361	615
Totals	12	12	16,647	2,798

14th Essex: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
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Lawrence	7	7	3,910	497
North Andover	6	6	7,437	1,054
Totals	13	13	11,347	1,551

17th Essex: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Andover	6	6	8,548	1,175
Lawrence	4	4	2,391	278
Tewksbury	2	2	3,035	379
Totals	12	12	13,974	1,832

1st Franklin: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
New Salem	1	1	428	79
Worthington	1	1	547	117
Williamsburg	1	1	1,136	202
Sunderland	1	1	1,225	249
Wendell	1	1	370	90
Shutesbury	1	1	793	189
Pelham	1	1	564	139
Belchertown	2	2	2,286	385
Leverett	1	1	788	191
Huntington	1	1	479	333
Goshen	1	1	406	86
Montague	6	6	2,890	623
Deerfield	1	1	1,476	799
Conway	1	1	872	173
Chesterfield	1	1	473	95
Whately	1	1	662	127
Totals	22	22	15,395	3,877

2nd Franklin: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Warwick	1	1	277	68
Orange	2	2	2,447	342
Greenfield	9	9	6,281	1,135
Gill	1	1	670	143

Athol	3	3	3,469	742
Erving	1	1	584	90
Totals	17	17	13,728	2,520

1st Hampden: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Holland	1	1	861	113
Ware	2	2	2,246	284
Warren	1	1	1,640	227
Wales	1	1	674	103
Palmer	4	4	4,271	607
Brimfield	1	1	1,418	198
Sturbridge	2	2	3,552	448
Totals	12	12	14,662	1,980

3rd Hampden: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Agawam	8	8	9,928	1,341
Granville	1	1	639	96
Russell	1	1	558	108
Southwick	3	3	3,358	448
Totals	13	13	14,483	1,993

9th Hampden: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Chicopee	1	1	841	103
Springfield	16	16	8,155	1,092
Totals	17	17	8,996	1,195

2nd Hampden & Hampshire Senate: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Russell	1	1	589	103

Blandford	1	1	501	74
Chester	1	1	520	74
Chicopee	16	16	11,274	1,563
Easthampton	5	5	6,201	1,274
Granville	1	1	609	96
Montgomery	1	1	368	49
Southampton	1	1	2,472	354
Southwick	3	3	3,130	447
Tolland	1	1	171	23
Westfield	12	12	12,032	1,704
Holyoke	14	14	10,077	1,438
Totals	57	57	47,944	7,199

1st Hampshire: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Montgomery	1	1	363	46
Westhampton	1	1	777	159
Northampton	14	14	10,779	2,571
Hatfield	1	1	1,594	272
Southampton	1	1	2,413	362
Totals	18	18	15,926	3,410

2nd Hampshire: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
South Hadley	5	5	6,456	850
Easthampton	5	5	6,031	1,213
Hadley	1	1	2,135	455
Totals	11	11	14,622	2,518

1st Middlesex: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Townsend	3	3	3,595	526
Pepperell	3	3	4,618	543
Groton	3	3	4,248	826
Ayer	2	2	2,305	313
Dunstable	1	1	1,444	173
Totals	12	12	16,210	2,381

4th Middlesex: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Berlin	1	1	1,199	194
Marlborough	14	14	11,339	1,505
Southborough	1	1	1,530	205
Totals	16	16	14,068	1,904

5th Middlesex: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Millis	2	2	2,233	341
Natick	9	9	10,862	3,027
Sherborn	1	1	1,932	335
Totals	12	12	15,027	3,703

20th Middlesex: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Reading	5	5	5,429	831
Lynnfield	3	3	3,758	455
Middleton	1	1	1,634	308
North Reading	4	4	5,415	718
Totals	13	13	16,236	2,312

22nd Middlesex: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Billerica	11	11	14,110	1,708
Totals	11	11	14,110	1,708

23rd Middlesex: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Arlington	15	15	12,717	2,287
Medford	3	3	3,951	707
Totals	18	18	16,668	2,994

31st Middlesex: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Stoneham	6	6	6,262	817
Winchester	8	8	7,960	1,305
Totals	14	14	14,222	2,122

32nd Middlesex: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Melrose	14	14	9,252	2,435
Wakefield	4	4	5,217	609
Totals	18	18	14,469	3,044

5th Norfolk: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Braintree	12	12	12,113	1,650
Holbrook	1	1	907	115
Randolph	1	1	979	130
Totals	14	14	13,999	1,895

12th Norfolk: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Norwood	9	9	8,791	1,144
Walpole	4	4	4,961	674
Totals	13	13	13,752	1,818

14th Norfolk: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Wellesley	7	7	9,462	2,386
Weston	4	4	4,564	854
Natick	1	1	1,498	226
Totals	12	12	15,524	3,466

2nd Suffolk: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Chelsea	12	12	2,610	352
Boston	0	7	0	0
Totals	12	19	2,610	352

3rd Suffolk: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Boston	0	12	0	0
Totals	0	12	0	0

19th Suffolk: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Revere	9	9	2,913	438
Winthrop	6	6	5,511	832
Totals	15	15	8,424	1,270

6th Worcester: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Charlton	3	3	3,420	1,938
East Brookfield	1	1	860	118
Oxford	1	1	1,229	149
Southbridge	5	5	4,829	649
Spencer	2	2	2,263	267
Totals	12	12	12,601	3,121

11th Worcester: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Westborough	2	2	2,477	357
Shrewsbury	9	9	12,126	1,707
Totals	11	11	14,603	2,064

12th Worcester: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Sterling	1	1	1,867	238
Northborough	4	4	5,810	1,106
Boylston	1	1	1,973	274
Lancaster	1	1	1,508	257
Clinton	4	4	4,616	643
Totals	11	11	15,774	2,518

17th Worcester: Presumption of joint child custody [[Summary](#)]

PR: precincts reporting; TP: total precincts.
Last updated: 05:54 PM

City or town	PR	TP	Yes	No
Leicester	4	4	3,879	565
Worcester	0	8	0	0
Totals	4	12	3,879	565

TAB 6

**Report From
Committee**

FACILITATOR'S REPORT OF THE WORKING GROUP ON CHILD-CENTERED FAMILY LAWS

I. Introduction

During the spring of 2012, Governor Deval Patrick requested that his then Chief Legal Counsel, Mark Reilly, create a Working Group on Child-Centered Family Laws (“the Working Group”). The undersigned, Michael L. Leshin, of the law firm of Ginsburg Leshin Gibbs & Jones, LLP in Wellesley was asked to serve as the facilitator.

The Charge reads as follows:

to review and recommend any necessary revisions to state laws to ensure that children's rights and interests are prioritized and protected during and following court proceedings pertaining to parental decision-making, responsibility and caretaking.¹

Attached as Appendix “A” to this Report is a list of members.

Through the collective effort of many members of the Working Group, I consolidated drafts of various sections of this Report. In this Report, I have presented our deliberations through my lens, as informed by feedback from the members.

II. The Working Group’s Process and Deliberations

On July 12, 2012, the Working Group convened its first meeting. In his opening remarks, former Chief Legal Counsel, Mark Reilly, noted that the Governor had not asked for any particular outcome. Rather, through a facilitative, deliberative process, he sought recommendations in furtherance of the Charge.

¹ An AFCC (Association of Family and Conciliation Courts) “think tank” has advocated reframing “caretaking” as “caregiving”, a more child-centric term. Thus, this Report uses the term “caregiving”.

We began with each member introducing him/herself and giving voice to his or her goals, issues, and concerns, which we continued to vet and analyze during our second meeting on August 15, 2012. See Appendix “B” for the list. In particular, we shared our divergent views of how judges presently address parenting time disputes (often referred to as custody and visitation disputes). We collected articles and surveys of other states’ statutes from members and circulated them among the members of the Working Group.

During our August 15, 2012 meeting we fairly quickly coalesced around revising Massachusetts General Laws Chapter 208, Section 31 (“Section 31”) so as to replace the rather antiquated and regressive terms of “custody” and “visitation” presently used in divorce practice. These terms are equally problematic as used in G. L. c. 209C, which governs nonmarital children. See Section III(A)(1) below. A consensus developed that the Commonwealth should articulate a public policy that encourages parents to share *responsibility* for – in contrast to having “custody of” – their children, as well as to share *parenting time* – in contrast to having “visitation.”

The Working Group discussed at length the issues involved with parents’ history of caregiving functions. The American Law Institute (ALI) defines “care[giving] functions” as tasks that involve direct interaction with the child or arranging and supervising the interaction and care provided by others. All members of the Working Group agreed that the parental history of caregiving functions is an important factor in determining parental responsibilities going forward. Members acknowledged the inherent tension between balancing the past, when

parents shared a residence, with the future, where each parent has a separate residence.

These deliberations were spirited, heartfelt and challenging.

Some members expressed concern that this history should be subordinated in importance to the *current* interest, desire and abilities of each parent to fulfill caregiving functions, citing, for example, that married parents sometimes make choices that necessitate one parent being a “breadwinner” and therefore less available to perform caregiving functions. The parent who may have adopted the role of breadwinner should not be penalized in a custody proceeding, provided that he or she demonstrates a current interest, desire and ability to assume caregiving functions after separation and divorce.

Members disagreed about the extent to which child-welfare law was germane to the analysis of the importance of the history of caregiving.² Members also disagreed about the role of gender in custody awards.

The recommended language in Section 31(D)(5) reflects a compromise by the Working Group that balances two important concepts: (a) a child’s adjustment to separation and divorce is easier when caregiving functions continue in the pattern to which he or she has become accustomed; and (b) shared parental responsibility best advances the best interest of most children, regardless of which parent performed caregiving functions in the past.

We created two sub-groups to more finely focus on revising Section 31:

“Definitions/Parenting Plans” and “Factors/Presumptions.” These sub-groups held several

² A finding of current parental unfitness by clear and convincing evidence is required before the Commonwealth may permanently take custody of a child away from a parent.

meetings during the fall of 2012. The Working Group then considered their proposals and during the first half of 2013 shaped them into a revised Section 31.

The Working Group agreed that shared parental decision-making and shared parental residential responsibility, as defined in the proposed statute, presents the best arrangement for most children, while acknowledging that exceptions exist when there is high and persistent parental conflict, when one or both of the parents is unfit, when there has been a pattern or serious incident of domestic violence, or in certain other circumstances. There was a difference of opinion within the Working Group as to the prevalence of awards of sole residential responsibility (presently expressed as sole physical custody). However, the Commonwealth does not collect statistical data concerning custody determinations.³

While some members of the Working Group sought to establish a rebuttable presumption of shared parental responsibility for both decision-making responsibility (legal custody) and residential responsibility (physical custody), a majority believed that the interests of a child are best served through a case-by-case determination for residential responsibility (“physical custody”).⁴ Ultimately, although the Working Group reached a compromise to not establish a rebuttable presumption, all members agreed on the importance of including language in the proposed Public Policy Statement which “encourages shared parental responsibilities.”

³ Members disagreed about the relevance of various research studies within Massachusetts and in other states that were circulated during several meetings.

⁴ Members of the Working Group discussed the extent to which judges do or do not presently favor sole physical custody over shared physical custody. Members held quite divergent views on this issue.

A number of questions arose during our meetings that could be informed and addressed by the availability of statistics derived from the collection of data. For example, at present, Massachusetts does not collect data with regard to who has “custody” of a child (grandparent/mother/father), the “type” of custody (legal/physical; shared/sole), or the parenting schedule (“visitation”) as set forth in a separation agreement or judgment of divorce. If funding and staffing were available, a study could be designed to gather this information. The study could also discern differences between a parent’s desire for parenting time prior to commencing litigation and the allocation at the conclusion of the litigation.

In June of 2013, I asked members with a “representational”⁵ capacity to circulate Version 5 of Section 31 to their constituents for feedback. I also circulated Version 5 to the organizations listed at Appendix “C”, inviting their review and feedback. In August, I circulated a summary of this feedback, as well as Version 6, to the Working Group which we then reviewed at our August 15th meeting. During subsequent meetings, we continued refining our draft of Section 31. Finally, towards the end of our process, the Working Group discussed whether it was appropriate to include specific language relating to the parenting issues faced by veterans and active service-members. The group acknowledged that such language is important, but agreed not to presently devote time to this issue since there are important voices that would need to be heard that are not represented by the current members of the Working Group. We propose that any legislative consideration of amending G. L. c. 208, § 31, consider the concerns of veterans and service-members.

⁵ These members were selected to serve on the Working Group by an organization, *e.g.* the Boston Bar Association.

III. Overview of Ancillary Issues

Through our close review of Section 31, we identified the need to further review and revise related statutes. We likewise identified the need for complementary legislation related to areas of family law practice that would further meet the Charge. We have divided this Overview into two sections. The first section analyzes related statutes that need to be further reviewed and, perhaps, revised beyond a rudimentary “search and replace” of the terms “custody” and “visitation.” The second section reviews subject matters that warrant legislation to further the Charge.

A. Related Statutes

1. General Laws Chapter 209C.

Enacted in 1986, G. L. c. 209C (“Chapter 209C”) provides for the determination of parentage of nonmarital children, as well as issues concerning their support, custody and visitation. The Working Group recognizes that Chapter 209C falls under the heading of Child-Centered Family Law – the charge of the Working Group – and recommends that Chapter 209C be examined in light of the proposed revisions of Section 31.⁶ The Governor may want to convene a reconstituted Working Group to undertake such a review of Chapter 209C. Several members of this Working Group are interested in participating and, as identified during one of our meetings, such a task force could include, among others, at least: one unmarried mother, and unmarried father, and a representative from the Child Support Enforcement Division of the

⁶ We have determined that a simple “search and replace” would not suffice to adequately revise the statute in this regard.

Department of Revenue, one or more hospitals' law department, and the Registry of Vital Statistics.⁷ Given the large and growing population of unmarried parents, reviewing and updating Chapter 209C comports with the Working Group's aforementioned Charge.

In particular, Section 10 describes the criteria for determining the *custody* of a nonmarital child. When a child is born to a married woman, the husband is presumed to be the father.⁸ No presumption of paternity attaches to the birth of a nonmarital child. Subsection (b) of section 10 provides that the mother of a nonmarital child shall have *custody* unless and until a court orders otherwise.⁹ Once paternity has been acknowledged or adjudicated, if a parent requests a *custody* determination, "the court may award custody to the mother or the father or to them jointly . . . as may be appropriate in the best interests of the child." G. L. 209C, § 10(a). There is no presumption in favor of either parent during any such custody determination hearing. Both the statute and common law require that the court consider the history of caregiving prior to the filing of a complaint under this chapter and the ability of parents to cooperate in child-rearing. Smith v. McDonald, 458 Mass. 540 (2010); Custody of Kali, 439 Mass. 834 (2003); Custody of Zia, 50 Mass. App. Ct. 237 (2000).

⁷ One member of the Working Group is an unmarried father.

⁸ This presumption arises from centuries of common law, and is found in G. L. c. 209C, § 6 and G. L. c. 46, § 4B.

⁹ See Culliton v. Beth Israel Hospital, 435 Mass. 285, 292 (2001) ("the importance of establishing the rights and responsibilities of parents as soon as is practically possible... in case of the need for medical treatment in the event of medical complications arising during or shortly after birth.") See also Caban v. Mohammed, 441 U.S. 380, 397 (1979) ("Parental rights do not spring full-blown from the biological connection between parent and child. They require relationships more enduring.")

2. General Laws Chapter 119.

The Working Group's Public Policy Statement takes a child-focused tone for this revised Section 31. Our decision and language were influenced by the public policy statement in current Massachusetts law regarding child protection and state intervention, G. L. c. 119, §§ 1 *et seq.* Our elimination of the words "custody" and "visitation" illuminates the Commonwealth's overriding interest in the well-being of children.

However, during our deliberations we recognized that the term "custody" as a defined term has important significance throughout G. L. c. 119, the statutory scheme for state intervention involving children. Accordingly, any revision of Section 31 as proposed by the Working Group must be complemented with a review of Chapter 119.¹⁰

3. General Laws Chapter 208, Section 31A.

Enacted in 1998, G. L. c. 208, § 31A ("Section 31A") increased protection of domestic violence victims and their children. Section 31A creates a rebuttable presumption that it is not in the best interest of a child to be placed in sole custody, shared legal custody, or shared physical custody with an abusive parent if there is a finding by a preponderance of the evidence¹¹ of a pattern or serious incident of abuse. G. L. c. 208, § 31A.¹²

¹⁰ In particular, Section 39D creates limited "visitation" rights for grandparents.

¹¹ Several members of the Working Group believe that the burden of proof should be by clear and convincing evidence.

¹² Serious incidents of abuse include: "the occurrence of one or more of the following acts between a parent and the other parent or between a parent and child: (a) attempting to cause or causing serious bodily injury; (b) placing another in reasonable fear of imminent serious bodily injury; or (c) causing another to engage involuntarily in sexual relations by force, threat or duress." *Id.* A restraining order, otherwise known as a 209A Abuse Prevention Order, cannot alone prompt the application of the presumption and does not constitute a pattern or serious

Our proposed revised Section 31 simply references the trial judge’s consideration of Section 31A in rendering decisions as to parenting time and responsibility. Any revision of Section 31 that eliminates the words “custody” and “visitation” would – at the least - necessitate analogous nomenclature revisions to Section 31A.¹³

4. General Laws Chapter 71, Section 34H.

This provision of the General Laws regulates the information that a school can disseminate to parents based on their custodial status. The nomenclature of “custody” and “visitation” needs to conform to the new language of our proposed revised Section 31.

5. General Laws Chapter 215, Section 34A.

This provision of the General Laws sets forth, *inter alia*, remedies for the violation of a Probate and Family Court support or “custody” order. At Section G of proposed Section 31, we have set forth additional remedies. Beyond nomenclature revisions to Section 34A, there should be a thoughtful review of how best to consolidate these two sets of remedies. Perhaps, Section G would be better integrated into Section 34A.

incident of abuse. G. L. c. 209A, § 3. However, a court may consider the original facts underlying the restraining order to determine if the rebuttable presumption is appropriate. *Id.*

¹³ The Superior Court and District Court, as well as the Probate and Family Court, have jurisdiction to issue abuse prevention orders. The Trial Court has promulgated a comprehensive “Guidelines for Judicial Practice: Abuse Prevention Proceedings.” Accordingly, any review of Section 31A should be undertaken with all stakeholders at the table. Members of the Working Group disagreed about the scope of instances of false accusations of abuse and the need for any legislative response. In addition, several members believed that the Trial Court should revise the abuse prevention forms to reference limiting factor E.8. of proposed Section 31 (“A parent’s knowingly providing false information to any court regarding parenting.”)

B. Related Subject Matters

1. Mediation.

Many states allow or require courts to refer divorcing or separating parents to mediation. Some referrals include all issues in dispute and others refer only parenting plan disputes. Massachusetts already authorizes courts to refer parents to court-connected mediation programs under the Uniform Rules of Dispute Resolution.

The Working Group considered providing for mediation of parenting issues within its redraft of Section 31. However, we were not able to fully vet the associated concerns for any such directive.¹⁴ Accordingly, we recommend that a complementary statute providing for mediation of not only parenting disputes, but all issues arising in a divorce, be considered for submission to the Legislature.¹⁵ See Appendix “D” for comment concerning mediation.

2. Parenting Coordination.

Parenting coordination is a child-focused dispute resolution process whereby the parenting coordinator assists the parents in implementing a parenting plan by providing education, facilitating resolution of disputes, making recommendations, and with prior approval of the parents, making decisions within the scope of a court order, judgment or agreement incorporated into an order or judgment. A parenting coordinator may be necessary

¹⁴ Concerns raised include: (a) funding; (b) credentialing; (c) domestic violence; and (d) *pro se* parents.

¹⁵ On January 21, 2011, State Representative Alice Peisch filed House Bill No. 2851 entitled “Mediation of cases involving children.” See: <https://malegislature.gov/Bills/187/House/H2851/History> for history.

when parental communication is rife with conflict or ineffective, or to promote safety of vulnerable parties, including children and parents.

At this time, the majority of states have statutory provisions related to the appointment of a parenting coordinator.¹⁶ Massachusetts does not have such a statute. At this time, parenting coordinators are appointed by agreement of the parties, and there are no regulations or standards to guide the practice despite the public protection that parenting coordination standards would provide.¹⁷

Parenting coordinators currently serve in this complicated role often without any training, competency certification, or regulatory oversight. As informed by the Ruddy case (see footnote 17) judges appear to have the limited authority to appoint a parenting coordinator when parents agree in a separation agreement to appoint one. It does not appear that a judge has the authority to appoint a parenting coordinator over a party's objection (absent any prior agreement to use a parenting coordinator). Accordingly, many parents who agree to an appointment may incorrectly believe that the court is managing or regulating the parenting coordinator. Many members of the Working Group recommend legislation that provides for such an appointment, as a fee-generating category, thereby providing the court with the authority to monitor, approve, and educate parenting coordinators. Other members of the

¹⁶ Some states refer to this role as a "special master" or "mediator/arbitrator."

