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**Physical Custody in Wisconsin Divorce Cases,
1980–1992**

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Abstract

This report examines data from the court record of 9,500 Wisconsin divorce cases in twenty-one representative counties for a period of twelve years, from 1980 to 1992, in order to document how child custody is being handled in divorce. We find an increased involvement of fathers with their children after divorce, particularly through joint legal custody (81 percent in 1992), but also in shared physical custody (14 percent in 1992), and in an increase in specific and detailed physical placement awards. We find substantial differences in custody awards related to situations and actors in the divorce process, and wide variations in custody awards between counties. We also find major differences between families who have equal 50/50 time-share and those who have unequal shared-custody arrangements. These two kinds of shared-custody cases have been treated as one type in the research on custody to date, but appear in our data to characterize two quite different kinds of families.

Physical Custody in Wisconsin Divorce Cases, 1980–1992

I. INTRODUCTION

Wisconsin law governing postdivorce child custody has changed over the last two decades. Prior to 1978, the court was only authorized to award custody to one of the parents on divorce. This meant that the child lived with that parent, who also had the authority to make all decisions for the child on such issues as education, religion, medical treatment, and general welfare. The other parent had limited authority and the potential for visitation.

The Divorce Reform Act of 1978 (1977 Wis. Act. 105) changed this law, authorizing the court to give “the care and custody” of children to the parties jointly if they agreed and if the court found that this arrangement was in the best interest of the child. In 1987 the law was amended again (1987 Wis. Act 355) to allow the court to award joint custody over the objection of one party under certain circumstances.

As a result of these changes in the law, parents and their lawyers began making a distinction between the two parental roles that make up custody: decision making and residential care. The decision-making role is termed legal custody; residential care is described as physical placement or physical custody. This report makes this distinction: *joint legal custody* refers to shared parental decision making; *shared physical custody* describes the cases in which the child resides with both parents.

This report examines the effect that these recent legal changes have had on the way that child custody is handled in divorce cases in Wisconsin. The data examined, the Wisconsin Court Record Database (WCRD), are part of the Wisconsin Child Support Demonstration Project and cover court records from 1980 through 1992.¹

¹Data were collected from twenty-one counties to form a representative profile of the state. For reasons of confidentiality, the county names will not appear in the paper.

The report is divided into six parts. Part II looks at trends in custody arrangements over the period studied, and Part III analyzes the specific nature of shared physical custody in Wisconsin. Part IV examines the characteristics of parents by the types of custody arrangements. Part V explores the relationship between the divorce process and the types of custody arrangements. Part VI presents information on postdivorce outcomes. Part VII contains a summary and some conclusions as well as suggestions for further research.

In order to study changes over time, the analysis reported here considers cases by “Cohort” numbers, which identify the annual time period when the parents first petitioned for divorce. For example, Cohort 1 cases cover petitions for divorce filed in the period mid-1980 to mid-1981, Cohort 2 cases cover petitions for divorce filed from mid-1981 to mid-1982. Cohort 12 cases cover petitions for divorces filed from mid-1991 to mid-1992.² The divorces in a cohort may take varying amounts of time to reach final judgment, ranging from as little as several weeks from petition to final divorce judgment, to as long as several years. In this study divorces are assigned to cohorts according to the original *petition* date, regardless of the length of time to final judgment.

II. TRENDS IN CUSTODY ARRANGEMENTS, 1980–1992

Here we examine the changes in child custody that have occurred over the last decade as the law governing custody arrangements has changed. This section reviews both legal custody and physical custody.

²Cohort 1, 1980–1981; Cohort 2, 1981–1982; Cohort 3, 1982–1983; Cohort 4, 1984; Cohort 5, 1984–1985; Cohort 6, 1985–1986; Cohort 7, 1986–1987; Cohort 8, 1987–1988; Cohort 9, 1988–1989; Cohort 10, 1989–1990; Cohort 11, 1990–1991; Cohort 12, 1991–1992.

Legal Custody

Because the law prior to 1978 allowed only “sole” custody, the 1980s began with traditional modes of “sole” legal custody still in place in the State of Wisconsin. Some parents, however, were beginning to utilize the concept of “joint” legal custody. As noted earlier, joint legal custody leaves the important decisions of education, health care, and religion in the hands of both parents. (The term “joint” custody is sometimes used interchangeably with “shared” custody, but here it refers only to legal custody, regardless of physical custody.)

By 1987 about 35 percent of all divorces involving children resulted in joint legal custody. A large increase in the use of joint legal custody came in 1988, after a change in Wisconsin divorce law allowing the award of joint legal custody to both parents, over the objection of one of them. By 1990, joint legal custody was being awarded in about 65 percent of Wisconsin divorce cases. By 1992, joint legal custody had become, by far, the most prevalent arrangement (81 percent) for assigning parental responsibility for major decision making regarding children after divorce.

Table 1 shows the Wisconsin court record data in divorce cases for parents entering the court system from 1980 through 1992. The high percentages of sole legal custody cases common in the early 1980s have steadily diminished, to be replaced by joint legal custody. “Sole mother” legal custody dropped from 73.8 percent to 17.4 percent. “Sole father” legal custody also dropped, from 6.0 percent to 1.4 percent. “Joint” legal custody increased from 18 percent to 81 percent during that twelve-year-period.

Physical Custody

There have also been changes in physical custody arrangements for children after divorce. The changes are not of the same magnitude as in legal custody, but the changes are in the same direction—toward greater involvement of both parents. Table 2 shows the Wisconsin court record data in divorce cases in terms of physical placement, as awarded in the final divorce decree. The category of

TABLE 1**Changes in Legal Custody in Divorce Final Judgments, Cohorts 1–12**

Cohort	N Cases	Sole Legal Custody		Split Legal (%)	Joint Legal (%)	Total
		Mother (%)	Father (%)			
1	856	73.8	6.0	2.2	18.0	100.0%
2	837	72.9	4.8	1.4	20.9	100.0
3	598	70.6	5.0	2.1	22.3	100.0
4	689	63.2	3.2	1.1	32.5	100.0
5	912	62.3	3.7	0.9	33.1	100.0
6	1074	60.5	5.0	1.4	33.1	100.0
7	874	58.7	4.9	1.1	35.3	100.0
8	803	47.9	5.4	0.9	45.8	100.0
9	723	31.8	3.9	0.2	64.1	100.0
10	719	31.5	3.1	0.1	65.3	100.0
11	699	26.0	0.9	0.0	73.1	100.0
12	667	17.4	1.4	0.1	81.1	100.0

Source: Wisconsin Court Record Database.

Note: Weighted data in all tables are from twenty-one counties.

TABLE 2**Changes in Physical Custody Placement in Divorce Final Judgments, Cohorts 1-12**

Cohort	N Cases	Percentage of Physical Custody				Total (%)
		Mother	Father	Split	Shared ^a	
1 ^a	858	85.7	8.3	3.8	2.2	100.0
2 ^a	844	86.9	9.0	2.6	1.5	100.0
3 ^a	599	84.2	9.9	3.5	2.4	100.0
4 ^a	695	83.9	9.9	4.1	2.1	100.0
5 ^a	913	85.2	9.1	2.6	3.1	100.0
6 ^a	1078	84.1	10.3	3.1	2.5	100.0
7	877	79.8	9.8	3.1	7.3	100.0
8	812	78.5	9.4	2.3	9.8	100.0
9	737	77.6	12.2	2.1	8.1	100.0
10	733	77.4	9.8	2.9	9.9	100.0
11	679	73.9	9.5	4.1	12.5	100.0
12	676	73.3	8.5	4.0	14.2	100.0

Note: “Shared physical custody” is defined as more than 30 percent time, in accordance with State of Wisconsin administrative guidelines.