¹⁷ In a Rule1:28 decision the Appeals Court upheld the Probate and Family Court's authority to enforce the parties' agreement for the appointment of a parenting coordinator. Ruddy v. Ruddy, 84 Mass. App. Ct. 1110 (2013). In pertinent part, the Court noted: "[T]he practice of requiring parenting coordinators in a divorce proceeding is established in the Commonwealth. See e.g., Katzman v. Healy, 77 Mass. App. Ct. 589, 592 n.6 (2010) (affirming 'judgment requiring the parents to select and utilize a parenting coordinator,' [as required by their separation agreement] when, among other difficulties, there was conflict between parents that impeded children's ability to transition between parents' homes)." (footnote omitted).

Working Group were not prepared to make such a recommendation.

3. ***De Facto Parenting.***

A line of recent decisions in the Commonwealth have established and elucidated the concept of a *de facto* parent, defined as follows: "A *de facto* parent is one who has no biological relation to the child, but has participated in the child's life as a member of the child's family. The *de facto* parent resides with the child and, with the consent and encouragement of the legal parent, performs a share of caretaking functions at least as great as the legal parent." E.N.O. v. L.M.M., 429 Mass. 824, 829 (1999); see also R.D. v. A.H., 454 Mass. 706 (2009); A.H. v. M.P., 447 Mass. 828 (2006); Youmans v. Ramos, 429 Mass. 774 (1999). These cases set a very high standard for an individual to establish a *de facto* parent relationship, as well as limited relief in the form of "visitation."¹⁸ Many members of the Working Group recommend the promulgation of legislation that addresses *de facto* parent relationships. Other members did not believe that such a recommendation was appropriate.

IV. **Recommendations**

The Working Group recommends that the Governor submit to the General Court a comprehensive legislative package that addresses the panoply of statutes and subject areas detailed in this Report as anchored in our proposed revision of Section 31 of General Laws Chapter 208. To the extent such an omnibus effort is not presently feasible then we

¹⁸ A *de facto* parent has no obligation to pay child support and is not viewed as equal to a legal parent. Children very often develop deep and meaningful parental relationships with *de facto* parents; which relationships are vulnerable to loss when the adult relationship between parent and *de facto* parent deteriorates.

recommend that the Governor submit Section 31 to the General Court.¹⁹ In furtherance of these recommendations, I would be happy to convene a subgroup of the Working Group to meet with the Governor or his designee to develop a plan to implement the goals identified in this Report.

V. Conclusion

We have all appreciated that the Governor convened this Working Group and provided us with the opportunity to submit our revised Section 31. Most fundamentally, the laws of the Commonwealth of Massachusetts should give voice to the public policy articulated in Paragraph A of our revised Section 31, namely, to promote the best interest of children by supporting safe, healthy, and meaningful relationships between children and their parents. The language of the law and of parenting needs to embrace the child-centric focus of sharing responsibility and eliminate any use of the problematic labels of “custody” and “visitation.” We promote the best interests of children when we encourage the sharing of parental responsibility.

Respectfully submitted



Michael L. Leshin

¹⁹ In such event, perhaps the legal counsel’s office of either the Governor, House and/or Senate could review the appropriate scope of drafting ancillary legislation that would reconcile the new terminology of Section 31 with other statutes that use the terms of “custody” and “visitation,” as noted in this Report. Of interest in such an endeavor would be the Boston Bar Association’s proposed legislation (House Bill No. 2852/Senate Bill No. 00691) to enact a Section 31B which would create the *alternative* of using “decision making responsibility” and “residential responsibility” in lieu of “custody.” For example, it provides: “Sole decision making responsibility,” one parent shall have the right and responsibility to make major decisions regarding the child’s welfare including matters of education, medical care and emotional, moral and religious development. This term corresponds with ‘sole legal custody.’”

APPENDICES

- A: List of Working Group members and consultants
- B: Goals, Issues and Concerns
- C: List of Organizations providing comments to revised Section 31
- D: Comment on Mediation

APPENDIX "A"

Working Group Members

Participant	Organization/Position
Rachel Biscardi	Women's Bar Association
David Calvo	A Father's Voice
Senator Cynthia Stone Creem	Massachusetts Senate
Robin Deutsch	Child and family forensic psychologist
John Fiske	Boston Bar Association
Richard Fucillo	Citizen representative
Gail Garinger	Office of the Child Advocate
Richard Gedeon	Family law practitioner
Sheridan Haines	Governor's Council to Address Sexual Assault and Domestic Violence
Peter Hill	Fatherhood Coalition ²⁰
Ned Holstein	National Parents Organization, Founder and Chairman of the Board ²¹
Joyce Kauffman	Massachusetts LGBTQ Bar Association
Marsha Kline Pruett	Researcher and clinical psychologist
Michael Leshin	Governor's Office representative - Facilitator
Representative Eugene O'Flaherty	Massachusetts House of Representatives
Christina Paradiso	Community Legal Aid
Denise Squillante	Massachusetts Bar Association

²⁰ Due to a disagreement with the leadership of the Fatherhood Coalition as to an October 2013 letter sent to the Governor concerning the Working Group, Peter Hill resigned from this organization. He has continued to serve on the Working Group in his individual capacity.

²¹ During Ned Holstein's tenure the organization changed its name to the National Parents Organization from Fathers and Families.

Anita Robboy

Academy of Matrimonial Lawyers, Massachusetts chapter

Congresswoman Katherine Clark
succeeded by Senator William N.
Brownsberger²²

Massachusetts Senate

Working Group Consultants

Consultant	Organization/Position
Chief Justice Paula Carey, succeeded by the Hon. Angela Ordoñez upon her elevation to this post on July 16, 2013 and Judge Carey's assuming the role of Chief Justice of the Trial Court	Probate & Family Court ²³

²² In March of 2013, then Deputy Chief Legal Counsel Nicholas Martinelli invited then Senator Katherine Clark to participate in the Working Group. Following her election to Congress, her successor as Co-Chair of the Joint Committee on the Judiciary, Senator William N. Brownsberger was asked to participate.

²³ On behalf of the Probate and Family Court, as of March of 2013, Denise Fitzgerald, Manager of Legal Research Services, participated, providing thoughtful guidance.

APPENDIX "B"

Goals, Issues and Concerns

1. Heightened suicide rates for middle-aged, divorced men.
2. The status of *de facto* and stepparents in the lives of children.
3. Role of attorneys appointed to represent children.
4. The Guardian *ad litem* process.
5. Ensuring the involvement of both divorced parents in the lives of children.
6. Elimination of the terms "custody" and "visitation."
7. High-conflict divorces.
8. Interdisciplinary panels of lawyers and mental health professionals to assist with settlement of cases.
9. Conflict which pervades following the divorce.
10. Rebuttable presumption of shared physical custody.
11. Gender neutrality in decision making.
12. Challenges for low-income clients and *pro se* litigants.
13. Safety issues for divorcing parents.
14. Children's "voice" within the divorce process.
15. Challenges for unmarried parents.

16. Procedural and evidentiary rules in the Probate and Family Court.
17. Cognizance of the spectrum of concerns for children as informed by age and development.
18. Standards for removing a child from the Commonwealth of Massachusetts (permanent residence change).
19. Challenges for same-sex couples – married and unmarried.
20. Enforcement of court orders as to parenting time.
21. Contrasting scope of child-welfare/state intervention cases with intra-parental disputes.
22. Abuse prevention orders within the scope of judicial decision making as to parenting time.
23. Mediation.
24. Parenting education and support programs.
25. Parenting plan templates, such as the State of New Hampshire provides parents.
26. Cameras in the courtroom as concerns appeals and Commission on Judicial Conduct proceedings.

APPENDIX "C"

Non-represented Organizations from Whom Feedback was Requested

- a. Massachusetts Association of Guardians *ad Litem*
- b. Massachusetts Council on Family Mediation
- c. Massachusetts Collaborative Law Council
- d. Massachusetts Law Reform Institute
- e. Massachusetts Family and Probate American Inn of Court
- f. Massachusetts Chapter of the Association of Family and Conciliation Courts

In addition, the Massachusetts Bar Association sought feedback from the following organizations:

Barnstable County Bar Association

Berkshire County Bar Association

Bristol County Bar Association

Dukes County Bar Association

Essex County Bar Association

Franklin County Bar Association

Hampden County Bar Association

Hampshire County Bar Association

Middlesex County Bar Association

Nantucket County Bar Association

Bar Association of Norfolk County

Plymouth County Bar Association

Worcester County Bar Association

APPENDIX "D"

Comment on Mediation

Prepared by John A. Fiske, Esq.

More and more people turn to mediation to resolve disputes. Arguments between parents are ideally suited for this dispute resolution process. Studies show that children benefit when their parents agree to work together instead of becoming adversaries – mediation promotes and teaches cooperation. In addition, parents are parents forever, and they need to continue to resolve by themselves the myriad issues of raising children long after any court is involved. By court rule, Massachusetts already **allows** court-connected mediation programs to handle parenting disputes. The Legislature could strengthen this healthy approach by **requiring** referrals to mediation, regardless of subject matter, as long as the parties have a child or children and subject to protective screening protocols for abuse. Since 1985, Maine has exemplified this approach, creating a safe place for parents to talk confidentially with trained assistance to help them define binding agreements on their own terms. Studies show parents follow their own agreements since no court orders are imposed on them.

TAB 7

Past Co-Sponsors

Co-Sponsors of Shared Parenting Bills in Previous Sessions

Legislator	District	HB2684	HB1306	SB847	SB659
Rep Paul Adams	17th Essex	X			
Rep Denise Andrews	2nd Franklin		X		
Rep James Arciero	2nd Middlesex	X			
Rep Cory Atkins	14th Middlesex			X	
Rep F. Jay Barrows	1st Bristol	X			
Rep Carlo Basile	1st Suffolk			X	
Rep Matthew Beaton	11th Worcester	X			
Rep Jennifer E. Benson	37th Middlesex	X			
Rep John J. Binienda	17th Worcester	X			
Rep Thomas J. Calter	12th Plymouth	X			
Rep Linda Dean Campbell	15th Essex	X	X		
Rep James J. Dwyer	30th Middlesex	X	X	X	
Rep Carolyn C. Dykema	8th Middlesex	X			
Rep Kimberly Ferguson	1st Worcester	X			
Rep John P. Fresolo	16th Worcester	X	X		
Rep Paul K. Frost	7th Worcester	X			
Rep Sean Garballey	23rd Middlesex	X			X
Rep Colleen M. Garry	36th Middlesex		X		
Rep Anne M. Gobi	5th Worcester	X	X		X
Rep Thomas A. Golden, Jr.	16th Middlesex		X		
Rep Carlos Henriquez	5th Suffolk	X			
Rep Bradford Hill	4th Essex	X			
Rep Kate Hogan	3rd Middlesex	X			
Rep Robert M. Koczera	11th Bristol	X			
Rep Bradley H. Jones, Jr.	20th Middlesex		X		
Rep Kevin J. Kuros	8th Worcester	X			
Rep Stephen L. Levy	4th Middlesex	X			
Rep Jason M. Lewis	31st Middlesex	X			
Rep David Paul Linsky	5th Middlesex	X			
Rep James Lyons, Jr.	18th Essex	X			
Rep Paul McMurtry	11th Norfolk	X			
Rep Aaron Michlewitz	3rd Suffolk	X			
Rep Shauna O'Connell	3rd Bristol	X			
Rep James J. O'Day	14th Worcester	X			
Rep George N Peterson, Jr.	9th Worcester	X			
Rep Elizabeth Poirier	14th Bristol	X			
Rep Angelo J. Puppolo, Jr.	12th Hampden	X			
Rep George T. Ross	2nd Bristol			X	
Rep Angelo M. Scaccia	14th Suffolk		X		
Rep John W. Scibak	2nd Hampshire	X			
Rep Carl M. Sciortino	34th Middlesex	X			
Rep Todd M. Smola	1st Hampden	X		X	
Rep Joyce A. Spiliotis	12th Essex				
Rep David B. Sullivan	6th Bristol		X		
Rep Benjamin Swan	11th Hampden	X			
Rep Walter F. Timilty	7th Norfolk	X			
Rep Chris Walsh	6th Middlesex	X	X		
Rep Daniel B. Winslow	9th Norfolk	X	X	X	
Sen Stephen M. Brewer	Worcester, Hampden, Hampshire, Franklin				X
Sen Sal N. DiDomenico	Middlesex, Suffolk, Essex	X			X
Sen Robert L. Hedlund	Plymouth and Norfolk	X		X	
Sen Brian A. Joyce	Norfolk, Bristol and Plymouth	X			
Sen Thomas P. Kennedy	2nd Plymouth and Bristol	X	X		
Sen Michael R. Knapik	2nd Hampden and Hampshire	X			
Sen Thomas M. McGee	3rd Essex and Middlesex	X			
Sen Anthony Petrucci	1st Suffolk and Middlesex	X			
Sen Richard J. Ross	Norfolk, Bristol, and Middlesex	X		X	
Sen Bruce E. Tarr	1st Essex and Middlesex		X	X	
Sen James E. Timilty	Bristol and Norfolk	X			

TAB 8

Media Coverage

THE WALL STREET JOURNAL.

THE WALL STREET JOURNAL.

Friday, April 17, 2015 | A3 7

U.S. NEWS

Fathers Seek Parity in Custody Cases

Bills in some 20 states would alter divorce laws about which parent gets control of children

By ASHBY JONES

Some of the biggest battles over child custody are playing out not in courtrooms, but in statehouses.

Prompted partly by fathers concerned that men for too long have gotten short shrift in custody decisions, about 20 states are considering measures that would change the laws governing which parent gets legal and physical control of a child after a divorce or separation.

The proposals generally encourage judges to adopt custody schedules that maximize time for each parent. Some of the measures, such as those proposed in New York and Washington state, take an additional step by requiring judges to award equal time to each parent unless there is proof that such an arrangement wouldn't be in a child's best interests.

Critics of the bills contend that they threaten to take discretion away from judges and risk giving leverage to abusive men. They also say the laws are poorly targeted because typically the only custody cases that end up in court are ones in which former spouses are too hostile toward each other to effectively practice shared parenting anyway.

Supporters maintain that the opponents, which include many family lawyers and bar associations, are trying to keep alive an adversarial culture that leads to lengthy—and often lucrative—court battles. They say the law should better reflect recent studies that show children are better off when both parents play a meaningful role in their lives.

"If dad is subject to the typical 'Wednesday dinner and every other weekend' arrangement, he's not doing the kind of parenting that benefits kids, making sure the homework is done, getting them up for school," said Linda Nielsen, a psychology professor at Wake Forest University. In such situations, a father "is



Carl Roberts with his sons, Max and Mike. Mr. Roberts sought expanded custody rights to the children in a dispute with his former wife.

basically reduced to an uncle."

Legal views on custody have swung considerably over the years. The "tender years" doctrine came into vogue early in the last century, said Donald Hubin, an emeritus professor of philosophy at Ohio State University who has written on parenting and parental rights. That doctrine stated a child should stay especially close to his or her mother during infancy and toddler years.

About 50 years ago, that notion gave way to the idea that custody should be decided according to a child's best interest.

Advocates of shared parenting say the "best interests of the child" standard gives judges too much latitude to employ latent biases and unfairly encourages parents to diminish each other's abilities in a public forum.

Statistics on shared parenting are fragmented. But several studies in recent years show that while shared parenting is becoming

more popular, it is far from the norm. A 2014 study showed that the percentage of cases in Wisconsin that ended in "equal shared custody" grew from 5% in 1986 to 27% in 2008.

"The court system too often creates winners and losers out of well-intentioned parents," said Carl Roberts, an Arvada, Colo., software salesman in the midst of a six-year custody battle involving his sons, aged 11 and 12. "The winner gets the child, and the loser often hardly gets to be a parent."

After an initial ruling in 2009, Mr. Roberts was allowed custody of his sons every other weekend. In 2012, that time was expanded by two days a month. Earlier this month, he and his ex-wife agreed to a plan that could further increase his parenting time.

"It's absurd that the law says nothing about the benefits of two-parent child relationships, and does nothing to encourage

them," he said.

The Colorado Senate introduced a shared parenting bill in January. The measure, which Republican co-sponsor Sen. Kevin Lundberg said was prompted partly by Mr. Roberts's pleas, requires courts to explain in writing why a custody order that "does not order substantially equal parenting time between the parties" is in the best interest of the child. The Senate unanimously passed the legislation last month and it is pending in the state House.

Joni Roberts, Mr. Roberts's ex-wife, said the measure largely was unnecessary given that the vast majority of couples settle custody disputes out of court. "Our situation has gone on for six years, and we reached agreements every time," she said.

Other opponents of shared-parenting legislation reject claims that it is simply designed to protect a system that pays

lawyers' bills. They say that while role-sharing is a laudable goal for parents who can make it work, a presumption of a 50-50 split shouldn't be baked into law.

Peter Salem, executive director of the Association of Family and Conciliation Courts, a Wisconsin-based nonprofit organization that studies the best ways to resolve family conflict, said such situations are highly nuanced. "It doesn't make sense to force this on couples that really deeply don't get along," he said.

Some domestic violence experts fear a presumption of shared parenting will give men with histories of emotional or physical abuse more bargaining power during divorce negotiations. "You're going to see victims pressured to cooperate with their abusers, which is completely harmful to children," said Barry Goldstein, a domestic-violence expert who practiced family law in New York for 30 years.



March 26, 2015

Editorial: Child custody bill requires thoughtful consideration

Posted: Thursday, March 26, 2015 1:10 am

Divorce is never easy. Not for either party in the disintegrating relationship -- **and certainly not for any children involved.** And it never makes for easy jurisprudence.

While societal norms have evolved and the traditional roles of men and women in child-rearing have changed over the years, divorce law has been slower to respond.

Now advocacy groups are pushing legislation that would require family court judges to consider joint custody of children in most divorces, unless one parent is deemed unfit. The Boston-based National Parents Organization is supporting such a bill in the Massachusetts Legislature.

The bill has the backing of more than 40 state legislators, including Reps. Ted Speliotis, D-Danvers; Ann-Margaret Ferrante, D-Gloucester; Diana DiZoglio, D-Methuen; and Brad Hill, R-Ipswich.

Media Support for Shared Parenting

The Boston Globe

EDITORIAL

Massachusetts custody proposal rightly stresses time with both parents

MAY 18, 2014

SLOWLY BUT surely, Massachusetts is reshaping its laws around divorce. First, a task force of experts and advocates prompted a sweeping overhaul of outdated alimony laws. And two years ago, the governor's office convened a similar committee to review the state's child custody laws. That committee's work is done, and the result is promising: a proposal that acknowledges that, in most circumstances,

children benefit from significant time with both parents. This would put Massachusetts in line with other states that are updating their custody laws, and is worthy of the governor's support and the Legislature's action.

The changes to state code, if passed, would directly affect only a small portion of divorce cases: the 10 to 15 percent of couples who cannot reach an agreement through negotiation or mediation, and instead rely on the courts. But child advocates say the changes would establish expectations for all splitting families, and set the tone for settlement negotiations, by prioritizing the well-being of children over the competing interests of the parents.

Significantly, the proposal would change some of the adversarial language that's currently in state code, replacing "custody" with "residential responsibility" and "decision-making responsibility," and replacing the loaded term "visitation" with the more neutral "parenting time." A new mission statement would state that significant time with both parents, when possible, is ideal. And new language would suggest that, when possible, children should spend at least one third of the time with each parent.

Of all of the changes proposed, that idea — prescribing a specific amount of time with each parent — is most likely to face resistance. Some will imagine that constant travel between homes could be too disruptive for children. Others will be disappointed that the language doesn't mandate a 50-50 split. But the task force proposal doesn't dictate any specific sort of split. (Parents can divide up weekends and weekdays; summers



and vacation weeks could work, too.) The guidelines are a way of acknowledging research that shows the value of quality time with both parents.

The proposed changes would still leave judges broad discretion to limit a child's contact with parents in the case of domestic violence, substance abuse, and a range of other factors. Judges would be able to penalize parents for deliberately trying to alienate a child from a father or a mother. The need for such safeguards underscores a sad reality about divorce: There is no way to eliminate all acrimony from the process, or to shield children completely from disruption. But as a baseline effort to put the needs of children first, and to bring Massachusetts custody laws into the present, these changes are worth pursuing.

Thursday, May 13, 2010  

TELEGRAM

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Divorce is tough on all involved, especially the children. By smoothing the way toward sound custody agreements, House Bill 1400 offers help in the vast majority of cases: those involving two fit parents.

Advocates point out that the current practice in Massachusetts, in which the mother is the presumed custodial parent, encourages conflict. The Shared Parenting bill would require that courts handling separation and divorce agreements work from the presumption that both parents should share physical and legal custody.

That, says the advocacy group **Fathers & Families**, encourages cooperation and keeps the focus on what is best for children. Instead of a father having to fight for time with the children he loves, the legal system would assume that he merits equal time, and spend its time working out the details and practicalities of a given case. Shared parenting needn't be a rigid 50-50 split; the mere assumption that both parents deserve ample time eases tensions, and the eventual agreement arrived at depends on a host of factors.