^aUnequal shared custody cases cannot be identified in data collected prior to cohort 7. These cases would have been classed in the sole mother or sole father physical custody categories.

shared physical custody is a combination of two types of shared custody: the first, we refer to as equal shared custody, where parents share the children's time 50/50; and the second, unequal shared custody, which we define as a time division of less than 50/50, but, in accordance with the State of Wisconsin administrative definition of "shared" placement, a time division of more than 30/70. For the cases collected in Cohorts 1–6, our data collection instrument did not record sufficient information to enable us to adequately identify unequal shared custody cases. Beginning with Cohort 7, the data collection instrument was revised to identify these cases. Table 2 shows that in Cohort 7 (cases with divorce petitions filed in 1986–1987), the percentage of shared physical custody cases—both equal and unequal—accounted for 7.3 percent of the divorce settlements. This percentage has doubled in the subsequent five years, reaching 14.2 percent in the Cohort 12 (1991–1992) cases. The increase in shared custody cases corresponds to the drop in the (still predominant) mother-custody category—mother physical custody decreased from 86 percent in the early 1980s to 73 percent in Cohort 12. Father physical custody and split physical custody remain at about the same levels as in the early 1980s—8.5 and 4.0 percent, respectively.

Shared Physical Placement. The increase in shared custody awards in recent divorces in Wisconsin forms the focus of this report. Since shared physical custody involves substantial lifestyle adjustments for fathers, mothers, and children, the growth in shared physical custody arguably represents the most dramatic change in divorce during this decade. Although maternal custody still predominates, shared custody cases, as 14.2 percent of current Wisconsin divorces, involve a large number of children and parents. In 1992, over 11,000 divorces were granted in Wisconsin, involving 20,700 children (Vital Statistics 1993). If 14.2 percent of these children are awarded to parents in a shared custody arrangement, a total of 2,900 children enter a dual-residence living situation in Wisconsin each year. If this percentage is maintained, or continues to grow in future years, there are important implications in the areas of family law, child well-being, and child support.

Physical Placement with Noncustodial Parents. This report focuses on a comparison of different custody types, but here we examine the physical placement arrangements made within the broad category of *sole* physical custody. (“Physical placement” is the statutory language used for what is commonly referred to as “visitation.”) Our reason for doing so grows out of the recognition that the difference between sole and shared physical custody may be only a matter of degree, especially among the 81 percent of cases with joint legal custody. When parents share decision making, whether their co-parenting takes the form of sole custody with visitation or dual residence may be difficult to distinguish. Therefore, the arrangements that parents make for physical placement with the noncustodial parent in sole custody cases are important to an understanding of shared physical custody.

Panel A of Table 3 shows the breakdown of physical placement awards in sole custody cases in Cohorts 9–12, according to the language used in those awards. Physical placement awards using the language “reasonable time upon reasonable notice” remain the predominant form in the Wisconsin courts (50 percent of all divorce cases). In 27 percent of the cases, however, there is specific language which details the days and times of physical placement with the noncustodial parent. Panel B of Table 3, based upon a survey of parents in Cohorts 7 and 8, shows that noncustodial parents with reasonable visitation spent an average of 36 days with their children in the year after the divorce; parents with liberal visitation spent an average of 47 days with their children; and parents with specific and detailed physical placement schedules, with an average *award* of 57 days, reported spending 67 days of the first year after the divorce with their children. The pattern indicates that the more specific the physical placement language in the divorce decree, the more time that is subsequently spent with children. The causal relationship, however, is not clear here. Noncustodial parents who most wanted to be assured of time with their children may have been motivated to get a more detailed physical placement award in the divorce decree; they may have wanted language in the divorce decree that better guaranteed their child-access rights than the traditional and vague “reasonable time upon reasonable notice” language. Alternatively, the more clearly

TABLE 3
Physical Placement with the Noncustodial Parent in Sole-Custody Divorce Cases

A. Type of Physical Placement Award		Cohorts 9–12			
Visitation not allowed		3.9%			
Reasonable visitation		50.2%			
Liberal visitation		10.2%			
Time scheduled-specific language		26.6%			
Other ^a		9.1%			
All cases		100.0%			
N cases		2412			

B. Physical Placement of Children with Noncustodial Parents Reported in the First Year after Divorce, ^b Cohorts 7 and 8			
By Type of Physical Placement Award	N Cases	Mean Number of Days Child with NCP	Mean % of Year Child with NCP
Reasonable visitation	371		
Time spent with NCP		36	9.9
Liberal visitation	118		
Time spent with NCP		47	12.9
Specific schedule	176		
Time awarded to NCP		57	15.5
Time spent with NCP		67	18.3

C. Time-Scheduled Physical Placement Awards over Time						
	Cohort					
	7	8	9	10	11	12
Percentage of Sole Custody Cases with Specific Time Scheduled ^c	16.2%	13.1%	24.2%	22.8%	29.3%	30.2%
Mean Number of Days Specified	58	56	63	64	62	64
Mean Percent of Year Specified	15.8	15.2	17.1	17.4	16.9	17.3
N Cases	124	94	152	136	151	158

^aThis includes several small categories of cases: physical placement was not mentioned in the divorce decree; physical placement was mentioned only as allowed “with notice”; physical placement information was missing.

^bThe Parents Survey II was conducted for reference year 1988 with parents from cases in Cohorts 7 and 8. The time spent in physical placement was taken from the response of the noncustodial parent. If the noncustodial parent did not respond to the survey, then the response given by the custodial parent was taken. Weighted data, twenty counties only.

^cIncludes sole custody cases with the time specified from 1–30 percent time. Excludes cases with time specified as zero days (visitation not allowed).

specified dates and times in these orders may have led to reduced conflict and misunderstanding between the parents, or created greater expectations of time with the children by the noncustodial parent, leading to greater contact between parent and child.

Panel C of Table 3 shows that, over time, the percentage of sole physical custody cases which have specific physical placement schedules detailed in the divorce decrees have increased substantially, from 13 to 16 percent in Cohorts 7 and 8, to 30 percent in Cohort 12. The average amount of time awarded in those placement schedules has also increased slightly: from 56 to 58 days per year, to 64 days per year. The increases in number of days scheduled in cases with specific physical placement schedules and in shared custody awards are all consistent with a move toward fathers having greater responsibilities for direct physical care and support of children after divorce. This is in keeping with Kelly's finding, in an overview of research on children of divorce (1993), that the amount of time divorced fathers spent with their children *increased* during the 1980s. It is also consistent with more recent work by Seltzer (1996), which shows that, controlling for predivorce conditions and family characteristics, an award of joint *legal* custody works to insure a higher amount of father-child post-divorce contact.