There was a time when it was generally reasonable for the mother to be awarded custody of the children almost automatically. That time is gone. Family dynamics and gender roles have changed. Just as women have proved themselves in the workplace, men have come into their own as nurturers at home, often very closely involved in their children's upbringing.

The bill, it must be emphasized, is for families in which both parents are fit and no other problem gets in the way, such as parents living far apart. Judges would depart from the shared-parenting starting point whenever the best interests of the child so dictated, giving written reasons.

This simple bill, currently before the Joint Committee on the Judiciary, offers an enormous and welcome change in how families would navigate marriage dissolution. Once this sad, private decision had been made, the system would help the parents find the way forward that puts the children on the best possible footing. Afterward, other benefits would accrue: children doing better in school, paternal grandparents enjoying access, less fighting, better child support compliance. In short, this bill offers respect and assistance to both partners who are parting ways, freeing up time and attention for the young ones affected — who want, and who need, both parents.

Push grows for equal-time child custody

Advocates of shared parenting find support on Beacon Hill

The Lowell Sun, February 16, 2014

Joshua Brand has spent seven years fighting in Middlesex and Cambridge courts to spend more time with his 8-year-old son, Tyler. The Lowell man, a Lawrence Public Schools teacher, said he was given partial custody of his son in a 2006 divorce decree that originally allowed him to see the boy three hours a week.



In the years since, Brand has been back to court a dozen times, spending thousands of dollars to negotiate the current agreement that allows him to see his son every Thursday, every other weekend and every other Monday.

"I've been a teacher for 15 years and am trusted with thousands of students, but ... I can't spend time with my own kid, I can only be a part-time parent," Brand said in a phone interview.

A growing number of lawmakers across the state are examining child-custody laws after a push from national and local advocates, such as Brand, who argue that divorced parents should share equal custody.

At their prompting, Gov. Deval Patrick has established a task force of lawyers, psychologists, elected officials, parents and members from the governor's office to review possible revisions to state laws.

The group is expected to submit a proposed bill to the governor next month.

About 30 percent of children in Massachusetts are being raised in split households. Advocates for shared-parenting laws argue that these children are best served when they can spend equal time with both parents, except in cases of abuse and neglect.

"The idea of shared parenting is that after a separation or divorce, kids spend a lot of time with each parent," said Ned Holstein, a Newton physician and founder of the National Parent Organization, a charitable group that supports shared parenting.

"It's not a straight 50/50, but it would be tailored to each family to prevent one custodial parent and one noncustodial," said Holstein, a member of the governor's task force.

To win the support of Patrick, and lawmakers, Brand said he has participated in letter writing campaigns and hopes to organize a silent protest on Beacon Hill. The task force was prompted after state Rep. Colleen Garry, D-Dracut, filed a series of bills in 2012, with the support of the NPO, to make the presumption of shared parenting -- joint legal and physical custody -- the norm.

"I've been filing this legislation for several years to rectify the old system where the mother gets the child or one parent and the other parents only gets to see their child on weekends and some holidays," Garry said. "Today, both parents are taking on caretaker roles and the laws should reflect that."

Garry said she was inspired to draft the legislation after hearing stories from her constituents. She has since focused her law practice on family law, making sure to put the clients' children first and allowing equal access to both parents.

In the past few years, Garry said she has seen more courts changing from the "old-fashioned way" and has seen less traditional rulings allowing shared parenting.

"I was outraged at the idea that someone would visit their own children and calling it visitation was horrible," Garry said, "but in recent years the courts have changed."

Roy Corbeil, a NPO member from Dracut, said his son faced similar problems in court and lost custody of his child in a high-conflict divorce.

"Judges have operated on a 'best interest of the child' system, what they really mean is the best interest of the mother," said Corbeil. "The judge usually has never met the child and makes a decision on very little standing, so what they think is best is keeping the child with the mother."

Corbeil said that when courts separate fathers from their children and force them to pay child support, fathers can face imprisonment for missing alimony payments, depression and, in some cases, suicide.

"The best situation is for the child to have access to both parents," Corbeil said, "and that is not happening."

"Shared parenting, as a concept, is something that sounds good. The devil is in the details," said Rachel Biscardi, the director of pro-bono projects with the state's Women's Bar Foundation, an organization that supports equal participation of women in the legal profession and in society.

In the past, the foundation has opposed shared-parenting legislation because it overrides the court's practice of deciding what is in the "best interest of the child" when deciding child-custody cases.

"We want to make sure any legislation is child-centered, fair to parents, and also preserves judicial discretion," said Biscardi, who is also a member of the governor's task force.

"Custody is not a prize that someone can win," Biscardi said. "We (the governor's task force) are focused on framing this not as a battle to be won or lost, but instead as a determination of what is best for the child."



Shared parenting could be new divorce outcome

JANUARY 27, 2014

A growing number of state lawmakers are examining child custody laws amid a push from advocates who argue that divorcing parents should share equal custody.

Advocates for so-called shared-parenting laws argue that children are better served when they can spend equal amounts of time with both parents.

They oppose laws that

award custody to one parent, except in cases where there's a history of abuse or substance abuse. Opponents say that judges need flexibility to determine custody arrangements that are in the best interest of children.

"The best interest of the child or children trump the interests of the filing parent," said Tom Barnett, the executive director of the South Dakota Bar Association.

Lawmakers in Arkansas last year passed a law that calls for the "approximate and reasonable equal division of time" of children between parents in divorce proceedings. That represented a reversal of the state's case law, which stated that joint custody was not a favored outcome, said Donna Gay, a staff attorney with the administrative office of the courts.

"It's probably pretty significant, but I don't think enough time has passed so that we know what it's going to do," Gay said.

Elsewhere:

— In Connecticut, the General Assembly created a task force to study family law issues, including whether the state should have a presumption in law that shared custody is in the best interest of children. The task force is scheduled to issue a report Friday.

— The Maryland General Assembly created a Commission on Child Custody Decision Making last year. The commission is scheduled to issue its final report by Dec. 1.

A bill that included alimony reform and shared parenting also passed in Florida last



year, but it was vetoed by Republican Gov. Rick Scott. Minnesota Gov. Mark Dayton, a Democrat, vetoed a measure in 2012 that would have increased the minimum amount of custody from 25% to 35%.

There are three major reasons for the increasing interest in shared parenting laws, said Ned Holstein, the founder of the National Parents Organization, a group that supports shared parenting. First, gender roles have converged, and more men are caretakers.

Second, polls show that large majorities of Americans support the concept of shared custody.

Third, the movement has, in part, been fueled by the fact that over the last 30 years, courts have given custodial parents more powers, Holstein said, leaving non-custodial parents frustrated and energizing a backlash.

"This has given rise to more and more people who feel deeply disenfranchised," Holstein said.

Casey Wilson, a divorced father of three, is one of them. The Flandreau, S.D., man has been trying to get state law changed to favor shared parenting.

"I live 15 miles from my kids and I see them four times a month this time of year," he said.

While Holstein said that shared parenting is not for everybody, state laws should reflect that both parents have equality and an ability to work out custodial arrangements. A system where one parent gets custody over another encourages bitterness, he said.

"A lot of divorces are messy simply because the stakes have been made so high."

Holstein is currently serving on a governor-appointed task force in Massachusetts studying family law issues. The group is expected to submit a proposed statute that will represent a "very substantial improvement" in that state's custody laws, he said.

In South Dakota, the state bar association has fought proposals that would have added a presumption to state law that child custody should be split 50-50 between parents. This year, the bar is sponsoring its own shared parenting bill, which would establish statewide guidelines for judges to consider when granting joint physical custody.

Barnett, the executive director, said his group still opposes a requirement that judges award joint custody, but he also said the state needs guidelines for when they do grant joint custody. He thinks 50-50 splits mandated by law would promote conflict between divorced parents, because some would use a "stopwatch" to make sure custody was equal.

"The goal, of course, is to maximize to the extent possible for both parents to maintain a good relationship with their children without a magic formula," he said.

Krista Heeren-Graber, executive director of the South Dakota Network Against Family Violence and Sexual Assault, also opposes mandatory shared parenting. In many

situations, one person in a relationship might be the victim of abuse or of power and control by the other person. Often, victims don't ask for restraining orders or have other legal documentation, and thus wouldn't have the ability to fight 50-50 custody award.

"Our concern is always that domestic violence is a consideration when it needs to be," she said.

The Columbus Dispatch

Kids with two parents need both, even in breakup

By Ned Holstein

The Ohio Supreme Court has ruled against Michele Hobbs, a lesbian “social mom,” in her desire to co-parent the child she helped raise from birth. She and biological mom Kelly Mullen agreed to raise a child together, sought out a sperm donor and shared the parenting from the birth of their now-five-year-old daughter, Lucy. The court’s ruling means that Lucy might never see the woman she calls “momma.” It is a mistake.

Most of the public sees this as a gay-rights case. The court sees it as a technical issue of defining who is a parent under the law. In reality, it is a best-interest-of-the-child case similar to everyday heterosexual child-custody disputes.

Fathers and Families has no position on same-sex marriage. But we do have a position on same-sex “divorce.” Once a child has bonded with two adults as her parents, she is deeply and often permanently hurt by the sudden, court-ordered absence of one of her parents, regardless of the parents’ sexual orientation, of which the child has no understanding.

Even if Lucy had every-other-weekend visitation with Hobbs, it would not be enough to offset her sense of loss, loneliness and abandonment. Whether it is a heterosexual marriage or a same-sex relationship, the effect on the child is the same, regardless of one’s ideological position on same-sex marriage.

Every day, some divorcing heterosexual parents try to use the courts to drive the other parent, usually the dad, out of the child’s life, ignoring the profound heartache they are causing their child. Too often, as in this case, they succeed. They trouble their own house, and they inherit the wind: the research clearly shows that their children suffer. Many do poorly in school, become apathetic or angry, use drugs and alcohol, join gangs or get pregnant in their teens. There is every reason to believe that the same will be true of the children of same-sex partners who lose a parent in court.

In one heart-wrenching recording, confused little Lucy struggles to explain to Hobbs that her ex-partner Mullen no longer wants her to call Hobbs “momma.” Lucy is heard to say, “Mommy says don’t call momma ‘momma’... mommy says ‘momma’s not momma,

momma's Michele' but I say 'no mommy, she's momma.'" How can this be ignored?

Every court that has examined this case has concluded that Hobbs is a fit mother and that she and Lucy are closely bonded. Hobbs' name is on Lucy's ceremonial birth certificate. She is listed as a co-parent in Mullen's will, and held power-of-attorney and durable power-of-attorney for medical care. Mullen once stated, "I consider Michele Hobbs as my child's co-parent in every way."

Hobbs has no desire to wrest Lucy away into a sole-custody arrangement. Instead, she desires shared parenting with her ex-partner. In return, she gets only vilification and denial of visitation from Mullen. Lucy deserves Hobbs' love and guidance, as well as Mullen's.

What about the larger issues surrounding same-sex relationships? Those who applaud the court's decision based on their opposition to same-sex marriage should be careful what they wish for, because advocates for same-sex marriage will now re-double their efforts, to banish the specter of losing their children if their partner leaves them.

Conversely, advocates for same-sex marriage also should be careful what they wish for. If they succeed, custody will be decided by family-court judges. Just as in heterosexual custody battles, many judges will insist on sole custody to one parent instead of shared parenting. The disfavored parent, instead of being dad, likely will be the non-biological mom. Just as with many divorced dads, they may end up with the worst of both worlds: little or no contact or authority with their kids, but required to divide assets and pay child support.

Until these issues are resolved through democratic processes, we should put aside the ideological wars and do what is best for Lucy. Clearly, it is to allow her to have both of her mommies.

Ned Holstein is the founder and chairman of the board of Fathers and Families, a national family court reform organization with an affiliate in Ohio.

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Fathers and Families improves the lives of children and strengthens society by protecting the child's right to the love and care of both parents after separation or divorce. We seek better lives for children through family court reform that establishes equal rights and responsibilities for fathers and mothers.

Monday July 18, 2011 6:19 AM

The Royal Gazette

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Sole custody ‘worst possible outcome’

By Lisa Simpson

Published Dec 6, 2014 at 8:00 am (Updated Dec 6, 2014 at 1:23 am)

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An eminent social work professor has advocated the benefits of shared parenting, as opposed to the sole custody model, in cases of separation and divorce.

Speaking on the topic of estrangement between children and parents, Dr Edward Kruk called for urgent change to the current “winner-takes-all” approach that he said does not benefit children or parents, and can lead instead to disastrous consequences.

In his speech “Shared Parenting: Moving Bermuda Forward”, given at the Hamilton Rotary Club this week, Dr Kruk said that the removal of a primary parent can fuel family violence, parental alienation and parental disengagement.

All of which, he says, can threaten children’s physical and emotional security.

“Unfortunately, as in Bermuda, governments and legislatures have been reluctant to legislate shared parenting, as a result of a number of myths and

misperceptions about the concept,” he said.

Dr Kruk suggests shared parenting as a viable alternative to the existing model, as recent research has shown that children in shared parenting homes fare significantly better than those in sole custody arrangements.

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He said that shared parenting guarantees that a child maintains a relationship with both parents, and that each parent retains custody and responsibility for their children, unless there is a finding that the child is in need of protection from one or both parents.

He added that shared parenting has also been shown to decrease parental conflict and prevent family violence.

“When one looks at the data, it becomes clear that the sole custody system seems almost tailor-made to produce the worst possible outcome,” Dr Kruk said.

“So we need to remove child custody from the adversarial arena and respect the primary bond between children and both of their parents.”

Shared parenting also reflects children’s and parents’ preferences and views about their needs and best interests, according to Dr Kruk.

He says it has to be the way forward. “On the matter of child custody, there is a marked disconnect between public opinion and the opinion of the professional elites who defend the status quo,” he added.

“Public opinion polls consistently support a legal presumption of shared parenting, even in high conflict cases.

“It is the responsibility of social institutions, such as the family law system, to support, not undermine, parents in the fulfilment of their responsibilities to their children’s needs.”

Dr Kruk is a child and family social worker and social work professor at the University of British Columbia.

He has worked with children and families in both Canada and Britain, in various capacities, for more than 30 years.

Illinois joins debate over child custody disputes

June 01, 2014 | By Bonnie Miller Rubin, Tribune reporter

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It has been a decade since Richard Thomas was locked in a contentious divorce battle. But the years have not dimmed the emotional toll of ending a marriage and having limited access to his three children.

"It's winner take all," he said of custody arrangements. "You go from being a parent to a visitor ... and it's insulting."

Thomas, a nurse who lives near Rockf said he is determined to use his "life experiences" to others mired in similar benefit



circumstances. It's why he has been involved in drafting a shared-parenting proposal in Springfield, although that

proposal hasn't gained traction. Thomas considers another version of the bill moving through the legislature to be watered-down, but others have touted it as a significant overhaul of Illinois family law.

Advocates like Thomas argue that children are served when they can spend equal time better

✍ with both parents. They oppose laws that award

✍ custody to one parent over another, unless a parent is deemed unfit, and would like the law to mandate that both parties get a minimum percentage of time with their kids.

But opponents — such as the Illinois State Bar Association and the Cook County public guardian's — say that if judges are to put office

✍ children first, they need flexibility, not a one-size-fits-all . solution

✍ It's a debate that is happening nationwide, according to the National Conference of State Legislatures. Illinois is one of seven states to grapple with legislation about how best to ensure that both parents have a continuing relationship with their kids after a divorce.

For years, family courts would automatically grant custody of offspring to mothers, requiring little of fathers other

than the standard arrangement: Every-other-weekend visits, one or two evenings during the week and paying child support, said David Kerpel, a Deerfield-based family law attorney.

In the 1980s, the domestic landscape changed. As more women went to work outside the home, more men became engaged and nurturing caregivers, forging strong ties that benefited their children.

Numerous research studies also supported the notion that youngsters fare better when they are raised by both parents, providing that neither has disorders such as addiction or a history of violence, experts say.

Too often, though, judges still rule as if we're living in the 1950s, said Dr. Ned Holstein, head of the Boston-based National Parents Organization, formerly called Fathers and Families. The same bias that women encountered in the corporate world is routinely faced by men in the legal system

☑

said.

"That breakdown of gender roles has been very slow to come to family courts. They are just now being pressured to catch up with the rest of society," Holstein said.

While about 2 million women nationwide are noncustodial parents, the debate is often framed as a battle of the sexes, with men's rights groups on one side and feminist groups on the other.

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In Illinois, the issue has been on the radar screen for years, reflecting the often adversarial nature of divorce itself. In 2008, the Family Law Study Committee — which included lawyers, legislators, judges and other stakeholders — was formed to bring reform to the Illinois Marriage and Dissolution of Marriage Act.

Over the years, the committee has put in hundreds of hours and heard poignant testimony from noncustodial parents shut out of their children's lives, said state Rep. Kelly Burke, D-Evergreen Park. But earlier proposals have stalled, especially when it came to hammering out specifics, such as the time the noncustodial parent

awarded



The latest legislation in Springfield would urge, but not require, judges to consider equal time for both parents and also force custody disputes to end in 90 days rather than languish for years.

"Judges should be guided by a child's best interest, not a number," countered Danielle Gomez, an attorney for the Cook County public guardian's office. "There is nothing that prevents parents from agreeing to more time ... and coming up with a plan that works for them."

The current measure was approved by the House in April and is now in the Senate. Burke has been working on custody reform for years and believes lawmakers will vote on the proposal by year's end.

"Sometimes, it's just very hard to move a judge from the standard scenario," Burke said. "But we think this will be a big step forward for the majority of cases."

However, some experts are skeptical about how a law without teeth will play out on a day-to-day basis.

"When one parent is blinded by their feelings toward the other, they can have a very difficult time focusing on raising healthy, well-adjusted kids," according to Aaron Cooper, a psychologist at The Family Institute at Northwestern University.

(Page 2 of 2)

Illinois joins debate over child custody disputes

June 01, 2014 | By Bonnie Miller Rubin, Tribune reporter

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"When even the best child experts differ on what a child most needs, how can we expect embattled parents to agree? Too many parents let the emotional brain override the logical brain in their misguided wrestling match over custody."

After Thomas' marriage ended in 2003, he was granted only with his kids — then limited time

 12, 14 and 16 years old. The court battle went on for another three years, and Thomas ended up getting custody, he said.


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him about \$50,000, and his kids left
home as quickly as they could, he said.

Thomas was involved in drafting a
different bill that would have required
judges to give each parent custody of
their children at least 35 percent of every
week. It was never called for a vote.

Kerpel, the family law attorney, is
skeptical that any law will be a perfect
piece of legislation. Even with a specific
allocation of parenting time, conflict is
inevitable, he said.

"When it comes to dissolving a marriage,
the toxic atmosphere means there is
always something to argue about," Kerpel
said. "The lawyers play a part, the judges
get blamed, but the parties themselves
need to step back and get a perspective.

better

✍
They need to realize the damage that
they are causing not just to themselves
but to their children."

brubin@tribune.com

Local View: Stop abusive tactics in family court

DECEMBER 18, 2014 11:57 PM • BY RAY KEISER

Much has been written in the last few years about the pressing need for family law reform. Most attention has correctly been focused on the need to protect children from inadequate parenting time with either parent. However, we also need to protect children and the public from bad lawyers.

There is an emerging trend nationally to punish lawyers who use abusive tactics in family law cases. As the California Court of Appeals said in a recent case, "zealous advocacy does not equate with 'attack dog' or 'scorched earth'; nor does it mean lack of civility." In this case, the court found that "uncivil, rude, aggressive, and unprofessional conduct (by the wife's attorney) marred this case from the very beginning," and upheld \$400,000 in monetary sanctions for a litany of abusive tactics.

In an unrelated case, the California Court of Appeals upheld an attorney fee award of \$552,153 for false allegations of domestic violence and other misconduct. It also awarded \$15,000 for filing a frivolous appeal and sanctioned two lawyers \$5,000 each for their involvement in the frivolous appeal. In a recent New Jersey case, an appeals court upheld an attorney fee award of over \$1.5 million and an additional \$300,000 in expert witness fees for a variety of abusive tactics in a custody dispute, including false allegations of domestic violence.

Courts have also recently awarded monetary sanctions in New York (\$50,000) and Tennessee (\$61,000) for abusive tactics in family law cases.

Nebraska lags behind other states in policing abusive family court tactics. Perhaps as a result, 10 respected attorneys recently asked the Nebraska Supreme Court to amend our legal ethics rules to prohibit lawyers from engaging in one of the most abusive tactics -- using children as leverage in financial disputes. As these attorneys pointed out:

"While not often discussed publicly, the use of children to gain leverage in financial disputes is a recognized tactic in Nebraska family law cases. This often is reflected in negotiations around parenting time and child support, in which an attorney may condition parenting time on the payment of additional child support. In extreme cases, an attorney may actively participate in a child abduction in which a parent denies the other parent access to the child until the other parent agrees to financial concessions."

To illustrate this latter point, the attorneys attached a letter in which a Nebraska lawyer actively participated in a child abduction and demanded money for the return of the children. The lawyer had counseled the wife to leave the marital home with the children and then demanded an extraordinary five-figure upfront fee from the father in exchange for letting the father see his children.

While abusive litigation tactics are not limited to using children as negotiating leverage, this tactic is one of the most harmful because it places the children in the middle of their parents' conflict, which is harmful to children. It damages children's relationships with their parents and makes them more vulnerable to even typical childhood stresses. Interfering with a parent's ability to see his or her children also increases the magnitude of the parents' conflict, which further increases the risk of harm to the children. Using children as negotiating leverage can be indicative of child abuse and parental unfitness.

What can be done? First, our courts should follow the lead of courts in other states and enforce existing rules that restrict the use of abusive tactics.

Second, we should amend our legal ethics rules to prohibit lawyers from using children as leverage in financial disputes and give bar discipline authorities the ability to prohibit attorneys who violate these rules from handling child custody cases.

Third, the legal ethics rules should provide that lawyers who are involved in child custody matters owe duties both to their client and to the minor children. Legal ethics rules already provide that criminal prosecutors have a higher duty than just to win, they must also protect the rights of the accused. The new rule would provide that family law attorneys also have a higher duty than just to win, they must also protect the best interests of the minor children (who are not their clients).

Fourth, the legal ethics rules should require special training for lawyers who handle child custody cases. This training should include information on optimal parenting time outcomes, how to minimize conflict, how to insulate children from the conflict that does occur, ethics, and child abuse and domestic violence including male victims and false allegations.

News » Family

Study: Shared Parenting After Separation Benefits Children

Thursday Dec 18, 2014



Ned Holstein, M.D., M.S, Founder and Chair of the Board of Boston-based National Parents Organization, announced that multiple studies show obstacles stand in the way of children's best interests.

"The great news is that 2014 has produced a marvelous advance in our ability to help troubled children," said Holstein. "But as a unique study released within the past week by Boston-based National Parents Organization shows, political obstacles stand in the way of using this knowledge for the benefit of our children.

"After decades of child development research, this year, three different groups of experts reached the same sweeping conclusion: Shared parenting after parental separation or divorce has substantial positive effects on the development of children. For instance, 110 child development experts signed a paper published by the American Psychological Association titled 'Social Science and Parenting Plans for Young Children: A Consensus Report' that concluded, 'shared parenting should be the norm for parenting plans for children of all ages, including very young children.' Similarly, experts from over 20 countries at the International Council on Shared Parenting concluded, 'There is a consensus that shared parenting is a viable post-divorce parenting arrangement that is optimal to child development and well-being, including for children of high conflict parents.'

"It is exciting to learn that after years of frustrating failures, there is something we can do about educational failure, substance abuse, violence, bullying, sexual assaults and diseases, depression, and a host of other problems of at-risk children. Federal statistics show that 35% of our children are growing up in single parent households with little input from the other parent, and that this is exactly the group in which most serious behavioral problems of children arise. So the shared parenting solution targets exactly the children who are most at-risk. All we need to do is get the family courts to order shared parenting instead of sole custody as its default option, and we will have far fewer troubled kids. (Of course, this should not occur if a parent is disturbed, unfit or guilty of domestic violence.) As icing on the cake, this is free to the taxpayer.

"The bad news is that National Parents Organization's Shared Parenting Report Card shows that legal obstacles must be overcome before we can make full use of what we now know. The study looks at the child custody laws in all 50 states and is the first to issue each state a grade, A through F, based on this critical factor for children. The report finds that the statutes of almost all states fail to encourage shared parenting and parental equality. Not a single state received an A for its child custody statute. Massachusetts received a C+, the nation as a whole scored a 1.63 GPA, and states like New York and Rhode Island received failing grades.

"Efforts in many states to improve statutes have floundered due to opposition from lawyers and domestic violence groups, even though most proposed measures retain judicial discretion, the so-called "best interest of the child" legal standard and prohibitions on shared parenting when there is a history of domestic violence.

"Of course, legislative reforms are often frustrated by special interest groups. But this can be overcome if groups that have the wellbeing of children at heart support shared parenting. Unfortunately, they have been slow to do so. For instance, researchers from the University of Colorado published a paper in the American Journal of Public Health in 2002 showing that living in a single parent home was the second strongest predictor of sexual activity by teenage girls. Yet the public discourse on this subject is still stuck in an endless stalemate over the availability of sex education and condoms in the schools, which had no effect on teen sexual activity in the study. Likewise, in 2007, Boston College researcher Rebekah Coley showed that delinquent behavior in low income, minority, inner city children decreased with increased involvement of their non-custodial parents. Still, the public debate grinds on mostly about gun control and mandatory prison sentences, another useful but stalemated debate.

"If we break out of our preoccupations with old debates, we can grasp new opportunities to help children. We now know that expanding shared parenting is a powerful tool that will improve children's lives at no cost to the taxpayer. We need child advocates to pressure their legislators and courts to make the needed changes to custody law."

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Leading Women For Shared Parenting

Leading Women for Shared Parenting is an international child advocacy organization who supports a rebuttable presumption of shared parenting as the cornerstone of family law.

Founded in 2013, LW4SP is comprised of prominent female psychologists, attorneys, elected officials, domestic violence practitioners, social scientists, authors, child advocates and others who support shared parenting. We advocate for shared parenting as LW4SP is in contact with the most prominent social scientists in the world and is aware, except in cases involving abuse, neglect or abandonment, shared parenting produces the best outcome for children. LW4SP focuses its advocacy on educating politicians, judges, policy makers and the public about the value of shared parenting for children of divorce. More information on LW4SP, research, articles and public polling on shared parenting is available on our website: www.lw4sp.org

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Do The Struggles Of Co-Parenting Ever End?

By **Terry Gaspard**, Featured Journalist - July 07, 2014



As a therapist and writer specializing in divorce, I'm often asked, "When does co-parenting get easier?" While there is no simple answer to this question, most experts probably agree that while families usually adapt to co-parenting over time, it never really gets easier. Most co-parenting arrangements, especially after an acrimonious split, can be exhausting and exasperating. Put simply, the challenges change as children grow and develop. Consequently, it's key for parents to keep in mind that the tools necessary to succeed need to be modified considerably as children age and mature.

Clearly, research by child development experts demonstrates numerous benefits to children when their living arrangements enable support from both parents. One reason is that parents who co-parent tend to experience lower conflict than those who have sole custody arrangements. Studies show that conflict is what creates the most pain and anguish for children after parents' split, and that keeping parental disagreements

to a minimum is a key aspect of helping kids become resilient.

Co-parenting, at its best, is a wonderful opportunity for children of divorce to have close to equal access to both parents – to feel it is okay to love both of their parents. Dr. Joan Kelly, a renowned psychologist reminds us that the outcomes for children of divorce improve when they have positive bonds with both parents. These include better psychological and behavioral adjustment, and enhanced academic performance.

However, few authors mention that while co-parenting is the best decision for children, it takes two special parents to navigate this arrangement over time. Interacting with each other at drop-offs, making shared decisions, or even speaking to an ex who you'd rather forget can be a challenge.

In order to succeed at co-parenting, it's wise to be realistic about the difficulties that may arise as your kids go through childhood and adolescence. For instance, it might be hard to differentiate between the impact of your divorce and normal adolescent rebellion.

For instance, my two children spent close to equal time with both myself and their father until they reached adolescence, when they both protested their schedule. When my daughter was thirteen, after her father's remarriage, she chose to spend most overnights at my home, while her brother started spending more overnights at his father's house because it was located near most of his friend's homes. Fortunately, my ex and I agreed that it was in their best interests to revise their schedule. As a result, our kids thrived as they felt their needs were being respected.

There are numerous benefits of co-parenting for kids:

Children will:

1. **Feel a sense of security.** Children who maintain a close bond with both parents and are more likely to have higher self-esteem.
2. **Have better psychological adjustment into adulthood.** My research shows that adults raised in divorced families report higher self-esteem and fewer trust issues if they had close to equal time with both parents.
3. **Grow up with a healthier template** for seeing their parents cooperate. By cooperating with their other parent, you establish a life pattern that they can carry into their future.
4. **Have better problem solving skills.** Children and adolescents who witness their parents cooperate are more likely to learn how to effectively resolve problems themselves.

The key to successful co-parenting is to keep the focus on your children – and to maintain a cordial relationship with your ex-spouse. Most importantly, you want your children see that their parents are working together for their well-being. Never use them as messengers because when you ask them to tell their other parent something for you, it can make them feel stuck in the middle. It's best to communicate directly with your ex and lessen the chances your children will experience loyalty conflicts.

The following are suggestions based on my own experience and advice from experts. First of all, it's paramount that you gear your parenting plan to the age of your children and that it is consistent. Try to develop routines for them leaving and coming home when they are young. As they reach adolescence, strive to be more flexible and adapt to their changing needs.

Tips to help kids live happily in two homes:

For children under age 10:

1. **Reassure them that they have two parents who love them.** If they balk at going to their other parent's home, you can say something like "Even though mom and dad aren't married anymore we both still love you and are good parents."
2. **Maintain a cordial, business-like relationship with your ex** so that your children won't feel intense divided loyalties. It's important not to express anger at your ex in front of your children so they don't feel stuck in the middle
3. **Help your kids anticipate changes in their schedule.** Planning ahead and helping them pack important possessions can benefit them. However, keep items to a bare minimum. Most parents prefer to have duplicate items for their kids on hand.
4. **Encourage your younger child to adhere to their parenting time schedule** – being consistent with their schedule will help your kids feel secure. Younger children often benefit from avoiding frequent shifts between homes.
5. **Show enthusiasm about their visit with their other parent.** It's important to put your differences with your ex aside and to promote your children's positive bond with them.

For children over age 10 – to young adulthood:

1. **Allow for flexibility in their schedule.** At times, teens may have difficulty juggling their busy life with school, extracurricular activities, friends, and jobs if they start working.
2. **Encourage them to spend time with their friends and extended family** (on both sides). Avoid giving them the impression that being with their friends is not as important as spending time with you.
3. **Plan activities with them that might include their friends at times** – such as sporting events or movies. Encourage opportunities for them to bond with peers at both homes.
4. **Respect your teens need for** autonomy and relatedness. Dr. Emery writes, "Teenagers naturally want more freedom, but they also want and need relationships with their parents, through your adolescent may be unwilling to admit this."

Keep in mind that communicating with your former spouse is going to be necessary for the length of your children's childhood into young adulthood. This may include special events, graduations – and perhaps even weddings. It's important to keep clear boundaries so that your children wouldn't harbor fantasies that you will reconcile. For the most part, this means less personal sharing and focusing on exchanging information, cooperation, and make good decisions about your children.

Finally, modeling cooperation and polite behavior set a positive tone for co-parenting. When children are confident of the love of both of their parents, they will adjust more easily to divorce. Keeping your differences with your ex away from your children will open up opportunities to move beyond divorce in the years to come. Ask yourself this question: how do you want your children to remember you and their childhood when they are adults?

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Edward Kruk: Equal shared parenting — best for parents, best for children

NP EDWARD KRUK, NATIONAL POST | March 25, 2014 12:01 AM ET
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The current adversarial system in family law is unsustainable.

Tyler Anderson/National Post

In recent days, the *National Post* has brought forward two sides of the current debate on Bill C-560, An Act to amend the Divorce Act (equal parenting), set for second reading in the House of Commons today.

Although the two articles, by Barbara Kay (“After a divorce, equal parenting rights should be the norm,” March 19) and Tasha Kheiriddin (“Equal shared parenting laws don’t put kids first,” March 20) appear at first glance to present diametrically opposed positions, each expresses valid concerns in regard to the importance of maintaining parent-child relationships, ensuring continuity and stability in children’s lives, and containing parental conflict. The question is whether any one legal formula can be crafted to take on board all of these concerns.

The problem with Canada’s current “best interests of the child” approach, as codified in the Divorce Act, is that it relies on a discretionary method of determining children’s interests, in which judges have unfettered latitude in an area of child development and family dynamics in which they have little or no expertise. Thus, their subjective judgments about children’s needs and interests are variable, inconsistent and unpredictable.

Judges are forced to focus on parental deficits and projective speculation about who will be the better parent, rather than children’s needs for meaningful relationships with both parents, stability and continuity in their routines and relationships, and being shielded from parental conflict and family violence. The current practice of the judiciary undermines rather than supports parents in the fulfillment of their parenting responsibilities: One parent is simply removed as a primary caregiver of children when parents cannot agree on parenting arrangements.

Tasha Kheiriddin: ‘Equal shared parenting’ law doesn’t put kids first

On March 25, Bill C-560 goes to second reading before the House of Commons. The private member’s bill, moved by Conservative MP Maurice Vellacott, would amend the Divorce Act and related statutes to make equal shared parenting (ESP) the law in Canada. In Wednesday’s paper, my fellow columnist Barbara Kay wrote a spirited defence of the legislation, primarily because she says it is in the interests of children. While the bill is well-intentioned, and with the greatest respect for Ms. Kay, I must disagree.

ESP does not put kids first. According to a report by the Australian government on its shared parenting laws, legal professionals found that ESP led to a prioritization of parents’ rights

over those of their children. In the words of one Australian lawyer, “I often get a lot of twisting of reading the Act. So, ‘It’s my child’s rights to spend 50–50 with me’ ... [W]hat the parents want, gets twisted into children’s rights, which is not what the Act is actually saying.”

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There is no basis in either law or psychology for choosing between two perfectly adequate parents who are in conflict over parenting arrangements. We support and encourage shared parenting in families where parents are living together, to the point where this has become the typical arrangement in contemporary family life; and there is no reason why such arrangements should not be encouraged and protected when parents live apart.

Related

[Barbara Kay: After a divorce, equal parenting rights should be the norm](#)

[Ryan Glass: Fixing Canada’s Divorce Act](#)

There are numerous reasons, as Ms. Kheiriddin enumerates, why we should take a cautious approach to a “carte-blanche” equal parenting presumption, most importantly concerns related to exposing children to family violence situations, and preserving continuity of relationships where one parent has traditionally assumed primary responsibility for children’s care and upbringing. However, a rebuttable presumption of equal shared parenting is not incompatible with a rebuttable presumption against shared parenting in family violence situations. And equal parenting as a presumption is meant to be applied to the majority of families where parents have already shared child care responsibilities when living together; maintaining existing bonds where one parent has been the sole caregiver may override the equal parent presumption.

Yet the importance of children maintaining meaningful and equal relationships with both parents, an arrangement that best shields children from ongoing conflict, cannot be overstated. The devastating effects of father and mother absence in the lives of children is widely documented. There are now over 30 large-scale studies over the past decade that demonstrate significantly better outcomes for children and parents in shared parenting arrangements.

Shared parenting is, not surprisingly, the stated preference of parents and children themselves

This includes shared parenting of infants and very young children. A consensus of 110 divorce scholars, in the current issue of the APA journal *Psychology, Public Policy and Law*, conclude unequivocally that “in normal circumstances, the evidence supports shared residential arrangements for children under four years of age whose parents live apart from each other ... Further, the research indicates that because infants develop attachment relationships with both of their parents, there is a danger of disturbing one of those relationships by designating one parent as primary and limiting the infant’s time with the other parent. Policies and parenting plans should encourage and maximize the chances that infants will be raised by two adequate and involved parents.”

Shared parenting is, not surprisingly, also the stated preference of parents and children themselves. Research from jurisdictions that have implemented a shared parenting presumption, including Sweden, Belgium and Australia, are highly encouraging.

The current adversarial system in family law is unsustainable. It is our responsibility to set aside polarized positions and work collaboratively toward supporting children and families during difficult times of family transition.



Smokey_fortyfive31 · 9 months ago

Bill C-560 should be passed. It is the beginning of change from unadulterated feminist bureaucracy into what should have been a system of non confrontational separation for the sake of the children.

Adversarial divorce and false allegations for profit do not help the children.

Barbara Kay is right when she supports this presumption that both parents are needed to raise a child.

Tasha Kheiriddin is reiterating nothing more than smarmy machinations of her law society's creed.

Edward Kruk opines that, "The current adversarial system in family law is unsustainable."

Then pass Bill C-560 and be done with it...

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margeryk → Smokey_fortyfive31 · 9 months ago

Tasha Kheiriddin is writing from her own perspective as a divorced mother with a new partner. I think a woman in that situation often wishes that the father would just disappear from the scene so she could get on with her life in a new family. Makes her life much simpler. I watched a mother at my son's preschool edge out her ex boyfriend bit by bit until he was driven to attempt suicide. Then she left the province with her new boyfriend. It was heartbreaking.

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Life's Traveller → margeryk · 9 months ago

Yes. I think what you describe is fairly common.

Its simply a fact that our mothers have the central role in the early lives of us all. From carrying us and nurturing us directly from their bodies, to the pain of childbirth, and nursing us when we're infants. I think that partly because of all of this, many women may end-up viewing their children almost as extensions of themselves ... possessions ... or "belonging to them".

Its not right for the children. Its not fair for fathers, It shouldn't be supported by our laws ... but, I can sort of understand where it comes from.

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vespillioq → Life's Traveller • 9 months ago

Sounds like women should think about making an attempt at evolving.

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Life's Traveller → vespillioq • 9 months ago

If attitudes or memes can be thought of as evolving, then I'm guardedly optimistic that the process may well be underway, but I don't know.

For my part all I can do is to try to make sure that my two daughters don't add to the worldwide over-privileged princess tally. So far ... so good.

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JJ99 • 9 months ago

This Bill should be passed. Although I do not condone family violence and certainly have nothing against women, I have seen some vindictive women use Canada's joke Domestic Violence laws to their advantage.

One such incident involves a woman who had her now ex put in jail on domestic violence charges.

Prior

to his sentencing, the woman wrote and sent statements of recant to one of the arresting officers admitting that, among other things, she beat the s\$%t out of him for years and that he didn't lay a finger on her until she was beating him again and he finally fought back.

The

guy was scared and, trying to save his children the humility of a public trial, he just plead it out. The woman had the prosecutor talk on her behalf stating that she wants to resume the relationship with him etc. etc.

Should this man not be allowed the same rights we all are including equal shared parenting should the bill be passed?

While

the guy was serving his sentence, the woman met a guy on the internet (she later gives a name during the divorce and access proceedings) and, the same day he got out, the woman started a fight with him and had him put right back in jail.

When he got out, she

tried to get him back but he said NO. Ever since then, she's made his life hell and has used their children as weapons.

Since this

time, she has breached numerous court orders for access and at one point, the guy didn't have contact with the kids for 4 years even though there were access orders in place.

He didn't stop fighting and

regained contact with the kids. In this case, much evidence has been compiled showing, among other things, that there has been mass parental alienation on her part. In addition, the father has compiled much evidence such as an abundance of pictures and video showing the kids loving their time with him. But nothing is done because of the lawyers who see dollar signs. If the case is dealt with, the well runs dry.

Now

this woman has pulled this again and has went into hiding. The father is desperately trying to bring this to court to get justice for he and his kids.

Should this man not be allowed the same rights we all are including equal shared parenting should the bill be passed?

Bill C-560 should be passed and people such as the woman in question need to be dealt with to the full extent of the law.

I know that everything is true because I've seen the evidence etc.

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MikeMurphy • 9 months ago

Dr. Kruk is being way too kind to Tasha Kheiriddin .

She penned this column, in two parts, "Sometimes unequal works" on June 15, 2010, here <http://fullcomment.nationalpos...>

and here, <http://fullcomment.nationalpos...> on June 16, 2010, the very next day, due to the negative comments her maternalist orientation (a woman who believes she is superior to a man in raising children) received.

Both columns were with respect to PMB C-422 the predecessor of this bill C-560 which died on the order paper when an election was called.

Dr. Kruk is one of Canada's leading experts on the outcomes of shared parenting and knows of the consequences to children of the current sole physical custody model to mom. Hundreds, if not thousands of dads, can personally attest to having watched their children deteriorate over the years where they were visitors, and in many cases, where vindictive moms alienated the children from him. In a much smaller number of cases some sole custody dads have done likewise. Given mom gets sole physical custody in at least 90% of cases in Canada, and dads 6-8% (depending on the source) the balance is heavily unequal.

He touches on one of the most salient points that is overlooked by the legal establishment and the Divorce Industry as a whole.

"...that it relies on a discretionary method of determining children's interests, in which judges have unfettered latitude in an area of child development and family dynamics in which they have little or no expertise."

In simple terms Judges, schooled in the law, have to rely on others, to understand the interplay and inter relationships of people, which is more the purview of other professionals. Many grasp at any kind of supporting documents of people involved in Child Protection or, in Ontario, the Office of the Children's Lawyer, or equivalent elsewhere, to make decisions, no matter how old and dated or non-credible in relation to modern social science.