III. SHARED PHYSICAL CUSTODY

We next examine the current nature of shared custody in Wisconsin. How widespread is shared custody in the different Wisconsin counties? As Table 4 indicates, there is substantial variation (from 2 to almost 20 percent) in the awards of shared custody within the twenty-one counties that provide the sample for this report. In examining only cases from the four most recent cohorts (petitions for divorce filed from mid-1988 to mid-1992), thirteen counties fall into a mid-range of shared custody awards: 8–15 percent of all divorce cases. In three counties, the level of shared custody awards is less than 4 percent. By contrast, in five counties 16–19 percent of divorcing parents received shared custody awards. What explains the difference in these levels of shared custody awards? Do the parents, and their characteristics

TABLE 4**Percentage of Shared Custody Awards in Divorce Final Judgments, by County, Cohorts 9–12**

County	Shared Custody Awards (Equal and Unequal) as a Percentage of Divorce Cases in Each County, Cohorts 9–12
A*	2.2%
B*	3.7
C	3.9
D*	8.8
E*	10.3
F	10.4
G	10.6
H	11.5
I*	11.6
J*	12.1
K	12.3
L*	13.4
M	13.5
N	14.0
O	14.1
P	15.1
Q	16.4
R*	16.6
S*	18.4
T	18.8
U*	19.5
All counties	11.3
N Cases	2824

*Metropolitan counties; defined by Standard Metropolitan Statistical Area (SMSA) status.

and attitudes differ? And/or does the divorce process, including the attitudes of judges, differ? These variables will be examined in later sections of this report.

Previous research on shared physical custody (see Maccoby and Mnookin 1992; Benjamin and Irving 1989) combined the categories of “equal” and “unequal” shared custody. However, as discussed later, these two categories of shared custody may be quite different. Earlier studies of shared custody combined these kinds of cases because shared custody was rare. The large number of divorce cases collected as a part of the Institute for Research on Poverty’s Wisconsin Child Support Demonstration Project, along with the recent increase in the popularity of this type of custody award, allow us to distinguish between these two types of shared custody cases. In the following sections the tables will present the data for “equal” and “unequal” shared custody cases separately.

In Cohorts 9–12, “shared” custody awards are found to be fairly evenly divided between “equal” (6.3 percent) and “unequal” (5.0 percent) cases (data not shown). The distinction between equal and unequal was originally made in accordance with the administrative child support guideline then in effect for shared custody cases. The child support guidelines provided a formula for the calculation of child support in unequal shared custody cases (Wis. Admin. Code § 80.04, 1987). The administrative guidelines were silent, however, on an appropriate calculation of child support in equal shared custody cases. The lack of a child support guideline in the equal shared custody situation may have altered the preference for equal shared custody by some parents. In 1995, however, the administrative child support guidelines for shared custody cases were revised, both in formula and by the inclusion of 50/50 cases (Wis. Admin. Code § 80.04, 1995). The relative popularity of the two categories of shared custody could potentially change in the future, if the former absence of child support guidelines in 50/50 cases was motivating some parents to choose equal, over unequal, shared custody, or vice versa.

Of the 5 percent of Cohort 9–12 cases with unequal shared custody, over 80 percent are *mother*-primary unequal shared awards, compared to less than 20 percent with *father*-primary unequal shared

awards. The preponderance of “mother primary” among unequal shared custody cases may partially be a result of the child support guideline in effect at the time these cases entered the court system. Since those guidelines defined the child support *payor* as the nonprimary parent, regardless of income or level of time-share, a mother with a lower income who agreed to somewhat less than 50 percent time would have been the designated *payor*. The revised child support guidelines, made effective in 1995, would allow that same nonprimary mother to be the *recipient* of the child support award, if her income was sufficiently low relative to the father’s income. The revised guidelines may eliminate the financial need for some lower-income mothers to retain primary parent status in order to receive child support.

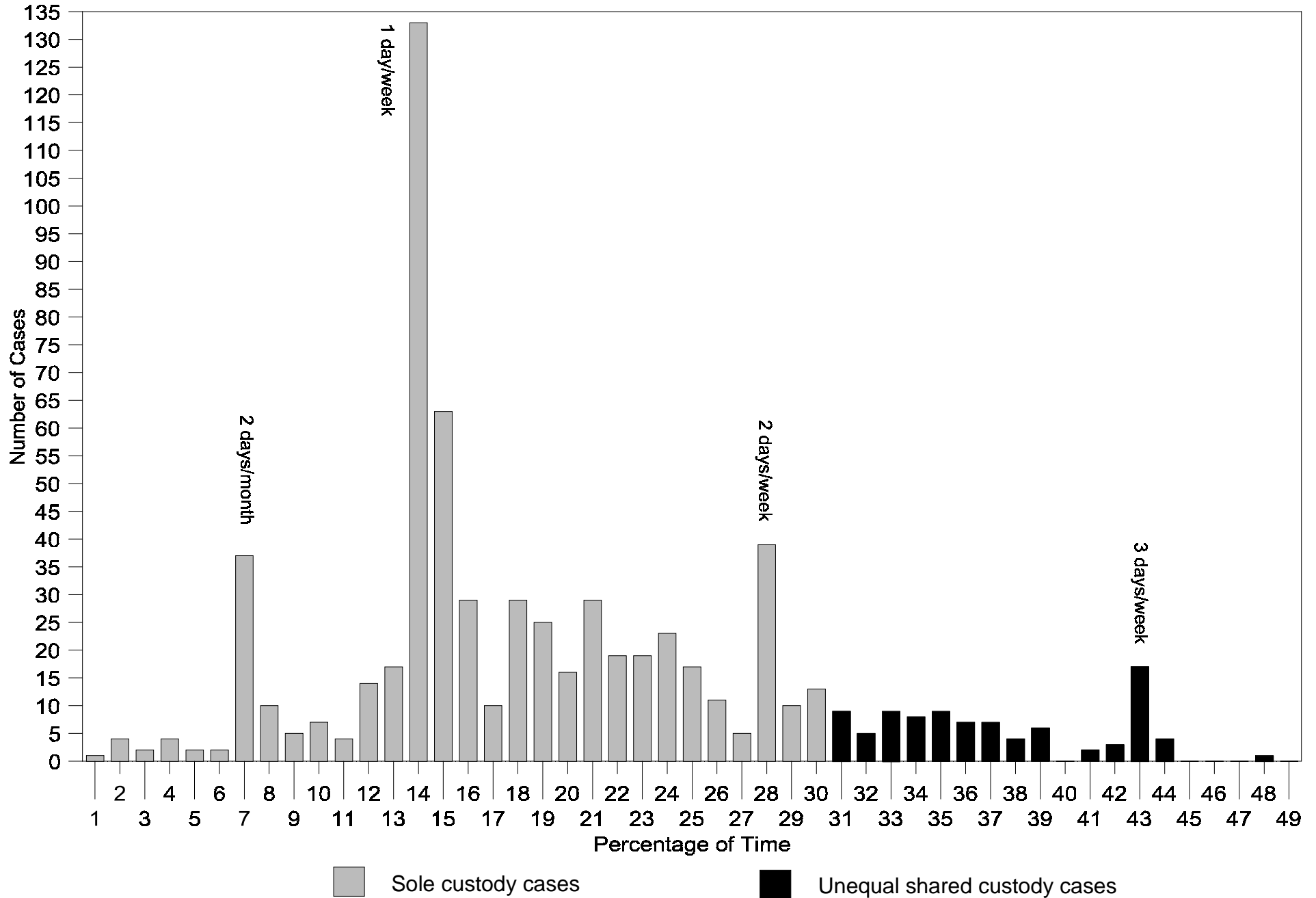
Figure 1 illustrates the percentage of time of the placement award to the noncustodial parent in sole custody cases and to the nonprimary parent in unequal shared custody cases in Cohorts 9–12. (The height of the bar indicates the number of cases in which a specific amount of time with the child was recorded in the divorce decree for the noncustodial parent or nonprimary parent. Note that the most frequent arrangements correspond to a schedule by week—14 percent of time, for example, is one day per week.) The absence of unequal shared custody cases at the high end of the graph suggests that parents who might want 45–49 percent time with the children either agree to a 50/50 arrangement (not shown on the figure), or agree to label their time-share as a 50/50 arrangement. The bulk of unequal shared custody cases congregate in the 30–39 percent range of nonprimary parent time-share—suggesting that unequal shared custody cases may be qualitatively different from equal shared custody cases, and more akin to sole custody cases with substantial noncustodial physical placement.