The same government department, the Attorney General, that operates the Domestic Violence policy directives (not law) to Police in compulsory arresting a party to DV, almost always the man, even if he did not start it, operates this non-credible organization complicit in the unbalanced sole custody model in Ontario, and their equivalent in the rest of Canada.

If any other group, aside from men, were treated in this cavalier and unequal a fashion it would be a constant source of Human Rights complaints. Imagine giving 90% of employment to Lawyers based solely on their gender? You are right, it is discriminatory and needs to stop.

Bill C-560 not only has to pass but the CPC needs to support it as a government.

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Even the office of the children's liar is just another corrupt feminist enterprize.I told one investigator that the system was biased against men and got a *gasp* *gasp* "who told you that"? type of response. The investigator also downplayed the police reported abuse I endured,including a kick from behind in the genital's that dropped me to my knee's while carrying a baby as ,"not that bad." Imagine telling a woman the same thing under any circumstance.

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gwpiskor • 9 months ago

Prof. Kruk crystallizes the issue in his statement: "We support and encourage shared parenting in families where parents are living together...; and there is no reason why such arrangements should not be encouraged and protected when parents live apart.

This is the underlying philosophy of Bill C-560 which reinforces and amplifies the "maximum contact" provision of s. 16(10) of the Divorce Act,1985 to give direction to the courts for the benefit of children and parents.

The "best interests of the child" was never intended as a competition for the "better" parent, but rather full continuity of relationship with two minimally fit parents and extended family.

The Second Reading of C-560 is today. This is a non-partisan issue that every party can support, as they did in 1998 with the shared parenting recommendations in the "For the Sake of the Children" Report.

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Gene C. Colman • 9 months ago

Prof. Edward Kruk puts the issue forward in a readily understandable manner. Most Canadians seem to believe that keeping kids in meaningful contact with their parents post separation/divorce just makes good common sense. Do not let vested lawyers' groups convince you otherwise. And this comes from a family law lawyer - me! Tell your M.P. that you support Bill C-560. For further information on equal shared parenting, see Leading Women for Shared Parenting: <http://LW4SP.com> and Lawyers for Shared Parenting: <http://L4SP.com>

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Hesiod · 9 months ago

A clear and concise analysis of the situation, and statement of support for equal parenting, taking into account where there might be circumstances where it is not workable, thus flexibility in its implementation will be required.

There is also the child development point, that egoism and subjectivity diminishes over time, under the influence of both parents, and the child begins to become cognizant of the genderless external world. The child needs to develop an interpretive point of view, that takes the real world seriously, not just in terms of emotional responsiveness, but also understanding. Though the child learns how to represent reality in thinking, this knowledge is not absolute but conditional and likely to change. Childhood development is not only inter-subjective, such that a child learns to see him/herself as a "person" in a publicly shared world, but it is also psycho-objective, in the sense that the child involves the external world in his/her interpretive thinking. Life is complicated, and the more minds that contribute to the child's understanding of self, within-the-world, the better the chance of a successful life. What we do know for sure, that where there is inadequate parenting, a child may well be doomed for failure.

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Life's Traveller · 9 months ago

"The current practice of the judiciary undermines rather than supports parents in the fulfillment of their parenting responsibilities".

Quite correct. The notion that the "best interests" of any child can somehow be isolated to only the child, without taking into consideration the interests of both parents, is short-sighted, to say the least.

Strong bonds and connections between human beings will promote care, attention and understanding. Weakened bonds will only promote neglect.

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withinNB → Life's Traveller · 9 months ago

"Best Interest of the Child" is just propaganda .. that is all it is.

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withinNB [Life's Traveller](#) • 9 months ago

It should be openly stated in the best interest of mom, and government.

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Fraser Fairchild • 9 months ago

Assuming 560 is passed, we will have a divorce landscape full of Shared-Custody offset calculations. The following document <http://www.canadacourtwatch.co...> shows that Shared Custody actually creates a worse financial situation for the paying parent than does sole-custody!

If you visit my website -<http://therespondent.ca/> - and scroll to the bottom, there is an interactive chart of financial results where you can select the parent's income levels and the type of custody. The numbers are based on Vernon Beck's work in the Canada Court Watch document referenced above. The results aren't pretty. Alar Soever came to the same conclusion in 2002 - <http://fathersforlife.org/arti...>

This issue has gone on far too long!

The writer/director of the movie "Romeo Misses a Payment", released in December of 2013, changed the focus of his movie from "the flawed family law system in America" to "the struggle of men that simply cannot pay the child support orders". He did this because of email he received from despondent fathers - fathers that had lost their jobs, their children and finally their will to live. He believed this story was more important.

<http://themovieblog.com/2013/r...>

Let's NOT go down the path of the Americans - See the movie "Divorce Crop." released January, 2014.

Where are we headed Canada? Child support formulas must respect the tenets of REALITY and FAIRNESS.

<http://www.indiegogo.com/proje...>

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gwpiskor → Fraser Fairchild • 9 months ago

C-560 deals solely with shared parenting and not child support, which is left as a separate exercise.

Interestingly, academic literature has alleged quite the opposite for years, namely that proponents of shared parenting are merely disgruntled fathers seeking to lower their child support obligations, and yet, you [correctly] indicate otherwise.

The reality, long recognized by courts in all jurisdictions, is that it costs about 50% more to raise a child in a shared parenting arrangement by virtue of the additional fixed costs of maintaining two homes for the child. Hence, the out-of-pocket expenses of the payer consisting of any reduced child support PLUS the directly incurred child costs within the payer residence will exceed the payer child support obligations under sole custody.

You may recall Quebec rejected the Federal Guidelines as unfair and implemented their own "Income Shares" methodology which automatically handles shared parenting arrangements. The Federal Child Support Guidelines (FCSG), adopted by all other provinces, pointedly ignore a shared parenting formula thereby subjecting parents to needless legal costs that could have been better spent on the child. This discriminate exclusion goes against the logic of the Divorce Act which promotes "maximum contact". As one critic noted at the time: "What were they thinking?"

Most other English speaking jurisdictions abandoned the crude "percentage-of-income" methodology underlying the FCSG years ago. After 17 years of use, I suspect the feds and the provinces will eventually conclude that it's time to thoroughly review the "tired" FCSG. After all, every US State is required by law to conduct a full review with public hearings every four years. But then, only in Canada, eh?

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lippr → Fraser Fairchild • 9 months ago

Thank you for this. Many men suffer from depression related to no longer having access to their children. Coupled with paying inflated amounts of child support beyond what is realistic for the needs of the child.

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withinNB • 9 months ago

Our politicians and government do not care about men, or children .. they want the powerful feminist's vote .. that is all that matters .. and how much money they can save to support their growing empire of civil servants.

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withinNB • 9 months ago

Why are women able to make false allegations about men, and why have Cons and Libs refused to pass Senate proposals to hold women accountable just as we do men .. what is the political agenda from our politicians?

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Jamie Ryan • 9 months ago

I just watched some of the debate on CPAC. Incredible how it was twisted in such a negative way. The opposers kept saying "we have to maintain to do whatever is in the best interest of the children instead of the parents". That is EXACTLY what this bill is trying to achieve ... what is best for the children is to have equal time with both parents (unless of course there is some valid reason why not). The other point was that it would cause chaos with re-opening a bunch of cases. Again, that is exactly what the children need to free them from problematic arrangements!

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Robert M → Jamie Ryan • 9 months ago

I don't remember Vellacott mentioning "parent's rights" and that is because he didn't. He stressed the importance of Science. But, the Liberal MP (who was also a lawyer) did a good job of setting up that straw man argument to knock over. Word to the wise (this goes for Barbara Kay also): Don't frame this argument as a parent's rights issue.

It's a "child's best interest" argument. Which the CBA is totally going to get around to fixing some day. *sarcasm*

But wait! They Liberal MP stated that that's already defined: Status quo in the marriage.

There you have it. One parent was the bread winner. So hop to it buddy! Go away, and make sure you send the cheque!

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Fraser Fairchild → Jamie Ryan • 9 months ago

The CPAC experience was less of a debate and more of a time waster. Vellacott knew his stuff. He had the backing of science, social science, father's groups, mother's groups, family groups, lawyer's groups and forward -thinking governments around the world. All the opposition could do was filibuster.

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Guest • 9 months ago

I'm a Father who has been suing his ex-wife for equal access to his children for 4 years. At the time of my separation I was wracked with grief over my wife's affair and tried to do the "right thing" by giving her the house and primary residency.

I quickly found that having my access restricted to my children by a spouse who wanted me out of the picture wasn't going to work.

Flash forward 4 years and \$30,000 in lawyer's and mediator's bills, I've been blocked from having my children at any amount more than 40% (40% access being the child support cutoff) she's now using a reporting error with FRO as leverage, having my wages garnished for a fraudulent \$12,000 arrears.

So I was once a regular suburban guy with a nice house, and now I have to tell my children that for 2 weeks of every month they'll have to stay in a shelter with me.

Canadian Family Law is broken.

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STONE • 9 months ago

<https://www.youtube.com/watch?...> George Christensen has the right idea. This family violence excuse is just that, an excuse. It is a feeble excuse to do exactly what they want to do in the first place. That is...Dissolve the family, criminalize fathers, and create a more dependent and compliant population.

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Vincent • 9 months ago

What a joke! Absolutely Pathetic!! This Bill is just a longer stick to hang the carrot so the Government can continue to fleece men to subsidize their bankrupt welfare state. Judges already ignore the law (read the other comments below) and certainly do not enforce 'equality' as written in the constitution (that itself is a meaningless document because it is not enforced as family law is exempt) especially when judges ignore unequivocal evidence and women are free to script their divorce on conjecture using teary eyes leaving men to prove their innocence, What ever happened to innocent until proven guilty? This isn't about children - this is about money. Canada needs a revolution, not another worthless bill.

Local View: Stop abusive tactics in family court

December 18, 2014 11:57 pm • By RAY KEISER

Much has been written in the last few years about the pressing need for family law reform. Most attention has correctly been focused on the need to protect children from inadequate parenting time with either parent. However, we also need to protect children and the public from bad lawyers.

There is an emerging trend nationally to punish lawyers who use abusive tactics in family law cases. As the California Court of Appeals said in a recent case, "zealous advocacy does not equate with 'attack dog' or 'scorched earth'; nor does it mean lack of civility." In this case, the court found that "uncivil, rude, aggressive, and unprofessional conduct (by the wife's attorney) marred this case from the very beginning," and upheld \$400,000 in monetary sanctions for a litany of abusive tactics.

In an unrelated case, the California Court of Appeals upheld an attorney fee award of \$552,153 for false allegations of domestic violence and other misconduct. It also awarded \$15,000 for filing a frivolous appeal and sanctioned two lawyers \$5,000 each for their involvement in the frivolous appeal. In a recent New Jersey case, an appeals court upheld an attorney fee award of over \$1.5 million and an additional \$300,000 in expert witness fees for a variety of abusive tactics in a custody dispute, including false allegations of domestic violence.

Courts have also recently awarded monetary sanctions in New York (\$50,000) and Tennessee (\$61,000) for abusive tactics in family law cases.

Nebraska lags behind other states in policing abusive family court tactics. Perhaps as a result, 10 respected attorneys recently asked the Nebraska Supreme Court to amend our legal ethics rules to prohibit lawyers from engaging in one of the most abusive tactics -- using children as leverage in financial disputes. As these attorneys pointed out:

"While not often discussed publicly, the use of children to gain leverage in financial disputes is a recognized tactic in Nebraska family law cases. This often is reflected in negotiations around parenting time and child support, in which an attorney may condition parenting time on the payment of additional child support. In extreme cases, an attorney may actively participate in a child abduction in which a parent denies the other parent access to the child until the other parent agrees to financial concessions."

To illustrate this latter point, the attorneys attached a letter in which a Nebraska lawyer actively participated in a child abduction and demanded money for the return of the children. The lawyer had counseled the wife to leave the marital home with the children and then demanded an extraordinary five-figure upfront fee from the father in exchange for letting the father see his children.

While abusive litigation tactics are not limited to using children as negotiating leverage, this tactic is one of the most harmful because it places the children in the middle of their parents' conflict, which is harmful to children. It damages children's relationships with their parents and makes them more vulnerable to even typical childhood stresses. Interfering with a parent's ability to see his or her children also increases the magnitude of the parents' conflict, which further increases the risk of harm to the children. Using children as negotiating leverage can be indicative of child abuse and parental unfitness.

What can be done? First, our courts should follow the lead of courts in other states and enforce existing rules that restrict the use of abusive tactics.

Second, we should amend our legal ethics rules to prohibit lawyers from using children as leverage in financial disputes and give bar discipline authorities the ability to prohibit attorneys who violate these rules from handling child custody cases.

Third, the legal ethics rules should provide that lawyers who are involved in child custody matters owe duties both to their client and to the minor children. Legal ethics rules already provide that criminal prosecutors have a higher duty than just to win, they must also protect the rights of the accused. The new rule would provide that family law attorneys also have a higher duty than just to win, they must also protect the best interests of the minor children (who are not their clients).

Fourth, the legal ethics rules should require special training for lawyers who handle child custody cases. This training should include information on optimal parenting time outcomes, how to minimize conflict, how to insulate children from the conflict that does occur, ethics, and child abuse and domestic violence including male victims and false allegations.

Ray Keiser is a farmer and crop insurance agent near Fordyce, Nebraska.

TAB 9

Independent Opinions

A Message to Moms: Help Your Daughter Avoid 'Daddy Hunger'

Posted: 06/09/2014 12:15 pm EDT Updated: 08/06/2014 5:59 am EDT



Terry Gaspard, MSW, LICSW

Licensed Clinical Social Worker and College Instructor

As a child, I was never quite sure about the nature of my father's feelings toward me. When I was very young, I knew that I was Daddy's Little Girl because we used to make special trips to the seashore where we would collect guppies -- putting them into buckets under the moonlight to watch them glisten and jump. But for several years after my parents' split, I rarely saw my father so I developed a deep craving for his attention or what I call "Daddy Hunger." I later realized that every daughter yearns to have her dad's approval and that I wasn't to blame for his absence in my life.

After my parents' divorce, my father's absence felt like abandonment and my self-image suffered. At age seven or eight, I became the "teacher's pet," a serious student who was cheerful on the outside but shamed on the inside. In *The Wounded Woman Healing The Father-Daughter Relationship*, Linda Schierse Leonard, says that for many girls and women, the root of their injury stems from a damaged relationship with their father. "If the father is not there for the daughter in a committed way while she is growing up," Leonard writes, "She may lose confidence in herself, and a wound may occur."

A legacy of loss had been passed down to me from my mother but I wasn't aware of it until I reached adulthood. In my female-headed family, we were so good at adapting and glossing over things that my sisters and I rarely spoke about the absence of our father. It wasn't until I had my daughter, that I realized my own mother's role of being a gatekeeper and limiting my contact with my dad caused me to be uneasy with men and to develop "Daddy Hunger." Sadly, this wound impacted all aspects of my life including choice of partners, trust issues, and low self-esteem.

In a divorced family, there are many ways a father-daughter relationship may suffer. Based on her research, Dr. Linda Nielsen found that only 10 to 15 percent of fathers get to enjoy the benefits of shared parenting. She also discovered that divorce often damages a daughter's relationship with her father more than a son's. This can be explained by the fact that boys tend to spend more time with their father after a family dissolves. Nielsen posits that while most daughters of divorce are well-adjusted several years after their parents' divorce, many have damaged relationships with their fathers. Unfortunately, if the damage is severe, a girl can grow into adulthood with low self-esteem and troubled relationships with men.

What's in the best interest of children after divorce? Dr. Joan Kelly, a renowned psychologist and parenting researcher confirms that the outcomes for children of divorce improve when they have equal access to both parents. These include better psychological and behavioral adjustment, and enhanced academic performance. Clearly, the literature demonstrates numerous benefits to children when their living arrangements enable supportive and loving fathers to be actively involved in their lives on a regular basis, including overnights.

I believe that the vast majority of mothers want their children to maintain a close bond with their fathers post-divorce but may struggle with how to help them navigate this relationship.

Here are five ways moms can encourage daughters to have a good relationship with their dads:

1. Recognize that your ex is your children's parent and deserves respect for that reason alone. If your children hear you make negative comments about your ex, it can have a detrimental impact on them.
2. Modeling cooperation and polite behavior with your ex sets a positive tone for co-parenting.
3. Do your best not to hold onto past grievances. You can help your daughter adjust to post-divorce life by providing loving encouragement for her to bond with her dad. When children are confident of the love of both of their parents, they will adapt more easily to divorce.
4. Keeping your differences with your ex away from your children will open up opportunities to move beyond divorce in the years to come.
5. Reassure your daughter that she has two parents who love her by saying something like "Even though mom and dad aren't married anymore we both love you and are good parents."

What a girl needs is a loving, predictable father figure -- whether married to her mother or divorced. My own research shows that daughters of divorce have a tendency to idealize their father and their fear of losing love causes them to walk on egg shells and avoid confrontations with men. Since most girls see their fathers infrequently after their parents' split, they may feel pessimistic about love, develop trust issues, and live with constant fear that their relationships will fail. This pattern often follows daughters of divorce into adulthood -- making romantic relationships shaky as they get into the nitty-gritty of dealing with issues and resolving conflicts with male partners. After all, as women we learn about intimate relationships through our relationships with our fathers and observing our parents' interactions.

Certainly a strong father-daughter connection is a challenge when it comes to post-divorce relationships. But fathers can learn to support their daughters and teach them to be confident and assertive. Since a father-daughter wound can impact a daughter's future, it's important for moms to encourage close bonds between fathers and daughters after divorce.

Here are five reasons for moms to support their daughter's relationship with her dad:

1. Your daughter will gain trust in both parents and feel more confident about her relationships with both of you.
2. You will build trust in your ex's ability to effectively parent your daughter.
3. You may enjoy the benefit of more relaxed leisure time -- since your daughter will be spending more time with her dad.
4. Your daughter may have better access to extended family and possibly more intergenerational support.

5. Your daughter's bond with her father will reduce the risk of low-self-esteem and trust issues in intimate relationships throughout her life.

Whenever possible, divorced mothers need to encourage their daughters to have regular contact with their fathers and facilitate a close relationship with them. You can promote phone calls, special occasions, and a child-centered parenting plan. According to Eileen Cohen, J.D., a divorce and mediation expert; "Parents can better nurture their children by establishing a child-centered parenting plan that allows a continuing and meaningful relationship between both parents. What better gift is there than that? Your children will thank you for the rest of your lives."

How Sharing Custody, Co-Parenting is Part of Our Perfect Life



By **Nicole Dash** November 6, 2014

(Courtesy of the author)

I love my family of six. I have four children – two boys and two girls – and a husband I adore. It is what I always secretly wished for. We fill our home with love and laughter. But, we are also very real. We get on each other's nerves. We get frustrated. We are not afraid to show emotion or get impassioned. We are allowed to disagree (sometimes loudly). We are not overly strict, but we have boundaries. We have expectations, but will never make anyone feel like a failure if they can't or won't meet them. For me, this is perfection. *My* perfect family.

And yet, sometimes I feel like there is a void in the home – when our six drops to five. When my oldest son goes to his father's house each week. When I have to pull out

calendars and negotiate days. When I have to decide if I should plan a family outing without my 15-year-old.

In 11 years of sharing custody, I have never gotten used to his absence. And yet, I probably would not have changed my decision to have such an equal sharing of my son. At the time, I came up with what felt like the fairest schedule and arrangement. A schedule that gave my son the chance to live with both his parents. To have both sides of his family. To not experience the sense of loss I felt when my own parents divorced and my father moved away.

I could not have predicted then that one day my little 4-year-old, who was an only child at the time, would have three siblings from me and two more on his father's side. I couldn't have predicted that 11 years later, we would still be making the trek back and forth – negotiating holidays and extra-curricular activities. Figuring out how to accommodate his budding social life and the demands of having a teenager. I had no understanding of what it would mean to co-parent separately with his father and sometimes his step-mother, but also to balance the raising of my children, including my oldest, with my husband, who is a dedicated and patient Dad to all of them equally.

It's not easy. In fact, sometimes it feels hard. There are challenges that are hard to put into words, especially when your younger children start to ask why their brother lives in two homes. They want to know why he

has two dads. They want to know if that means one day I won't be married to their father. If one day they will have two dads or two moms.

Other times, it feels like we are anomalies – even though I know we are not the only ones dealing with this “sharing.” According to the The U.S. Census Bureau, there is one divorce approximately every 36 seconds. That's nearly 2,400 divorces per day, 16,800 divorces per week and 876,000 divorces a year.

The thing is, I never thought I would fall into that statistic. As a child – especially a child of divorce – I swore that it wouldn't happen to me. Then again, there are many things about my journey in life that were unpredictable.

The truth is, doing the best we can with our lives is all we can do. There are things about sharing custody and being divorced that I hate. Like missing time with my son, especially on some holidays. Always needing a quorum with every big decision. Repeatedly having to answer teacher's questions about who to contact. Adding four parent e-mails to every coach's list. Explaining to other parents on sidelines of sporting events “who is who.”