IV. CHARACTERISTICS OF DIVORCING PARENTS AND THE PHYSICAL CUSTODY AWARD

What are the characteristics of parents who divorce and share custody? How are these parents different from other parents? Is there something about them that makes the award of shared physical

FIGURE 1

Percent of Time with the Nonprimary Parent, Divorce Cases in Cohorts 9–12



custody a predictable outcome? The court history documents make available a number of parent and family characteristics that we can examine to explore these questions. Some differences between parents with other types of custody become apparent upon examining these characteristics. Since mother sole custody has traditionally been the most common type of physical custody, and remains the most common custody award, parent and family characteristics are compared to the “norm” of mother custody cases. Cases in the four most recent cohorts of the data are examined.

Family Characteristics

Tables 6–8 show some parent and family variables by custody type from cases in Cohorts 9–12: age of the parents, length of the marriage, size of the family, ages of children, and boy/girl ratio. As reported in Table 5, the ages of the parents are about the same for all custody outcomes (35.8 years for fathers, 33.4 years for mothers), with the exception of split-custody cases, in which the parents are, on average, about three years older. The length of marriage averages around 11 years, but is slightly longer in father custody cases, and about 4 years longer in split custody cases. Split-custody families are the largest in size (averaging 2.7 children per family). Since, by definition, split-custody cases involve two or more children, it is not surprising that the average ages of the parents and the length of the marriage are greater than for other divorcing couples, and that the family size is largest. Unequal shared-custody cases also have somewhat larger families than the other custody types (2 children per family versus 1.8). Equal shared custody cases, on the other hand, show the smallest average family size (just 1.5 children per case).

In examining the ages of the children in these divorcing families, we find that split-custody families and father-custody families have older children. The fact that fathers are more likely to have custody of older children is consistent with the somewhat longer marriages reported in this data. This trend of older children in father-custody families has generally been reported in previous research on custody trends (Seltzer 1990).

TABLE 5**Characteristics of Divorcing Families by Physical Custody Outcome, Cohorts 9–12**

	Physical Custody					All Cases
	Father	Mother	Split	Unequal Shared	Equal Shared	
N cases	282	2130	87	135	190	2824
Mean Father's Age (years)	36.0	35.5	39.0***	36.6	36.0	35.8
Mean Mother's Age (years)	33.3	33.2	36.3***	34.1	33.9	33.4
Mean Length of Marriage (years)	11.8**	10.7	15.4***	11.2	11.1	11.0
Number of Minor Children	1.7	1.8	2.7***	2.0**	1.5*	1.8
Mean age of children (years)	8.9***	7.9	12.0***	8.2	8.1	8.3
Mean age of youngest child (years)	7.7***	6.6	9.7***	6.3	7.2	6.9
Mean age of oldest minor child (years)	10.0***	8.8	14.6***	9.0	8.7	9.1
Boy/girl ratio	55/45*	50/50	51/49	56/44*	58/42*	51/49

*Significantly different ($p < .10$) from mother-custody cases.

**Significantly different ($p < .05$) from mother-custody cases.

***Significantly different ($p < .01$) from mother-custody cases.

Does the gender of the child have anything to do with the custody outcome? The research literature is mixed on this question (Meyer and Garasky 1993; Greif 1995). The data examined here suggest that father sole custody of male children is somewhat more prevalent. The male-to-female ratio of children in mother custody outcomes averages 50/50. The male-to-female ratios in all other types of custody are significantly higher (55/45 in father custody; 56/44 in unequal shared custody; 58/42 in equal shared custody). The apparently even male-to-female ratio in split-custody cases (51/49) masks the tendency for split-custody outcomes to be more common in boy-and-girl families, and for these children to be split between the parents along gender lines: out of a sample of 61 boy-and-girl cases, 59 percent of boys went to live with the father, and 68 percent of girls went to live with the mother (data not shown).

Panel A of Table 6 shows different custody outcomes by the combination of family size and child gender. Mother custody is most common in one-child families when the only child is a girl: 80.4 percent of these cases resulted in a sole mother custody award. Mother custody is least common in families with no girls, and with two or more boys: 69.4 percent of these cases resulted in a sole-mother custody award. Families with both a boy and a girl were among the least likely to be awarded sole-mother custody. In a relatively large percentage of these families, the children were split between the two parents (8.1 percent of all families with both a boy and a girl). Relatively few resulted in an equal shared-custody award (3.3 percent of all families with both a boy and a girl). All-girl or all-boy families less often received split-custody awards; rather, they were more likely to be awarded shared custody. Sole-father custody shows the opposite trend from sole-mother custody: 11.4 percent of families with a single son resulted in father custody, while the least common father custody outcomes were found in families with two or more girls (7.9 percent). Hence, there does seem to be a slight tendency for increased custodial involvement of fathers (in sole-father, split or shared custody) when male children are present in the family.

TABLE 6

**Gender, Family Size, and Age Categories in Relation to Physical Custody Outcomes in Divorce Cases,
Cohorts 9–12**

A. Family Size and Child Gender

Families of	Percentage of Physical Custody					All Cases (%)	N Cases
	Father	Mother	Split	Unequal Shared	Equal Shared		
2+ girls	7.9	77.8	3.1	5.9	5.3	100.0	315
1 girl	8.5	80.4	—	3.7	7.4	100.0	580
Both girls and boys	9.7	73.6	8.1	5.3	3.3	100.0	881
1 boy	11.4	76.0	—	4.1	8.5	100.0	601
2+ boys	10.9	69.4	3.3	7.4	9.0	100.0	375

B. One-Child Families

Individual Child Age Categories	Percentage of Physical Custody					All Cases (%)	N Children	Boy/Girl Ratio
	Father	Mother	Split	Unequal Shared	Equal Shared			
<2 years	5.7	82.6	—	5.4	6.3	100.0	132	46/54
2–4	8.5	77.7	—	6.0	7.8	100.0	382	48/52
5–7	10.4	77.3	—	7.2	5.1	100.0	223	51/49
8–10	8.6	77.9	—	3.6	9.9	100.0	124	56/44
11–13	10.3	72.9	—	5.4	11.4	100.0	99	55/45
14–17	5.6	91.8	—	1.4	1.2	100.0	150	46/54

C. Multiple-Child Families

<2 years	4.1	91.7	1.8	1.1	1.3	100.0	159	47/53
2–4	8.6	80.8	1.3	4.7	4.6	100.0	801	53/47
5–7	10.3	75.4	2.5	6.0	5.8	100.0	944	55/45
8–10	9.1	74.7	4.3	5.0	6.9	100.0	878	52/48
11–13	11.6	70.4	8.9	5.2	3.9	100.0	564	53/47
14–17	14.8	65.4	9.9	5.0	4.9	100.0	525	52/48

In Panels B and C of Table 6, we show the age of children, family size, and gender of children in another way. Panel B gives percentages of children in different age categories and the ratio of boys to girls in one-child families only. Panel C gives percentages in these categories in multiple-child families. The two panels show interesting differences. In one-child families, equal shared-custody awards are most common in the pre-teen age categories of 8–10 and 11–13 years (9.9 and 11.4 percent, respectively), and least common in the teenage category of 14–17 years (1.2 percent). Surprisingly, the infant category (under 2 years of age) also shows larger percentages of equal shared custody (6.3 percent) compared to the teenage category.

The patterns of custody are somewhat different in families with two or more children. In contrast to one-child families, the percentage of cases with an equal shared custody award does not vary substantially from one age category to the next, with the exception of relatively few where at least one of the children is an infant (1.3 percent). Also in contrast to only-child families, a large percentage of teenage children live with their father in sole custody (and split custody—where older and male children tend to live with the father). The differences between one-child families and multiple-child families suggest that gender, age of children, and family size may intersect to affect custody outcomes.

Does a previous marriage by one or other of the parents affect custody choices? And does the existence of children from a previous marriage also affect custody choices in the current divorce negotiations? Table 7 shows the breakdown of physical custody outcomes by the existence of a previous marriage by the father, the mother, or both. Sole-mother custody was most common in families where the father had been married at least once before, with this being the first marriage of the mother: 84.5 percent of these cases resulted in sole mother physical custody. A similar finding of low incidence of father custody in subsequent marriages has also been reported in divorce and custody data from vital statistics records by the National Center for Health Statistics (1995). The least common mother-custody outcome occurred in families where the mother had been married and divorced at least once before with this being

TABLE 7**Previous Marriages of Divorcing Parents by Physical Custody Outcome, Cohorts 9–12**

	Percentage of Physical Custody					All Cases (%)	N Cases
	Father	Mother	Split	Unequal Shared	Equal Shared		
A. Marriage History							
Neither parent previously married	10.1	74.9	3.5	5.0	6.5	100.0	2139
Only father previously married	7.3	84.5	2.5	2.2	3.5	100.0	281
Only mother previously married	14.4	68.2	3.4	6.6	7.4	100.0	198
Both previously married	7.2	76.7	2.6	5.4	8.2	100.0	174
B. Other Children							
Mother has no other children	9.5	75.7	3.5	4.7	6.6	100.0	2562
Mother has other children from a previous marriage or relationship	13.7	72.6	1.5	7.2	5.1	100.0	227
Father has no other children	10.3	74.6	3.5	4.9	6.7	100.0	2628
Father has other children from a previous marriage or relationship	3.4	89.4	1.4	3.9	1.9	100.0	146

the first marriage of the father (68.2 percent mother custody). A large percentage of these cases resulted in sole-father custody (14.4 percent). In cases where both parents had been previously married, the custody result was about the same as in the large majority of the cases where neither parent had been married before.

The impact of a previous marriage on the custody outcome may be related to the existence of children from a prior marriage. The next panel in Table 7 shows whether the mother or the father had children from a previous marriage or relationship. Our findings are similar to those by Maccoby and Mnookin (1992, p. 79). Consistent with the panel on prior marriage, if the mother had children from a previous relationship, she was slightly less likely to be awarded sole custody (72.6 percent of all cases), with 13.7 percent of cases resulting in a custody award to the father. The difference in custody outcomes for fathers with children from a previous relationship is more dramatic. If the father had other children, he was very unlikely to be awarded custody: 89.4 percent of these cases resulted in mother custody, 3.4 percent were awarded father custody, and only 1.9 percent are awarded equal shared custody. With these data, we are unable to determine if this difference is due to fathers not seeking or not being awarded custody. This issue deserves further research.

Parents, Earnings, and Work Status

How does custody type vary with parental income and relative income? How has this changed over time? The relationship between parents' incomes and custody type has been noted by previous researchers (Seltzer 1990; Maccoby and Mnookin 1992; and Cancian and Meyer 1996). Further evidence is provided in Table 8, which shows the custody arrangements by categories of parents' combined income, mothers' incomes, fathers' incomes, and by the ratio of their incomes for Cohorts 7 and 8 and Cohorts 9–12.

In Cohorts 7 and 8, the figures show little use of shared custody in families with incomes under \$20,000 per year. The highest use of shared custody is found in combined income categories in the

TABLE 8
Family Finances, Monthly Income of Both Parents at the Time of Divorce

	N Cases	Father	Mother	Physical Custody			All Cases
				Shared Split	Shared Unequal	Equal	
Cohorts 7–8							
Combined Incomes							
\$0–9,999	54	3.8%	95.1%	1.1%	0.0%	0.0%	100.0%
\$10–19,999	133	10.1	85.4	0.6	2.8	1.1	100.0
\$20–29,999	271	11.4	77.5	4.0	5.4	1.7	100.0
\$30–39,999	356	8.3	78.5	4.3	3.7	5.2	100.0
\$40–49,999	274	12.1	77.4	2.4	2.9	5.2	100.0
\$50–59,999	188	9.8	72.7	2.5	8.4	6.6	100.0
\$60–69,999	103	7.7	77.1	1.9	5.1	8.2	100.0
\$70,000+	111	7.8	79.5	2.8	4.1	5.8	100.0
Missing Income	199	9.3	85.0	1.5	3.2	1.0	100.0
Mother's Income							
\$0	34	27.8%	62.6%	0.0%	6.9%	2.7%	100.0%
\$1–4,999	94	21.7	65.2	7.0	5.0	1.1	100.0
\$5–9,999	392	9.5	82.6	3.1	2.1	2.7	100.0
\$10–19,999	644	8.3	79.4	2.8	5.2	4.3	100.0
\$20–29,999	308	6.5	81.9	1.7	4.1	5.8	100.0
\$30–39,999	96	6.1	77.6	2.9	4.4	9.0	100.0
\$40,000+	43	5.7	89.3	0.0	3.0	2.0	100.0
Missing Income	78	22.0	65.5	3.8	7.4	1.3	100.0
Father's Income							
\$0	80	0.7%	93.8%	1.0%	3.8%	0.7%	100.0%
\$1–4,999	59	0.0	97.7	1.0	1.3	0.0	100.0
\$5–9,999	94	12.0	85.4	0.2	1.3	1.1	100.0
\$10–19,999	411	10.3	76.3	4.5	5.1	3.8	100.0
\$20–29,999	439	10.3	78.4	2.3	4.2	4.8	100.0
\$30–39,999	263	12.3	71.0	4.0	6.1	6.6	100.0
\$40,000+	209	11.4	75.0	2.6	4.9	6.1	100.0
Missing Income	134	3.9	94.6	0.2	0.6	0.7	100.0
Mother/Father Income Ratio^a							
Mother No Income	30	31.6%	57.5%	0.0%	7.8%	3.1%	100.0%
1–24%	166	18.3	67.4	5.9	3.2	5.2	100.0
25–49%	336	11.7	75.4	2.9	6.9	3.1	100.0
50–74%	312	10.3	76.0	2.4	5.0	6.3	100.0
75–99%	202	10.0	76.1	3.1	3.7	7.1	100.0
100–149%	198	4.7	83.2	3.2	3.4	5.5	100.0
150–199%	61	2.8	90.3	2.0	0.8	4.1	100.0
200+%	112	2.5	94.7	1.3	1.5	0.0	100.0
Father No Income	71	0.0	94.1	0.9	4.3	0.7	100.0
Missing	201	9.2	85.2	1.5	3.1	1.0	100.0