There are other things about sharing custody that I have grown to appreciate. My son is so very loved. He has more parents, grandparents, aunts, and uncles than most. He is a treasured and respected member of all our families. He is offered more opportunities to travel and

experience life than many. He always has one of the biggest cheering sections at games and is adored by two brothers and three sisters.

I am not ashamed of the family I have created or the choices we have all made together because it is our normal. It is what works for us. It is what we do to put our son first. We make sacrifices and have to occasionally deal with uncomfortable situations. But, we do it out of love and out of a commitment to raising a family we can be proud of. A perfect family. *Our* perfect family.

Nicole Dash is a writer, blogger, and business owner who lives outside Washington D.C. with her husband and four children. Nicole writes about life, family and finding herself amid the chaos on her blog Tiny Steps Mommy. Connect with her on Facebook and Twitter.

Are Women Better Parents? Science Says Both Sexes Have Equal Parental Instincts

STEPHANIE HAYES

🐦 @STEFHAYES1

06.11.2014 • LIFESTYLE



It's time to give the "maternal instinct" a new, gender-neutral name, as a recent study has found that men are as suited to parenting as women. The study, conducted at Bar-Ilan University in Israel, compared the brains and hormone levels of "traditional families," (consisting of a mother and father, with the mother as the primary caregiver) with homosexual couples where one of the males was the biological father but the two men shared the caregiving equally. And, guess, what? All parents showed activation in what scientists refer to as the "parenting network." That's great news. But why is this still news?

In the study, the parents' nurturing instincts were tested in a couple of ways. Their oxytocin levels (what scientists call the "trust hormone") were measured and they were placed under fMRIs to determine how their brains reacted to videos of them with their infants. All parents showed activation in the amygdala, insula, and nucleus accumbens (the brain regions registering strong emotions, attention, and reward) as well as in parts of the prefrontal cortex and superior temporal sulcus (regions that register learning and experience). While the secondary-caregiving fathers showed less activation in this first collection of areas, both members of the homosexual couple showed the same level of activation here as the mother. The secondary-caregiving father's activation level was proportionate to the amount of time he spent caring for the child.

These results suggest that it is the *experience of parenting*, and not some inalterable genetic factor or hormone, that constitutes what we call the "maternal instinct." Pregnancy and childbirth aren't necessary to cultivate this.

Although this is a wonderful finding, I'm disappointed this still has to make headlines as "news," as it proves society's ongoing belief in nature over nurture and in neurosexism — the idea that there are hardwired differences between male and female brains.

A *New York Times* article challenged such beliefs way back in 2011 when it reported on a study showing strong decreases in testosterone in parenting fathers. The more involved the father — the more bedtime stories read, diapers changed, and meals prepared — the lower his testosterone levels. Peter Ellison, a professor of human evolutionary biology at Harvard who commented on the study for the *New York Times*, interpreted the study as showing that "male parental care is important. It's important enough that it's actually shaped the physiology of men."

Women aren't the only ones biologically fit to care for children. This is not new information. But, just in case you missed it, let's put it in another headline.

The system drives noncustodial parents out of their kids' lives

| DECEMBER 13, 2014

RUTH GRAHAM discusses one part of a much larger problem: a broken family law system ([“Broke, but not deadbeat”](#)). Graham’s focus on fathers who are poor is commendable.

However, it misses the larger problem of one parent — usually the father — being driven out of the lives of his children because the laws, the courts, the lawyers, and the government all have a financial stake in extracting as much money as possible from the noncustodial parent, the best interests of the children be damned.

If both parents continued to be involved in their children’s lives, as numerous studies over several decades have shown to be best, it wouldn’t be nearly as lucrative for those other so-called stakeholders. The better solution, for parents who are rich, poor, or in between, is shared parenting, which should be a presumption, not a mandate, in every child custody action, even so-called preliminary rulings.

CONTINUE READING BELOW ▼

In 2004, 86 percent of Massachusetts voters supported a presumption of shared parenting in a nonbinding referendum, and yet the Legislature has ignored or blocked the issue year after year.

The solution: Take the profit out of the system, and stop urging parents to fight over sole custody. Even poor fathers are more likely to financially support their children if they are fully involved in their lives.

Paul Sawyer

Westford

0 COMMENTS



[Rhode Island College](#) / [RIC News](#) / [Campus News](#) / [Fatherhood Advocates Say Fathers Are Denied the Rights Mothers Ar](#)

Fatherhood Advocates Say Fathers Are Denied the Rights Mothers Are Given



Tonya Glantz, director of the Child Welfare Institute at Rhode Island College.

When it comes to the rights of mothers versus noncustodial fathers, the issue of gender bias is rampant across city, state and federal systems, said Director of Rhode Island College's Child Welfare Institute Tonya Glantz.

On Friday, May 16, the institute hosted the 2014 R.I. Fatherhood Summit to promote father-inclusive practices and services in Rhode Island. The event was coordinated by André Brown, the institute's clinical training specialist and co-chair of the Leadership, Equity, & Advocacy for Dads program. Participants included representatives from state, public and community-based agencies, as well as fathers.

"As a professional, I see bias embedded in my own system of child welfare," said Glantz. "If you're a father looking for formula for your infant, you are told to come back with the baby's mom. I've seen this occur in state after state. All services are not created equal. We don't equally serve fathers as we do mothers."



The keynote speaker at the Fatherhood Summit was Tony Judkins, program manager for the John S. Martinez Fatherhood Initiative of Connecticut, a program within the Connecticut Department of Social Services' Bureau of Child Support Enforcement. Glantz introduced Judkins as a professional who has headed a unique model of father-inclusive services for the past 15 years. "We could learn a lot from Connecticut," Glantz said.

Judkins explained how the initiative started. He said key leaders in Connecticut were concerned about the impact of absentee fathers on state systems, so in 1999 the Connecticut Department of Social Services developed the Connecticut Fatherhood Initiative, a unique statewide program that promotes the positive involvement of fathers with their children by providing dads with the support they need to get involved and stay connected to their children.

The initiative drafted and passed a number of father-supportive legislation and policy changes, such as a revised statute that now ensures that support orders are based on the noncustodial parent's actual (as opposed to imputed) earnings, said Judkins.

The initiative also launched a statewide media and public service campaign, a website, and a toll-free information and referral line for fatherhood programs, among other initiatives.

"Connecticut is two or three times the size of Rhode Island," said Glantz. "If they can do it, we can do it."

Glantz asked participants to break up into work groups and explore a Fatherhood Bill of Rights and fatherhood practice standards for the state of Rhode Island. Bill of Rights suggestions included:

- The **right of fathers to have paternity established at the time of birth**. When a mother chooses not to include the father's name on the birth certificate, the father is not recognized as the father and has none of the rights to family services.
- The **right to have value placed on the father's emotional and physical contributions to his child's life**. Often focus is only on the father's financial contributions.
- The **right to play an equal role in parenting** in cases of divorce. Physical placement of the child tends to default to the mother, while the father must prove that he is a good father in order to be awarded full custody.

Luis Galindez, a single father of two who received the 2013 Fatherhood Legacy Award, said, "After eight years of parenting my children on my own, I applied for full custody and was told that I would first have to take father's classes."

"Any department working with Rhode Island families needs to integrate father-inclusive standards with current practices," said Glantz. "In the spirit of true collaboration and change, everyone needs to work together to create a father-competent state."

Galindez also encouraged fathers like himself to stay involved in their children's lives no matter how many barriers they find navigating the system. He said,

"I always tell my children:
Watch your step
So you don't fall.
Watch your step
So you don't get lost.
And my children answer,
'No. You watch your step, Dad.
Remember, we are following you.'"

TAB 10

Benefits for Single Moms

Seven Reasons Shared Parenting is Great for Single Moms

by: Ned Holstein

After parents separate or divorce, most suffer both pain and anger. Just as a young person in love idealizes their sweetheart, a divorcing parent often sees only negatives in their ex. They overlook the many positives that are obvious to the rest of the world. And they are unable to see that their children adore the other parent and benefit enormously from his or her love and guidance. If they can have the children mostly to themselves, as mothers usually can in our family courts today, they see no reason to share the parenting.

Yet there are compelling reasons why parents should welcome sharing the post-separation parenting with their reviled ex, assuming she or he is fit and there has been no domestic violence. Shared parenting is a win-win-win not just for fathers, but for mothers and children too.

Although the trend is towards shared parenting, this arrangement unfortunately remains a distant second to sole maternal custody, accounting for only about 17% of cases, according to the US Census Bureau. As a result, approximately 35% of all children in the United States grow up in the home of a single parent, usually the mother. Most separated and divorced parents end up in a 1950's time machine, like June Cleaver, the nurturing mother who has time for little else in her life, and Ward Cleaver, the breadwinning dad who spends little time with his children.

Here are seven reasons why shared parenting is great for mothers.

- 1) **Kids love it.** Everyone wins when children are happy and do well in life. 2014 was a watershed year in our understanding of what helps children the most after separation or divorce. Three different groups of child development researchers reviewed decades of research studies. All three groups, amounting to hundreds of experts from over 20 countries, endorsed shared parenting in most circumstances in the absence of domestic violence. For instance, in a paper written by the founding author of the *Huffington Post's* Divorce section, Dr. Richard Warshak, and published by the American Psychological Association, 110 experts signed on to the conclusion, "shared parenting should be the norm for parenting plans for children of all ages, including very young children."

In contrast, children on average do more poorly with single parenting, despite the heroic and exhausting efforts of single parents. Federal statistics tell us that children raised by single parents account for:

- 63% of teen suicides
- 70% of juveniles in state-operated institutions
- 71% of high school drop-outs
- 75% of children in chemical abuse centers
- 85% of those in prison
- 85% of children who exhibit behavioral disorders
- 90% of homeless and runaway children

Since shared parenting is free, the taxpayer also wins, because there will be less need for special services for failing children.

- 2) **Moms can pursue ambitious careers.** The current model assigns moms nearly 90 percent of the parenting time, which limits their time and ability to pursue career goals. When moms and dads share parenting time, moms have equal time to pursue their career goals. Since almost 30% of mothers are saddled with nearly fulltime single parenting, the “pay gap” can be narrowed with shared parenting.
- 3) **Moms receive more child support.** Child support compliance increases dramatically with shared parenting, in some studies all the way to 97%.
- 4) **Moms experience less conflict and domestic violence.** Shared parenting eliminates the winner-loser dynamic we see in family court today. Research shows that as a result, shared parenting decreases bitter and expensive custody battles, decreases subsequent hostility between parents, and decreases domestic violence.
- 5) **Moms will not have to worry about becoming non-custodial parents.** As more moms have become primary breadwinners in their families, more are also finding themselves the non-custodial parent, seeing their children only every other weekend and paying child support to their ex. Shared parenting protects breadwinner moms.
- 6) **Grandmothers and aunts will not lose out.** With shared parenting, grandparents and aunts will be able to maintain loving relationships with children from whom they would otherwise be cut off because they are on the non-custodial side of the family.

- 7) **Moms will see their children grow up free of gender stereotypes.** Boys will see that cooking meals and nurturing children like their dads is manly, and girls will see that, like their moms, they can have any career they want. I hope single moms will join National Parents Organization in helping children get what they most want and need after parental separation or divorce – two loving parents actively involved in their lives. Women will be the winners, as will children, men and taxpayers.

TAB 11

**Letter to
Parents**

1153 Centre Street, Suite 31
Boston, Massachusetts 02130
(617) 522-3100 TEL
(617) 522-6366 FAX

BEVERLY J. MORRISON, M.D.
MITCHELL O. TUNICK, M.D.
DAVID J. SCHEFF, M.D.
ELIZABETH A RIDER, M.S.W., M.D.
BETH O'CONNOR, M.D.
LISA M. GROSSI, R.N., M.S., C.P.N.P.
LINDA MALONE, R.N., M.S., C.P.N.P.
KATHRYN WILK, R.N., M.S., C.P.N.P.

ROSLINDALE PEDIATRICS POLICY FOR SEPARATED/DIVORCED PARENTS

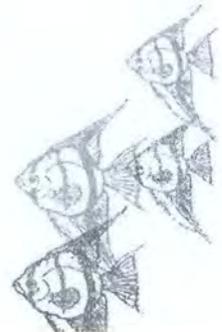
Dear parents:

Many children in our practice do not live with both parents. Increasingly we have been asked to notify a parent when the other parent brings a child here for an appointment. We have also been asked to provide a copy of the chart notes and instructions for the parent who is not present.

We cannot do this. The volume of such work and the time it takes is impractical for our office. Even though parents may not be comfortable communicating with each other, they must find a way to do so for the good of their children. We are always happy to communicate with you about your children's health but that does not mean we are able to speak to the parent who did not accompany the child about each visit or spend time notifying parents about visits and photocopying records.

We hope you understand and that you can find a way to talk to each other about your children's health needs. Your child's health is of primary concern to all of us.

Roslindale Pediatrics Staff



TAB 12

Horror Stories

Horror Stories from 2009-2011

The following are cases referred to as “Horror Stories”. This is due to the fact that when you fear for the loss of the ability to see your child it is how you feel.

Beginning on the next page, are a sampling of cases in which a Judge awarded custody to one parent or the other. The decisions are frequently based on sometimes false accusations and or statements from aggressive attorneys trying to do the best for their clients.

In most cases these “Temporary Orders” were made after a 15 minute hearing with no credible evidence provided. At these non-evidentiary hearings there are no witness, no opportunity for cross examination and no physical evidence allowed to be provided.

When a “Temporary Order” is made, in many cases it becomes the final decision.

It is widely known that when a party to divorce agrees to a stipulation, that agreement is usually made under duress, and the threat that if they do not agree, the decision by the court will be much less desirable.

We have purposely made no comments and publish these cases for informational purposes only. The cases are public record and can be further researched by the case numbers provided. We leave it up to the reader to decide whether the children, who love and need both parents, were well-served by these decisions, and how the current practice would benefit from the changes in the law suggested by the committee.

These are cases were collected by a New England School of Law Graduate in which a Judge awarded custody, either by temporary order or after a brief motion hearing.

Case that got appellate review

Halpern v. Nitta Docket No. MI11D1447DR

John Halpern v. Mika Nitta, Docket No. MI11D1447DR. This case involves a mother who is a native of Japan who brought forth a Temporary Order requesting the court permit her to take the five year old child of the marriage on a two week trip to Japan prior to the divorce trial. There was concern that the mother would abscond with the child. Japan is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. During her earlier deposition, when asked about whether her intention was to return from Japan or to abscond with the child, Mother stated "Well, I'm willing to promise that I will bring Noah back from Japan, and then I don't know, in case that I won't come back with Noah, but if something happens because of bad side of myself, I think it is right to kind of apologize in the right way, which is probably financial compensation...Because of bad side of myself, which I don't think I have, I don't think I will change my mind, but I don't think it will happen, but if I change my mind, or if I did something bad, it is right to apologize and make it even."

Nonetheless, Judge XXXXXX allowed Mother's motion. Interestingly, the judge's order contradicted an earlier written order which provided that the issue of traveling to Japan with the child would be reviewed at the conclusion of the divorce after a trial on the merits. Father petitioned the appeals court for temporary appellate relief from an interlocutory order pursuant to G.L. c. 231, s. 118. **The Appeals Court vacated Judge Monks's order permitting Mother to travel to Japan with the child and remanded the case in its entirety back to Judge Monks's earlier order providing that the issue would be reviewed after a trial on the merits.**

The standard of review was whether the judge committed an abuse of discretion under the circumstance (abuse of discretion defined as "action outside the range of reasonable alternatives in the circumstances" which may also be "an order unsupported by findings").

In determining whether an abuse of discretion was committed, the Appeals Court measured the "balance of hardship" between the parents, and also considered the child's welfare. The Appeals Court analogized its balance of hardship measurement to the equitable considerations applied when considering the appropriateness of temporary injunctive relief. The Court ultimately weighed the balance of hardship between the parents by considering three factors:

- (1) an assessment of the presence or the risk of irreparable harm to Father in the absence of an order in his favor;
- (2) the countervailing presence of risk of irreparable harm to Mother in the absence of an order of her favor; and
- (3) the role of public interest in the instant litigation, if any.

Cases that did not get Appellate review

09D0589, filed 2/23/09, Carnovale v. Carnovale,

Plaintiff female represented by Anderson, defendant male pro se. Husband is 47 years old and works for MBTA (\$65,000 per year). Wife is 39 and an RN at Winchester Hospital (\$65,000 per year). Married in 2004, and had one son in 2005. Divorce due to irretrievable breakdown. Mother had R.O. (209A) put on father because he was allegedly threatening to hit wife and getting in her face.

Temporary Order on 7/24/2009 - Mother was awarded physical custody (dad got visitation 2 evenings per week and every other weekend), they got joint legal, father pays \$245 per week child support. Father sought to modify order to allow unsupervised visitation (previously was supervised by maternal grandmother) and it was allowed.

11/5/2009 - jointly vacated the restraining order. Case was settled by separation agreement. Kept same terms, but \$255 per week child support and no alimony. Kept same visitation schedule. Owned no real estate. Both filed joint petition for bankruptcy and debts were discharged.

09D1988, filed 5/28/2009, So v. Ieng,

Plaintiff female represented by Feldman, defendant male represented by Un. Married in 2000. Husband is 34, wife is 33. Lived in Lowell. Both parties have associate degrees and have worked a variety of semi-skilled labor positions such as machine operator. Husband makes \$784 per week. Wife is unemployed but makes \$513 in unemployment. Two children born from marriage: ages 5 and 6. Wife submitted motion for attorney's fees. Invoice says that unpaid amount was \$10,275 for 37.35 hours of work. Judge held that Husband must pay only \$715 of that, but did not explain where the calculation comes from.

8-20-2010, **temp order for legal and physical custody and child support in favor of mother.** Granted mother custody of 2 children and dad must pay \$233 per week.

9/29/ 2010, Judgment of Divorce Nisi: Parties share legal custody of 2 children. Mother gets primary physical custody. Father has parenting time every other weekend, additional time during school vacations, and two weeks during summer vacation. \$233 per week child support. Father has sole claim to marital home.

Rationale: Mother has been primary caregiver. Father hadn't visited children (though said he was once refused a visit). He did not submit a parenting plan. Wife cheated on husband and had a child out of that extramarital affair. Husband hit her once on the back when he learned of infidelity.

09D3743, filed 9/23/09, Moliere v. Dominique,

Plaintiff wife represented by Dropkin, defendant male represented by Milgram. Married in 1998 in Haiti. 7 year old daughter. Lived together in Medford, MA. Husband is 51-year-old bus driver. Wife is 39-year-old Certified Nursing Assistant.

11/6/09: Temporary Stipulation made into an Order following Mother's motion for temporary order: **Mother shall have sole legal and physical custody of child.**

11/6/09: Child Support Order: Father must pay \$106 per week to mother. Case concluded with wife getting custody by agreement—no indication that it was ever going to be contested in pre-trial memo (only issue for trial was whether husband wrongfully withdrew several thousands of dollars from their bank account

09D3693, filed 9/23/2009, Moore v. Moore,

Plaintiff female represented by Olivieri initially, then PS, defendant male represented by Davis/Hurley. Married for four years. Lived in an apartment in Reading (after they moved out of husband's parents' home). Two sons, ages 5 and 3. Both parties are 37 years old. Husband is unemployed but receiving unemployment benefits (\$544 per week). Wife works at F.W. Webb as a computer programmer and makes \$37,000 annually. Mother has three other children from before the marriage, and she has custody of none of them.

9/29/2009: Emergency Motion for Custody: **Judge awarded immediate physical custody to mother** because father allegedly moved out of marital home and never provided an address. Affidavit says that he told wife he brought kids to their Vermont home and when mother went there it was locked and all of her belongings were on the front lawn, and he would not take her calls. Mother has custody until father is heard on matter. Separation Agreement: Father got primary physical custody of children by agreement, and mother was to pay \$47 per week child support.

10D0393, filed 2/4/10, Glynn v. Glynn,

Plaintiff female represented by O'Leary, defendant male represented by McLaughlin. Husband, 38, works in sales for CXO Media and earns 244,944 per year before taxes. Wife, 37, works at Harvard Business School for \$68K per year. 11 year marriage. Parties lived in Westford, MA. They have two children, ages 5 and 3.

4/7/10, Temporary Order: Husband must pay \$6450 per month as "unallocated" family support.

No explanation given as to why or what exactly this means (perhaps not allocated between alimony and child support). **Rest of order says that H's parenting time on**

alternative Thursdays must end at 7pm except when no school the next day, and then they stay overnight. Case resolved by separation agreement.

10D0588, filed 2/19/10, Kosow v. Shuman,

Plaintiff female represented by Caldeira & Wood, defendant Cooper & Van der Horst. Married in 2006, lived in Weston, MA. 1 child - under 2 years old. Wife is a 38-year-old who does not work (at one time worked in real estate). Husband is 43 years old and founded Softworld, Inc. His yearly income is \$725,000 per year. Wife and husband agreed to shared custody per separation agreement (6 nights out of 14 to H, 8 out of 14 to W). Fights were primarily about money. Wife state she had \$2100 in weekly expenses. At least 30% of this was found to be discretionary spending. Wife stated that clothing expenses for her and her child were \$21,000 per year. During litigation, she spend \$3,800 on trip to Puerto Rico, where she vacationed without her child.