(table continues)

TABLE 8, continued

	N Cases	Physical Custody					All Cases
		Father	Mother	Shared Split	Shared Unequal	Equal	
<u>Cohorts 9–12</u>							
<u>Combined Incomes</u>							
\$0–9,999	82	2.4%	91.7%	1.1%	0.5%	4.3%	100.0%
\$10–19,999	273	11.2	81.1	2.3	3.3	2.1	100.0
\$20–29,999	440	11.7	77.7	3.9	3.4	3.3	100.0
\$30–39,999	584	9.5	79.9	3.5	4.2	2.9	100.0
\$40–49,999	523	10.0	72.0	4.7	4.4	8.9	100.0
\$50–59,999	307	8.3	77.8	3.3	6.9	9.7	100.0
\$60–69,999	162	13.5	62.3	3.7	8.3	12.2	100.0
\$70,000+	212	4.4	70.8	2.3	9.3	13.2	100.0
Missing Income	240	14.2	79.7	1.2	3.1	1.8	100.0
<u>Mother's Income</u>							
0	45	15.0%	54.2%	11.6%	10.6%	8.6%	100.0%
\$1–4,999	192	17.6	66.4	5.8	5.3	4.9	100.0
\$5–9,999	695	10.3	80.8	3.0	3.0	2.9	100.0
\$10–19,999	1113	9.5	75.8	3.9	5.4	5.4	100.0
\$20–29,999	450	6.8	77.7	1.6	4.5	9.3	100.0
\$30–39,999	170	3.3	72.6	3.4	7.6	13.1	100.0
\$40,000+	57	5.2	69.2	0.9	6.2	18.5	100.0
Missing	102	28.5	64.1	0.4	4.3	2.7	100.0
<u>Father's Income</u>							
0	111	2.0%	95.8%	0.0%	1.5%	0.7%	100.0%
\$1–4,999	101	3.5	87.7	2.2	3.1	3.5	100.0
\$5–9,999	177	9.2	83.1	1.8	5.3	0.6	100.0
\$10–19,999	657	11.1	78.6	3.1	2.9	4.3	100.0
\$20–29,999	785	11.4	71.8	4.6	4.7	7.5	100.0
\$30–39,999	469	12.0	68.8	3.4	6.0	9.8	100.0
\$40,000+	375	8.5	70.1	3.4	9.1	8.9	100.0
Missing Income	148	5.2	89.7	1.6	2.2	1.3	100.0
<u>Mother/Father Income Ratio^a</u>							
Mother No Income	43	14.6%	57.2%	11.7%	10.7%	5.8%	100.0%
1–24%	331	13.1	70.9	5.5	7.1	3.4	100.0
25–49%	612	13.8	71.2	2.6	5.8	6.6	100.0
50–74%	560	9.8	76.4	4.1	3.3	6.4	100.0
75–99%	360	6.9	72.2	2.9	6.3	11.7	100.0
100–149%	297	5.9	75.8	4.1	4.6	9.6	100.0
150–199%	102	9.6	81.0	0.6	3.2	5.6	100.0
200+%	176	2.9	85.5	2.5	4.7	4.4	100.0
Father No Income	101	0.0	97.6	0.0	1.6	0.8	100.0
Missing	242	14.3	79.6	1.2	3.1	1.8	100.0

Note: All dollars adjusted to 1993 dollars. Income sources used: Court Record, DOR, DILHR.

^aTwo cases in which both mother and father reported no income were omitted from the ratio calculation.

\$50,000s and \$60,000s. Both sole-father and sole-mother custody rates are higher in the lower income categories. For the later Cohorts 9–12, the figures show that shared custody rates rose in all income categories, although the incidence of shared custody increases steadily with income in categories above \$30,000. These figures are consistent with Maccoby and Mnookin's findings that "dual residential arrangements were adopted by a wide range of families from varied backgrounds, so that dual residence for children was not by any means exclusively chosen by the well-educated and affluent. Nevertheless . . . dual-residence families were . . . somewhat more likely to have high incomes" (1992, p. 76).

In Cohorts 7–12, for all categories of mother's income, mother sole custody is the dominant type, but the proportion with this arrangement is substantially lower when the mother's annual income is below \$5,000 (1993 dollars). As noted above, in the later cohorts the proportion with mother sole custody falls over time. This change derives in part from the decline in the prevalence of mother-only custody among high-earnings women. In the later cohorts, mothers with incomes between \$30,000 and \$39,999 and over \$40,000 were awarded custody in 73 and 69 percent of the cases, respectively. The comparable figures for the earlier cohorts were 78 and 89 percent.

Father-only custody falls as mother's income rises. For the earlier cohorts, father-sole custody declined monotonically from 22 percent of all cases in which the mother had an income between \$1 and \$5,000, to less than 6 percent of cases in which the mother has income above \$20,000. The later cohorts also show a pattern of declining father sole custody as mother's income rises.

Possibly because of the small sample size, there is little discernible relationship between the individual income categories and the prevalence of shared custody in the early period. However, in the later cohorts there is a tendency for equal shared custody to rise with mother's income. The principle exception to this pattern is the relatively high rates of equal shared custody in cases in which the mother has no income.

Turning to father's income, we see that while mother sole custody is always the most prevalent type, the proportion varies substantially with father's income. In the earlier cohorts mothers were awarded sole custody in about 95 percent of cases in which father's income was less than \$5,000, compared to about 75 percent for cases in which father's income was above \$10,000. A similar pattern emerges for the later cohorts. For both the earlier and later cohorts, father sole custody was very rare when the father had income below \$5,000. However, there is relatively little variance in the proportion with custody for fathers with incomes above this level. The proportion of shared-custody cases rises with father's income.

The fourth panel shows the distribution of custody outcomes by the ratio of mother's income to father's income.³ Consistent with the patterns discussed above, there is a dramatic decrease in father sole custody and an increase in mother sole custody as the ratio of mother's to father's income rises. This pattern is particularly striking in the earlier cohorts. While there is not a consistent relationship between the proportion with shared custody and the ratio of parents' incomes for Cohorts 7 and 8, this type of custody is particularly unlikely in cases in which mother's income is more than 150 percent of father's income. In the later cohorts it appears that equal shared custody is less likely when the mother has either much lower or much higher income. Equal shared custody is most common when parents have similar levels of income (i.e., when mother's income is between 75 percent and 149 percent of father's income).

Overall, the results in Table 8 suggest that both mothers and fathers are more likely to have sole custody as their absolute and relative incomes rise. Shared custody is most common when parents have higher incomes and more similar incomes. This pattern is particularly strong in equal shared-custody cases.

³The distribution of cases by custody type for mothers and fathers with no income shown in this panel do not match those shown in the earlier panels because only cases in which there is information on both parent's income are included.

Table 9 shows the employment status of divorcing parents by custody type for Cohorts 7 and 8 and Cohorts 9–12. By far the most common case is both parents working. Seventy-eight and 73 percent of these cases were mother sole custody in the earlier and later cohorts, respectively. Fathers had sole custody in about 9 percent of the cases in both periods. The proportion with unequal, and especially equal, shared custody rose for this group over time, to constitute a total of almost 14 percent of cases in Cohorts 9–12. Rates of shared custody are lower for other employment categories: about 8 percent for cases in which only the father worked, 5 percent for cases in which only the mother worked, and none of the cases in which neither worked. These results are consistent with those reported above for earnings.

V. THE PROCESS OF DIVORCE

Another quite different set of factors that may play a role in the type of custody outcome in the divorce final judgment is related to various behaviors and legal issues surrounding the divorce process itself. Other researchers have suggested that the following circumstances and events have an impact on custody outcomes: the legal representation of the father and mother, the length of time between the separation and final divorce decree, the number and kinds of disputed issues, and the characteristics of the judge (Maccoby and Mnookin 1992; Pearson 1993). We will examine each of these issues for custody outcomes in the four most recent cohorts, Cohorts 9–12.

Legal Representation

One characteristic of the legal process that may be related to custody outcome is legal representation. The first panel of Table 10 shows physical custody outcomes by categories of legal representation. In a majority of cases, both parents were represented by legal counsel (51.5 percent, column percentages). In cases where neither parent was represented, a higher than average percentage of cases was awarded as sole-mother custody (82.2 percent, row percentages). It is possible that in most of

TABLE 9

Income and Employment of Divorcing Parents by Physical Custody Type

Employment at Time of Final Judgment	Physical Custody					
	Father (%)	Mother (%)	Split (%)	Unequal Shared (%)	Equal Shared (%)	All Cases (%)
<u>Cohorts 7-8</u>						
Neither Parent Is Working (N=70)	5.3	91.5	0.8	2.4	0.0	100.0
Only Mother Is Working (N=154)	6.7	86.8	1.0	3.5	2.0	100.0
Only Father Is Working (N=336)	13.4	75.7	3.9	3.7	3.3	100.0
Both Parents Are Working (N=1036)	9.1	77.8	2.8	5.0	5.3	100.0
<u>Cohorts 9-12</u>						
Neither Parent Is Working (N=60)	14.6	79.4	6.0	0.0	0.0	100.0
Only Mother Is Working (N=235)	7.9	84.5	2.5	2.9	2.2	100.0
Only Father Is Working (N=564)	13.2	74.4	4.1	4.5	3.8	100.0
Both Parents Are Working (N=1809)	9.6	73.4	3.2	5.8	8.0	100.0

TABLE 10

Legal Representation at the Final Divorce Hearing, Cohorts 9–12

	Physical Custody Award					
	Father (%)	Mother (%)	Split (%)	Unequal Shared (%)	Equal Shared (%)	All Cases (%)
Row Percentages						
Neither parent was represented (N=343)	7.9	82.2	2.5	3.2	4.2	100.0
Father only (N=263)	35.2	48.8	2.2	6.1	7.7	100.0
Mother only (N=689)	2.1	89.2	2.9	2.0	3.8	100.0
Both parents were represented (N=1510)	9.7	72.1	4.0	6.5	7.7	100.0
Column Percentages						
N Cases	281	2114	87	134	189	2805
Neither parent was represented	11.1	15.3	10.4	9.0	9.3	14.0
Father only	32.4	5.9	6.1	11.4	11.2	9.2
Mother only	5.0	28.2	20.6	9.5	14.6	23.8
Both parents were represented	51.5	50.6	62.9	70.1	64.9	53.0
All cases	100.0	100.0	100.0	100.0	100.0	100.0
Legal Representation						
	Neither Parent Represented	Father Only	Mother Only	Both Parents Represented		
Mother median income ^a	\$977	\$1093	\$1245	\$1223		
N Cases	333	232	676	1475		
Father median income ^a	\$1590	\$2003	\$1729	\$2277		
N Cases	313	259	603	1485		
No Issues Disputed at Final Judgment ^b	91.2%	71.6%	63.2%	35.4%		
N Cases	167	100	241	528		

^aAll dollars adjusted to 1993 dollars.

^bData are primarily from eight counties in which “Certificates of Readiness” are used extensively in the scheduling of divorce cases. Cases defined as “No Issues Disputed at Final Judgment” are cases in which the parents indicated full stipulation of all issues, or where one or the other parent did not appear at the final judgment hearing.

these unrepresented cases the parents were in agreement as to custody, as well as other matters such as property and support, and felt no need to obtain legal services. In cases where the father was represented, but the mother was not, the percentage of cases with an award of mother custody was substantially lower (only 48.8 percent, row percentages), and the percentage of cases with an award of father custody was strikingly high (35.2 percent, row percentages). Alternatively, in those cases in which the mother was represented, and the father was not, the father rarely was awarded custody (2.1 percent to father, 89.2 percent to mother). The causal relationship between legal representation and custody award is not clear. It may be that the parent without legal representation lost custody due to the lack of representation. But an alternative explanation is that the party willing to relinquish custody felt no need for legal representation.

In examining legal representation from another perspective, the second part of this panel in Table 10 shows column percentages: types of legal representation for each category of custody outcome. Note that the greatest degree of legal representation is found in cases which result in unequal shared custody: in 70.1 percent of all such cases both parties were represented by a lawyer. This high degree of legal representation could result, in part, from the need to make complicated arrangements of time schedules or complex calculations of child support. As we have seen, shared custody mothers and fathers are, on average, more economically well-off; higher rates of legal representation may reflect, in part, the greater ability to pay a lawyer's fees. Alternatively, unequal shared custody awards might be made in the cases of highly conflicted parents who could not agree on custody and therefore retained legal counsel to litigate the matter to judicial decision with the presiding judge. Maccoby and Mnookin (1992) suggest that judges in their California study awarded shared (without distinguishing between unequal and equal shared) custody as a compromise between disputing parents. In contrast to shared and split custody, both sole-mother and sole-father custody show the lowest rates of legal representation.

The final panel on Table 12 shows mother and father median incomes and divorce judgment disputes by categories of legal representation. This panel shows that poorer parents are less likely to have legal representation. The lowest median incomes for mothers and fathers are found in the category of cases where neither parent is represented. These parents also have the highest rates of agreement on all divorce issues. In 91.2 percent of the cases where neither parent has legal representation, the parents have stipulated to all divorce issues, including custody. In cases where both parents have legal representation, only 35.4 percent of them have agreed, and stipulated, to all issues prior to the time of the divorce hearing. Poor parents may formally agree to divorce awards that, in reality, they are not happy with, but feel they cannot dispute due to the lack of resources for legal fees. The relationship between income, legal representation, and divorce disputes is complex.