12/14/2011: Motion for recusal of Judge denied. Defendant sought Judge's recusal based on fact co-counsel served on Governor's Council during XXXXXX' appointment to the bench and publicly opposed the appointment. Judge held that she could be impartial because that attorney was no longer working on the case and because she found she could be neutral. 6/30/2012: Judgment - H pays \$1804 per week child support (\$93,808 per year on top of the free house (see below)), H maintains health insurance for wife and child, H pays tuition expenses, H pays for nanny, H must pay wife's attorneys \$61,769 in legal fees (must pay even though he didn't contribute to the costs. Her total fees were \$123,500). Judge found that there was a prenuptial agreement that agreed to \$50K per year to wife for 5 years. H gets to keep his properties worth 2.4 million. H pays for W's housing until daughter becomes emancipated.

10D1147, filed 3/29/10, Bradley v. Bradley,

Plaintiff female represented by Phelan, defendant male represented by O'Regan/Howard. Husband is 42 years old and was an IT manager at a Boston law firm but was laid off and collecting unemployment (eventually gains employment in NH). Wife is 43 and a stay-at-home mother. Parties lived in Arlington, MA. Had three children - ages 10, 7, and 4. Husband, allegedly, has mental health issues and wife states that he is Manic and was at one time suicidal. Husband psychiatrist stated otherwise and said husband was completely safe. Wife is allegedly an alcoholic with mental health issues of her own.

3/29/10 - Temp Order: **Husband gets weekend visitation** (overnights at his parents' house). H must pay all bills and household bills. 3/31/2010 - Temp Order: **Mom gets sole parenting time of kids** until hearing. 4/2/2010 - Order of impoundment allowed and applied to each party's affidavit in support of emergency temp orders. 4/2/210 - **W**

gets physical custody of the children (unclear why because of the impoundment).
4/12/2010 -- Temp Order in favor of H's motion for custody - **Judge grants H custody because W, who was given custody of the children on 4/2, was transported to the hospital by Arlington PD and is being hospitalized for a psychiatric breakdown.** Situation arose after she called police and sent them to H's home saying he had guns and was an immediate threat to the children. Cops showed up at his house in tactical gear, scaring the children, and they found no dangers. Wife was then found by police screaming down her street and jumping on cars that same morning. H got use of the marital home during this time. Wife was released one week later and went back to home. When H showed up at the marital home, she threatened to call the police on him (even though he was allowed to be there), so he just left.
4/22/10 - Temp Order: H gets exclusive use of marital home and W gets unsupervised visitation each day.
4/29/10 - Temp Order: **Somehow W gets custody of the children and father goes back to having visitation.** H's motion for W to vacate the marital home was denied.
12/7/10 - Separation Agreement: W gets primary physical custody.

10D1289, filed 4/6/2010, Brown v. Brown.

Plaintiff male pro se. Defendant female represented by Guralnick (of NJ). Parties were married in 2001. Husband, 31, is a medical assistant making \$36K annually. Wife, 37, is a nursing assistant who is currently unemployed. Parties have four children, ages 15, 13, 9, 3. Wife alleged that she abandoned family (taking youngest child with her to Philadelphia) because husband drinks too much and is violent. Husband says this isn't true and doesn't make sense because no responsible parent would ever leave their children with someone they thought was dangerous.

7/16/2010- temporary order: 3 older children shall be turned over to wife on 7/17 to visit with her in Philadelphia on an extended visitation during proceedings. Youngest child shall be turned over after an extended visit while actions are pending and he will be picked up by plaintiff male on 7/24/2010. Review date set for August. Odelle will remain with plaintiff male pending outcome of trial.

8/27/2010 – **Mother is awarded temporary physical custody of the parties' four children and may remove them to Philadelphia** temporarily (until next hearing in Nov.) and enroll them in school there. Father shall have parenting time in Philadelphia in the meantime.

5/28/2010 – Motion for temp Order for custody, child support, and alimony: Plaintiff male sought custody of minor children and child support/alimony pending hearing on the merits. Rationale: In February wife abandoned children and moved to Philadelphia to live with her sister. Separation Agreement: **Wife gets primary physical custody.** Father relocated to Philadelphia.

10D1446, filed 4/14/2010, Chirco v. Chirco,

Plaintiff female represented by Hebert, defendant male represented by Fothergill, Married in Las Vegas in 2005. Two children born 2003 and 2005. Case was resolved by agreement--parties got joint legal custody and **mother got primary physical custody.**

8/29/2011: Modification Judgment: Judge finds that mother broke the law when she removed children to NH, but transferring custody as father suggests would wrongfully punish the children. Judge grants removal.

08/29/2011: Judgment on Complaint for Contempt: Father filed complaint because mother moved child to NH without his permission or court's permission. Court found mother GUILTY – she had to pay the \$110 filing fee and service fee, but no other sanctions ordered at the time.

10/15/2012: temp orders on complaint for contempt: Since child now lives in New Hampshire with mother and has for fourteen months, court does not have jurisdiction to modify child custody issues. Only has jurisdiction over financial issues. **Delays dismissal of custody issues so that case can be filed in NH court system.**

10D1543, filed 4/21/2010, Dos Reis v. Dos Reis,

Plaintiff male represented by MacMurray, defendant female represented by. Parties were married in 2004. They have one daughter, who was born in 2005. In January 2011, parties executed a separation agreement that stated they were to share legal custody, with father getting parenting time not limited to Sunday morning to Monday evening and some Saturday In February 2011, mother accused father of sexually abusing daughter after allegedly observing daughter exhibit strange behavior.

In March 2011, father witnessed such strange behavior and daughter said she learned it from seeing the mother and her boyfriend. That same month, **father was denied visitation with daughter.** In May 2011, **DCF cleared the father after an investigation into the alleged abuse.** He then filed complaint for contempt with court to get visitation. Father alleges this whole thing was a ploy so that mother can remove child to Brazil, where she wants to live to be with her teenage son. In April, mother had also accused him of doing drugs without evidence and alleged she was fearful of him despite no history of abuse or R.O.s. In July 2011, mother filed counterclaim seeking to have unsupervised visits suspended. Parties stipulated and father began supervised visitation. Visitations were supervised at Kidspace, who noted no signs of abuse. They did continuously mention that the daughter was wearing light makeup whenever she went to see the father, which perhaps was notable because she was only six years old by this time. It appears that no ruling was ever made by the judge to affect the outcome of this case.

10/11/2012 - Temporary Order following mother's complaint for modification (filed July 27, 2012).

Mother sought sole physical and legal custody of daughter and permission to travel with child out of the United States. Mother alleges that father has had no

contact with daughter and she believes he was arrested in Brazil. No other evidence offered in the file. However, on **10/11/2012, judge granted the temp order and held that it would become a final judgment should the father not appear and contest the order before December 23, 2012.**

10D1890, filed 5/11/10, Cordova v. Valencia,

Plaintiff mother represented by Hart, defendant male represented by Carr. Parties are Mexican, and were married in 1994. Lived together in Framingham until 2008. Have two children, ages 11 and 7. Husband is a 45-year-old software engineer. Mother is a 44-year-old substitute teacher.

8/5/2010: Temp Order - Comply with stipulation (father pays \$688/week CS, appointment of GAL, father maintains health insurance, etc). Pending GAL investigation, parties have joint legal custody of two minor children. **Judge explicitly makes no determination as to physical custody, but allocates parenting time as: father gets every other weekend, and every other Monday evening.** It appears from a pre-trial memo that the parties had been using a similar visitation arrangement during their separation, but the mother is seeking a decree of physical custody. Resolved by separation agreement - **mother gets physical custody**, they share legal, and father pays \$705 per week CS.

10D4291, filed 10/19/2010, Purohit v. Purohit,

Plaintiff male represented by Harsip, defendant female represented by Altman. Married in 1994 in India. One child, a daughter, age 12. Daughter has brittle bone disease, type 1. Husband is a sales engineer with an average weekly income of \$3,100 (including commissions). Wife is a project manager with weekly income of \$2889 and has a PhD in chemistry. Wife allegedly suffered continued verbal and physical abuse at the hands of the husband. Husband never touched child, according to all parties.

8/26/2011: Temp Order: Comply with stipulation (**joint legal, sole physical to mother - supervised visitation for father on Sundays**), set up family therapy for daughter and father to repair their relationship. According to GAL report, child is very uncomfortable around her father due to his temper against his mother and his recent (past couple of years) strange behavior of talking to himself, flying off of the handle, etc. She does not want to be alone with him because he acts weird. She says he has never abused her, but he is more loving and caring when others are present. She doesn't believe therapy would help because she doesn't think he will be honest and talk about their problems. Father sought to modify parenting plan pending trial--parties reached separation agreement by that time.

10D4645, filed 11/15/2010, Bellerose v. Bellerose,

Plaintiff female represented by Mulligan, defendant male represented by Manzi. Parties married in Las Vegas in 2002. Wife is 41, and husband is 40. Husband allegedly suffers from gambling addiction and substance abuse. Husband is a corrections officer and in the Army National Guard (was deployed in 2010 and they separated when he came back). Wife is a social worker for DCF. Two sons--ages 12 and 5. Wife has APO and husband cannot get within 100 yards of her (unclear what sparked original RO). Husband alleges that wife told him not to come home while he was in Afghanistan and alleges he wasn't allowed in his own home upon returning from deployment. Also alleges wife was unfaithful.

1/14/2011: Order by stipulation of the parties: Joint legal custody. **Mother gets primary physical custody and father has visitation.**

1/25/2011: Temp Order: **Mother gets sole legal custody, visitation suspended.** Mother says that husband is depressed and threatened suicide because one of sons would **not** answer his texts. She says oldest son is anxious around him. 2/9/2011: Mother got RO (mentioned above) against father. Unclear why--got this info from pretrial memo.

6/9/2011: Order by stipulation (father had contested the temp order): shared legal custody, father gets same visitation as before temp order.

11D0247, filed 1/24/2011, Palmer v. Howes,

Plaintiff female represented by Cervizzi, defendant male pro se (previously Stuart) . Married in 2009. Female is 44 years old, and male is 35 years old. Father is LPN. Mother works in computer security for National Grid. Child is 4 years old (born 2007). Child is on the Autism Spectrum. Mother had 209A against father on same day she filed for divorce. Father has anger management issues and anxiety and is in therapy.

12/14/2012: **Judgment: shared legal custody, somewhat-shared physical custody but primary with mother on paper (father gets him every weekday for some time and alternate weekends but only 3 overnights per 14 days).** Father pays \$90 per week child support. Judge found that both were very involved in his life and he would benefit from as close to equal as possible, though one needed to have final say due to the nature of fighting over decisions. Court is somewhat nervous about the joint legal custody decision, but did it anyway to try and be most fair.

11D1146, filed 3/24/2011, Dady v. Sinagra,

Plaintiff female represented by Reisman, defendant male represented by Messina. Married in 2001. Three children, ages 8, 5, and 2. Seems like father must be a drug addict/alcoholic. Mother is a nurse. Father is on temporary disability.

4/15/2011: Temp Order: **Mother gets sole physical custody**. Joint legal custody but mother must communicate through father's counsel due to existence of an R.O. - Note: Judge modified the R.O. so that it didn't affect father's access to the children (4/15/11)

6/3/2011: Temp Order: Father must get screened for drugs. After two negative screenings, father's unsupervised visitation will be reinstated -- shall be supervised by aunts until then. Father cannot leave children alone with his brother.

5/2/2013: Temp Order: Father must complete a pharmacology evaluation (there are several orders for drug/alcohol testing throughout case, so assuming he is an addict). Court clinic must evaluate children and father and determine if the children are ready for interaction with father.

11D1189, filed 3/25/2011, Taylor v. Taylor,

Plaintiff male represented by O'Connor, defendant female represented by Kaufman. Married in 2003. 2 children, ages 6 and 7. Husband is a 53 year old RN. Wife is a 42 year old LPN.

1/25/2011 - Mother got an R.O. against father alleging that he had punched her.

4/22/2011: Temp order: **Mother given sole legal and physical custody of children**. If GAL finds best interests of children is different arrangement, the court must consider modification of this order. Mother has exclusive use of marital home and must pay for the home's expenses. Father must pay \$397/ week child support. Father pays for insurance and school tuition. Father has unsupervised parenting time with the minor children every other Friday - Monday morning.

9/22/2011: Stipulation: Parties have joint legal custody, mother has primary custody subject to parenting plan. Resolved by separation agreement - same parenting plan as stipulation (i.e. ~2-3 days per week with father).

11D1747, filed 5/4/2011, Fitzgerald v. Fitzgerald,

Plaintiff female pro se, defendant male pro se. 2 minor children. 5/27/2011: **Temp order granting wife sole physical custody of children, and visitation rights to father** (two weeks supervised by wife's sister followed by unsupervised visitation).

11D1790, filed 5/5/2011, Capiello v. Capiello,

Plaintiff female represented by Thistle, defendant male represented by Nissenbaum. 1 minor child.

5/5/2011: Temp order allowing wife's motion to vacate on ground of husband's alleged domestic violence and substance abuse.

11D1890, filed 5/11/2011, Speros v. Speros,

Female plaintiff represented by Fudala, male defendant represented by Kovach.

7/15/2011 temp order that parties both have legal custody, **mother have physical custody of minor children**, defendant must pay plaintiff suitable child support under guidelines, plaintiff maintain health insurance including for husband if he pays her \$171 per month, share unintended medical/dental expenses, plaintiff has temporary use of marital home and will pay all related expenses, may not disseminate photos or emails of one another, will put marital home on the market and any proceeds will be held in trust until divided, defendant cannot sell or get rid of property worth more than \$100 without court's approval, **husband has visitation from Friday at 5pm to Sunday at 5pm**, and once he has suitable housing, Thursday at 5pm to Sunday at 5pm.

9/2/2011. Order for \$528 monthly child support and \$528 monthly spousal support.

3/23/2012 temp order for \$1056 per month child support. No spousal support. Amount will be raised after hearing if warranted. Parties will share equally cost of summer camp/substitute care. Mother's request for fees reserved for trial.

11D1927, filed 5/13/2011, Francois v. Francois,

Plaintiff female, defendant male represented by Wolf, defendant resides in Everett, mother lives in shelter. Seven year old son. Father was allegedly abusive toward mother and sexually assaulted her on at least one occasion (as evidenced by restraining order application). **By settlement, mother got full physical custody and they shared legal custody, and father got visitation and was ordered to pay \$99 per week child support.**

10/23/2012, **modification judgment issued by judge granted mother sole physical and legal custody of their son. Father's visitation was suspended**--judge cited that he was in arrears on the child support and had not visited since mother began living in a shelter.

1/4/2013, Defendant father's motion for relief from judgment granted. Visitation to be reinstated following a court appearance by all parties. Judge explains that father had

been seeking employment to pay child support and failed to appear to a court date because it was his second day of work.

3/27/2013, complaint for modification brought by father. Father states that in December, mother asked her mother (child's grandmother) in Florida to assume temporary guardianship of their son, and the son has been living there ever since and attending school there. Father seeks to have grandmother legally named a temporary custodian, seeks to modify child support so that future payments go to grandmother, grant visitation rights to both parents. There is no indication in the file that this was ruled on.

11D1993, filed 5/16/2011, Dale v. King,

Female plaintiff represented by Stuntz, male defendant represented by Doyle. One daughter - 11 years old. No indication she was involved at all in custody decisions.

8/17/2011: child support order of \$244 weekly to be paid by father. This was ratified following separation agreement.

8/5/2011 Mother filed motion for temporary order for primary physical custody. Father filed a motion for temporary order for continued shared custody. Neither motion was allowed. New order was created--joint legal custody, father maintains insurance for his daughter and for his stepchildren (if it's no extra cost to him). **In terms of custody, father gets one full week before school starts to take daughter on vacation, and he also gets Labor Day weekend.** Judge pushed back a determination on sole versus physical custody pending an interview with the daughter at the court by a probation officer who would report back to judge.

There are no written findings for how the judge came to this conclusion. However, instead of there being any sort of ruling on the designated date

(8/17/2011), there was a stipulation that **mom would get sole physical custody and father got Tuesday and Wednesday afternoons/evenings, along with every other weekend.**

11D2443, filed 6/16/2011, Venezia v. Venezia,

Plaintiff male represented by Turmaine, defendant female PS. Married in 2008. **Wife is a drug addict.** One young daughter (no age provided). Together they filed joint petition for divorce, citing irreconcilable differences.

8/05/2011, **temporary order granting father legal and physical custody** of their minor daughter, and allowing supervised visitation with mother and mandatory drug screenings for mother.

12/8/2011, child support order - wife ordered to pay \$23 per week only upon employment equal to or greater than \$150 gross weekly wages as result of separation agreement. Father received full legal and physical custody until wife completes treatment program and gets her life together, which wife agreed to.

11D2330, Berrios v. Berrios

Plaintiff wife represented by Ryder, defendant male represented by Harvey, married in Las Vegas in 2005. 3 children - 4, 7, 8. Wife lives in Athol. Husband lives in Dracut. Husband allegedly has history of mental instability and is abusive toward wife.

6/09/2011, temporary order – wife has physical custody, parties share legal custody, **Husband granted visitation each weekend from Friday through Sunday.**

5/9/2013, mother sought sole physical and legal custody of children and to terminate husband's visitation rights due to the husband's alleged abuse of the children which was reported to the school and which the school reported to DCF. Following a hearing, the judge did not grant the motion, but instead ordered that the visitation be supervised and that husband pay supervision fees. Also, father permitted to go to counseling with eldest daughter. Father must complete counseling and provide affidavit saying so. This is potentially interesting because he is still getting visitation despite his abuse, where some fathers do not get nearly the amount of visitation their behavior deserves.

5/30/2013 mother again sought to modify the visitation order, seeking to suspend father's access to the children because they are fearful of their father.

On 7/26/2013, judge ordered that supervised visitation (of at least 2 hours) continue with two younger children through next two months, with unsupervised visitation to resume in September absent court order saying otherwise. Parties must cooperate with eldest child's therapist in reuniting father and daughter. **There is nothing about why the judge made this decision or what the outcome of the DCF investigations were.**

11D3046, filed 7/26/2011, Popovic v. Popovic,

Plaintiff female, defendant male. Married in 2003. Husband born in 1964, wife born in 1974. 2 children, ages 5 and 3. **Mother was breadwinner and father had been a stay at home dad.**

9/16/2011: Temporary Order: Mother's request for order to vacate/sole use of home denied w/o prejudice. Judge states that father has expressed plan to relocate so can determine what's going on at later date. Notes that DCF did not find any neglect, but that tension could be detrimental to children. Absent any parenting agreement, they shall share legal custody, and **mother has primary physical custody with father getting children from 8-8 on Saturday, and from 3-7 every weekday.**

9/6/2013:

Temp Order for Modification: Plaintiff gets sole legal custody because father kept leaving the U.S. for extended periods.

11D3291, filed 8/11/2011, Lombard v. Lombard,

Plaintiff female represented by Keutmann/Schaefer, defendant male represented by Aroia-Imperio. Married in 2005. Two children - born 2004 and 2007. Mother earns 80% of combined income. Husband seems to have psychological problems.

9/1/2012: Restraining Order against father extended through 12/2012. Modified so he gets supervised visitation. 9/20/2012: Temp Order: Father gets up to two hours of supervised visitation per week. Parents share cost of supervised visitation. 9/26/2012: Further temp order: Father pays \$80 per month support. GAL to be appointed.

12/6/2012: Temp Order: Mother's boyfriend cannot reside in the marital home with the children. 10/10/2013: **Judgement: Mother gets sole legal and physical custody. Father gets supervised visitation.** Did not see any findings of fact.

11D4890, filed 11/30/2011, Rodriguez v. Rodriguez,

Plaintiff female pro se, defendant male represented by Hoffman. Married in 2001. 1 child, aged 4. Male aged 38, female aged 36. Middle class family. Husband is a laborer. Wife was a nanny and assistant prior to divorce and an accounting clerk before having daughter.

1/13/2012: **Temp Order: Father gets primary custody. Mother gets weekends.**

7/30/2012: **Temp Order: Minor children shall remain with Mother exclusively. Mother filed motion to suspend visitation. (Mother alleged father sexually abused daughter).**

8/1/2012: Maternal Aunt gets temporary sole custody. Mother did not appear for her motion for custody and didn't notify father of 7/30 order. Neither parent can have contact with the child.

8/2/2012: Mother was also ordered to disclose her and the daughter's whereabouts-- police were looking for them. Apparently mother went with her doctor, the Dr.'s husband, and their child to Texas. Father went to Texas to get daughter and maternal aunt hired investigator to help find her.

8/13/2012: **Father gets primary custody (after evaluation, doctors found daughter wasn't abused). Mother has supervised visitation.**

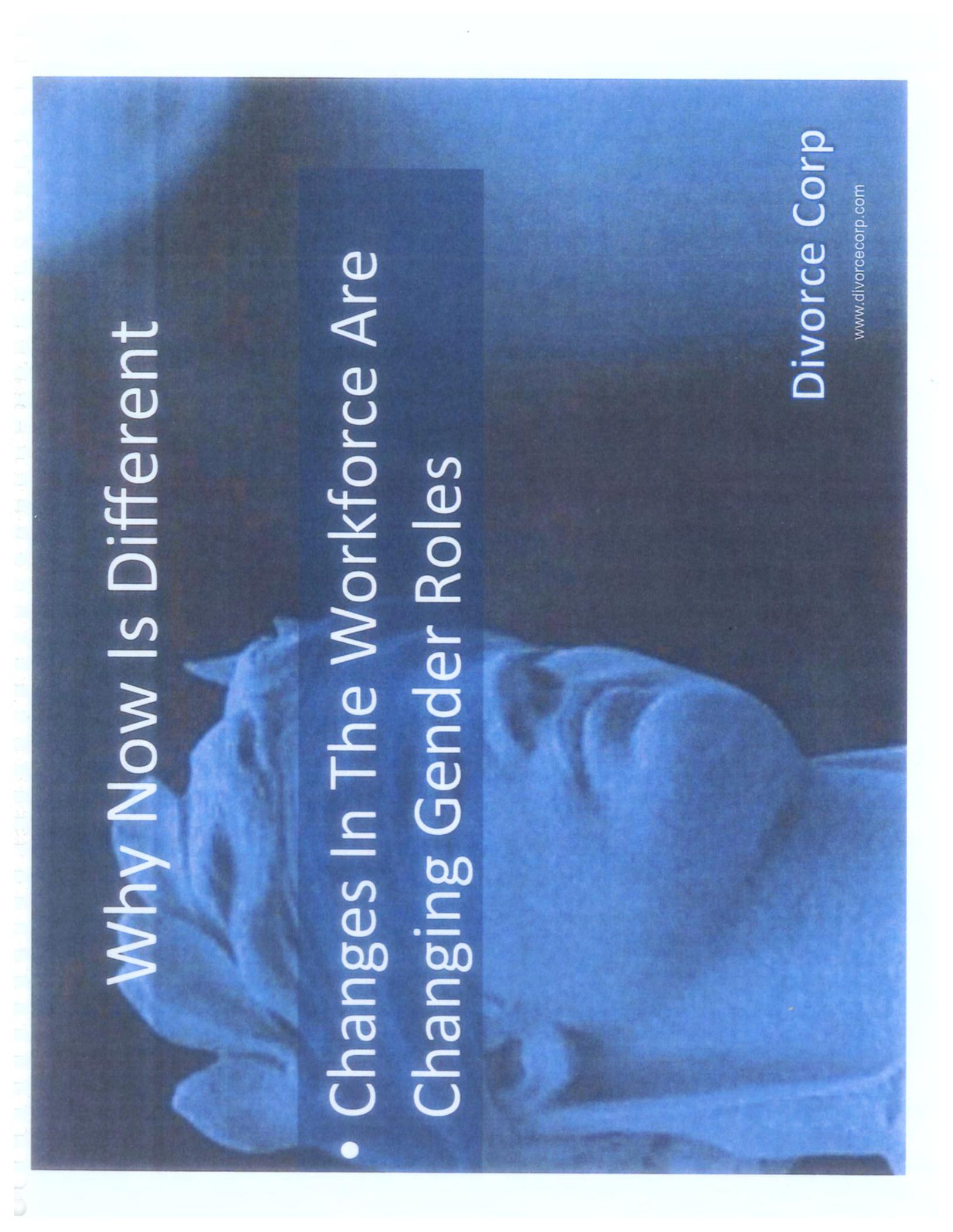
10/11/2012: Temp Order clarifying that GAL must get MA and NH DCF redacted and un-redacted reports.

11/16/2012: Temp Order preventing parents from letting child into contact with several people and ordering them not to discuss GAL report with daughter. 3/24/2013: Support Order: Mother to pay \$172 weekly.

3/29/2013: **Judgment: Father gets primary custody, mother gets weekends.** Judgment talks a bit about whether **mother might be in a cult**, but refuses to make any determinations as to the cult-likeness of the organization she is in.

TAB 13

**Changing
Gender Roles**



Why Now Is Different

- Changes In The Workforce Are Changing Gender Roles

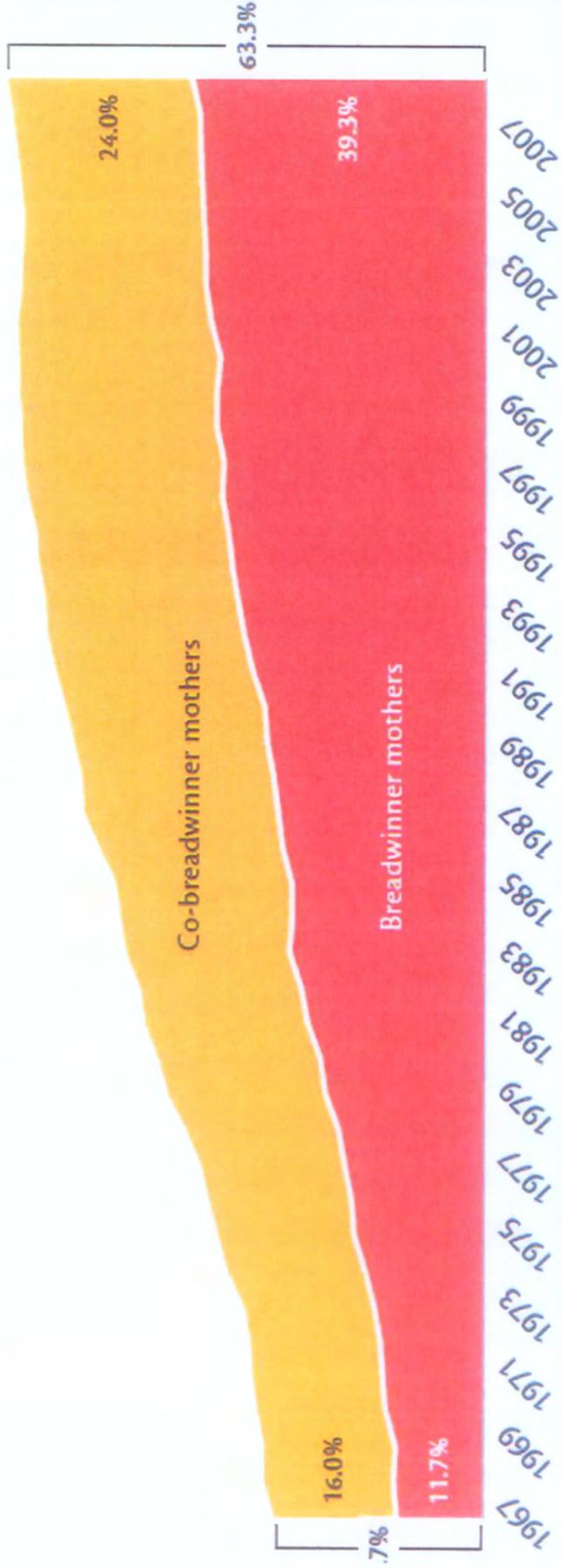
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Why Now Is Different

The new workforce

Share of mothers who are breadwinners or co-breadwinners, 1967 to 2008



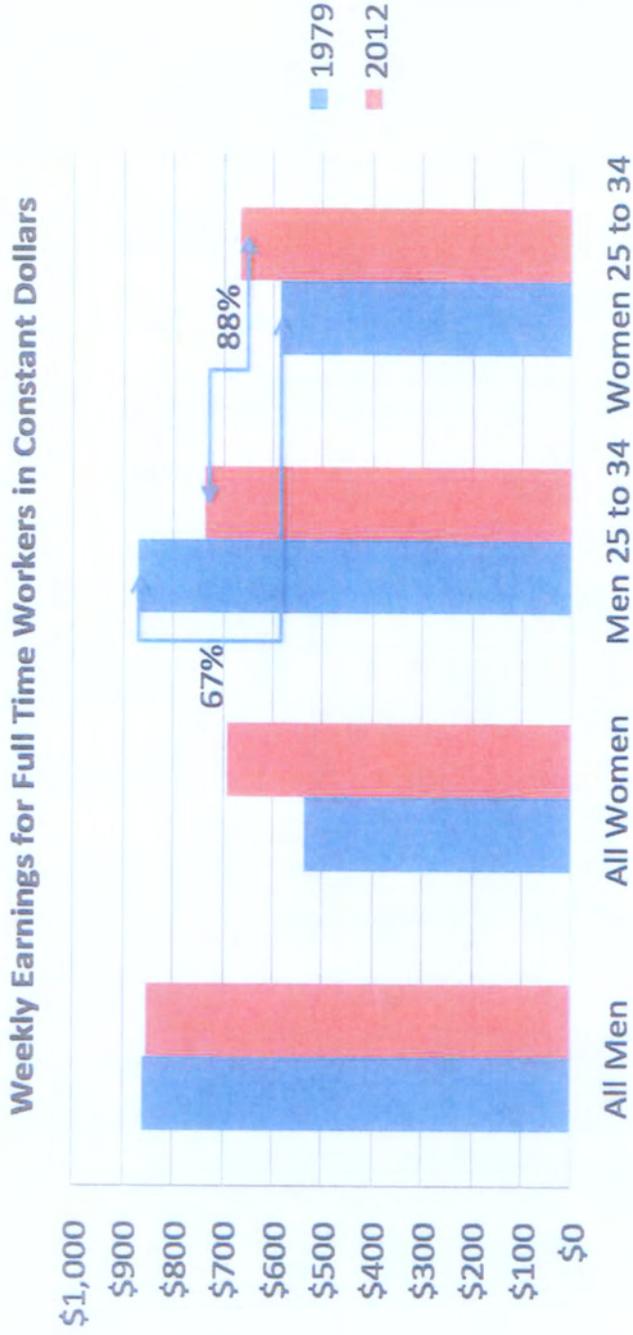
In 2013 this percentage reached 69% - US Bureau of Labor Statistics

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Why Now Is Different

Gender Income Gap 2012



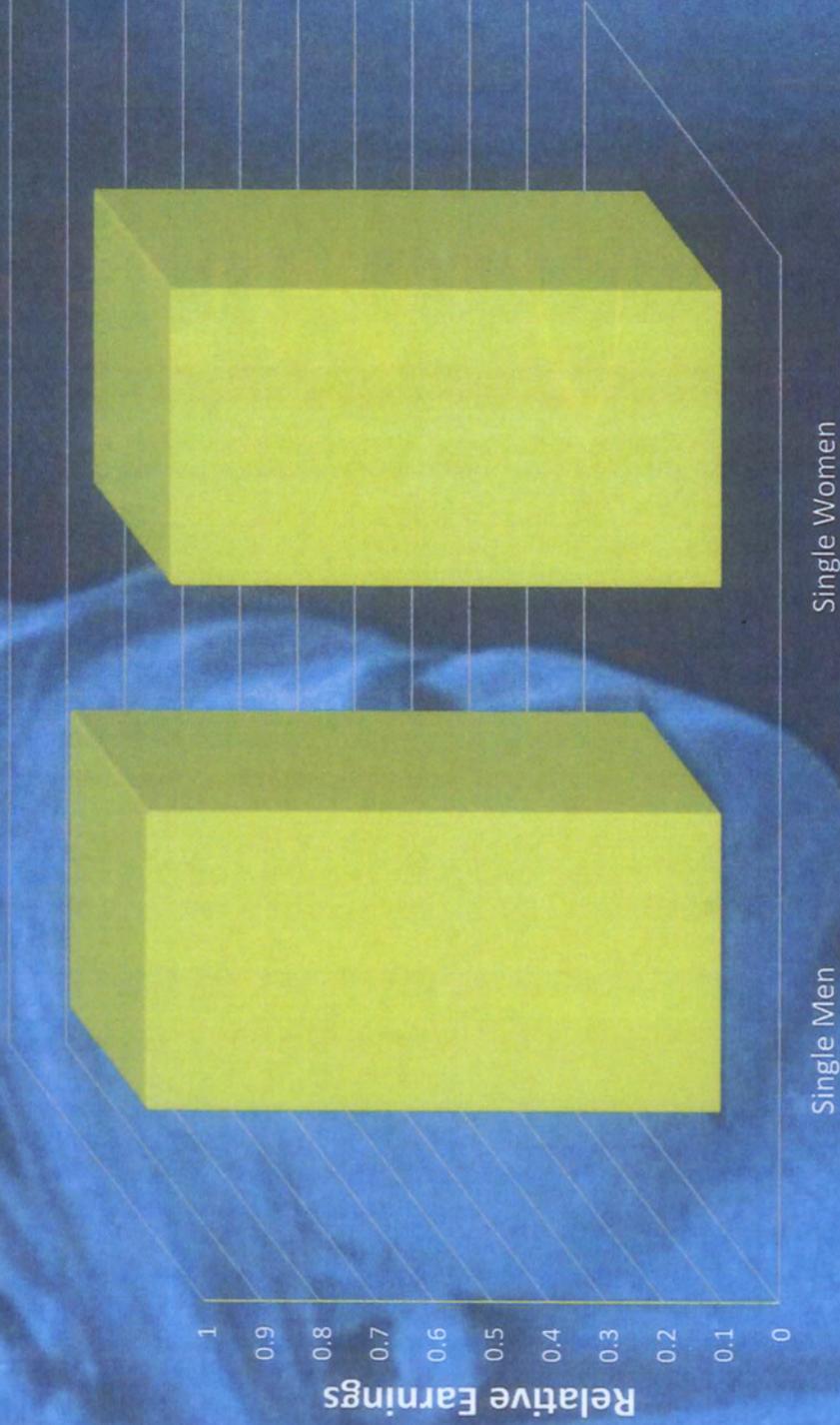
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Why Now Is Different

There were 27 million employed single workers in the U.S. in 2012. The women in this group earned 96% of what the men earned.

US Bureau of Labor Statistics



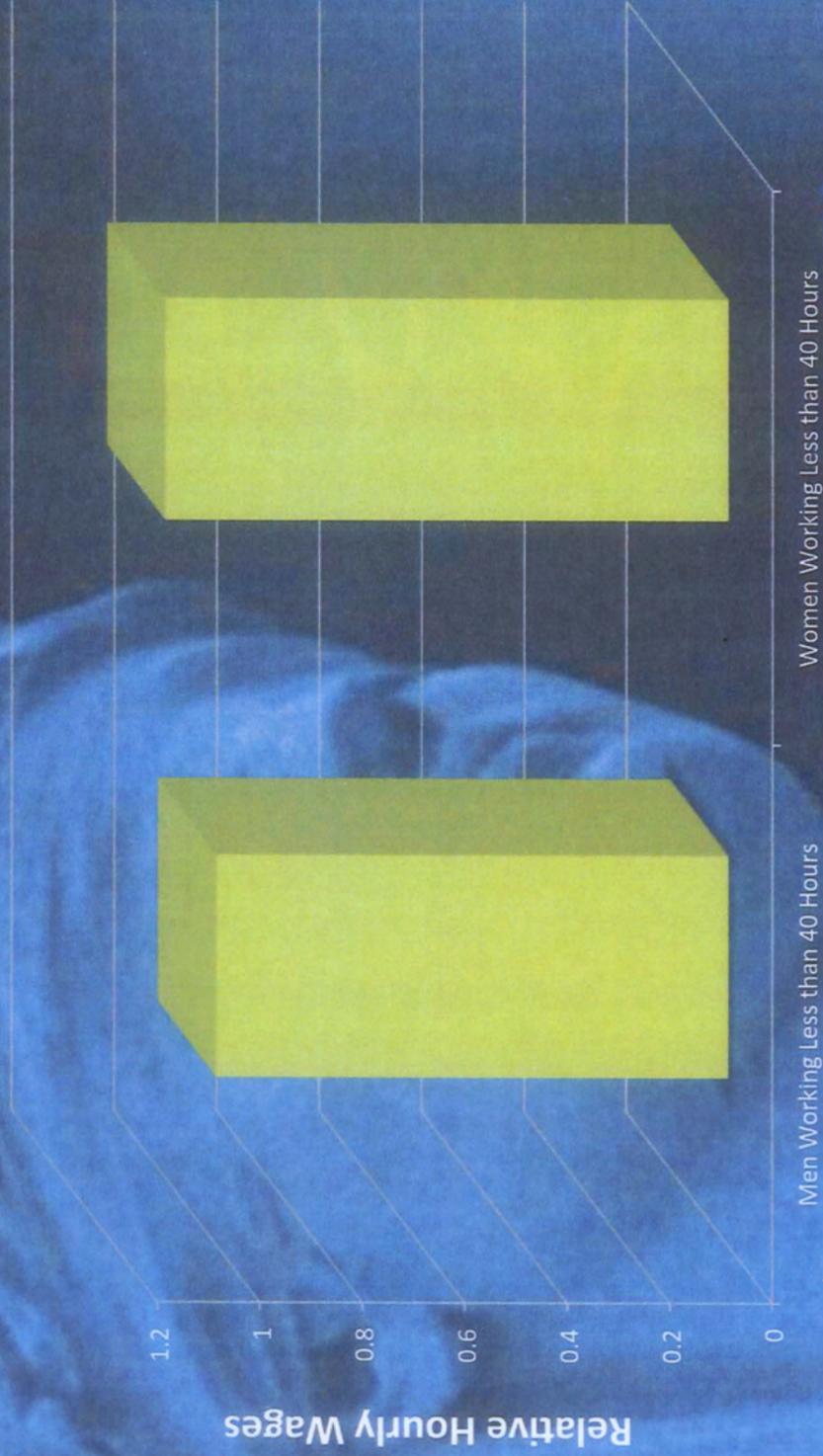
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Why Now Is Different

Hourly wages of individuals working between 5 and 39 hours per week in 2012. Women earned 10% more than men.

U.S. Bureau of Labor Statistics



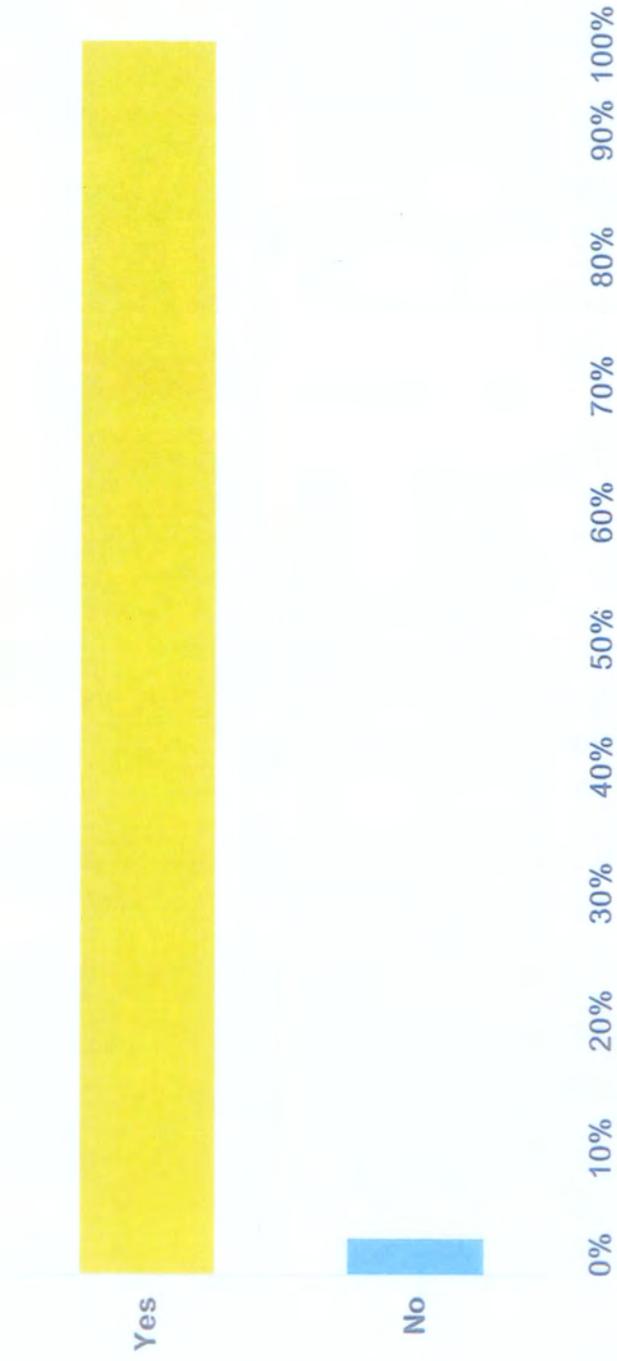
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Why Now Is Different

Q9 Should men and women be treated equally under the law?

Answered: 1,070 Skipped: 0



2014 poll of U.S. cross-section over the age of 25