Length of Time between Separation and Final Divorce Decree and Kinds of Disputes

The amount of time to obtain a divorce varies depending on the amount of conflict between the parents and the issues to be resolved. Some parents require a temporary hearing to address issues that cannot wait for the final divorce hearing, such as temporary custody and support. In some of these cases, the parents require additional intermediate hearings for conflict resolution which predate the final divorce hearing. For other parents, the first and last court appearance is the final divorce hearing.

Table 11 contains data that address the timing and the disputes of divorce. The first panel shows the number of days between the petition for divorce and the final divorce hearing, and the number of court appearances which predate the final divorce hearing. Divorces resulting in unequal shared physical custody require the longest period of time to resolve. These cases take longer than all other categories of cases in terms of the number of days between the petition and the final divorce hearing (320 vs. 252 median days). In terms of the number of court appearances which predate the final divorce hearing, cases that result in split custody or unequal shared custody show the greatest number of appearances before a judge. Equal shared-custody cases show the least number of prior court appearances before the final

TABLE 11**Issues Characterizing the Process of Divorce, by Physical Custody Outcome, Cohorts 9–12**

	Father	Mother	Split	Unequal Shared	Equal Shared	All Cases
Between the Petition for Divorce and the Final Divorce Judgment						
Mean number of days	309	295	311	364	305	301
Median number of days	237	250	252	320	267	252
Number of court appearances	1.1	1.1	1.3	1.2	0.9	1.1
Percentage of cases arguing disputed issues of						
Physical placement ^a	18.0%	16.3%	17.2%	34.0%	6.4%	18.0%
Property or debt	20.0	12.1	23.5	24.5	21.5	19.7
Alimony	10.6	6.9	11.8	10.6	9.1	10.2
Child support	11.7	8.7	26.5	19.0	8.8	12.1
Other issues ^b	25.3	21.4	38.4	27.4	9.4	24.5
N cases ^c	96	788	35	59	66	1004

^aIncludes all physical placement issues including “visitation” disagreements.

^bIncludes disagreements over health or life insurance, guardian ad litem, or attorney’s fees.

^cData are primarily from eight counties in which “Certificates of Readiness” are used extensively in the scheduling of divorce hearings.

TABLE 12

**Percentage of Shared Custody Awards by Presiding Judge
in Divorce Final Judgments, Cohorts 9–12**

Number of Judges*	Shared Custody Awards (Equal and Unequal) as a Percentage of All Divorces Granted in Cohorts 9–12
2 judges	0%
7 judges	1–5%
19 judges	6–10%
19 judges	11–15%
7 judges	16–20%
6 judges	21–25%
1 judge	26–30%

Note: Percentages include stipulated awards in which the parents reached at an agreed-upon custody arrangement through their lawyers, mediation, or on their own.

*Judges who had presided over at least 15 divorce cases in our sample of cases in Cohorts 9–12.

divorce hearing. These findings suggest that unequal- and split- custody outcomes may result from the more highly contentious cases. The low number of prior court appearances in equal shared custody cases suggests, in contrast, that these may be the result of more cooperative agreements between the parents.

The second panel of Table 11 examines the kinds of disputes that divorcing parents have. The data presented there are from a subset of cases in which a “Certificate of Readiness” was filed with the court indicating sources of dispute. The Certificate of Readiness is a document used in some Wisconsin counties to facilitate the scheduling of divorce hearings. Since parents can dispute a number of issues, the percentages in these categories may add up to more than 100 percent. This panel indicates that cases resulting in an unequal shared custody award were those cases with the greatest percentage of parents in disagreement over physical custody (34.0 percent). In contrast, the category with the lowest percentages of disputes over physical custody (6.4 percent) were those resulting in an equal shared custody award.

Further examination of this panel shows that parents with unequal shared custody (and split custody) awards are also the most contentious in the other areas of divorce dispute: property and debt, alimony, child support, and other issues. The two least contentious groups are those with sole-mother custody and equal shared custody outcomes. The greatest area of dispute among equal shared custody cases is in the area of property and/or debt. This is not surprising since this group has the highest level of income for both mothers and fathers, and property disputes would naturally accompany the accumulation of property. The generally low level of dispute observed in cases where the outcome is an equal shared custody award suggests that these parents may be distinct from those parents who negotiate, or are given, an unequal shared custody award.

The Role of the Judge

What impact do the views of individual judges have on shared custody awards? Table 12 shows the breakdown of shared custody awards (equal and unequal combined) for judges who had presided over at least 15 divorce cases in our sample in the four most current cohorts. Although the general view is that

relatively few custody decisions are, in fact, made by a judge because nearly all are settled by the parents at some step in the divorce process (Maccoby and Mnookin 1992), Table 12 indicates that the climate for a shared custody award differs substantially from courtroom to courtroom across the state. At one end of the spectrum, two judges had no record of an order for a shared custody award, while at the other end, one judge had signed 30 percent of the divorce decrees with a shared custody award.

Physical Custody and Economic Decisions on Divorce

Physical custody is not a decision made in a vacuum. Many other decisions related to postdivorce economics are made at the same time in the final divorce judgment: child support, alimony, property settlements (including the marital home), and health insurance for the children. What are the trends in these decisions and how do they relate to physical custody awards?

The Marital Home. Table 13 illustrates marital home awards by physical custody status over three time periods in order to detect changes over the course of the decade. These three time periods are 1980–1983 (Cohorts 1–3), 1987–1988 (Cohorts 7 and 8), and 1989–1992 (Cohorts 9–12). The percentage of cases with a marital home property award has remained about the same over the three time periods (at 50.7 percent in the most recent cohorts). Some changes in the disposition of the marital home have taken place, however. In the first time period, 34.1 percent of the homes were being sold and the proceeds divided between the parents. Since 1987, however, only 22–23 percent of the homes are being sold upon divorce. Instead, these homes are being retained by one of the parents. In the most recent time period, it appears that the marital home is kept most often in father-custody and equal shared-custody cases (only 14–16 percent of the homes in these cases are sold at the time divorce). While mothers remain most likely to retain the home, the percentage of fathers who are keeping the marital home shows an increase in every custody category. Higher percentages of cases in which the home is sold occur in split and unequal shared custody (possibly related to the contentious nature of these kinds of cases, as discussed above), and in mother-custody cases (probably due to the reduced financial situation of custodial

mothers). Custodial mothers have shown a slight increase over time in the percentage of cases where the home is kept (49.5 percent in the earliest cohorts, compared to 54–55 percent in the later cohorts).

Many studies have noted the detrimental effects of residential moves for children. This is especially so at the time of divorce, when because the family itself is being disrupted, maintaining the stability of house, school, neighborhood, and friends is crucially important (McLanahan and Sandefur 1994; Haveman and Wolfe 1994). These increases in the award of the family home to the custodial parent, as well as the increase in equal shared custody cases where the marital home is nearly always kept by one of the parents, indicates some increase in residential stability for the children of divorcing parents.

Child Support. Table 14 shows substantial changes over time, in support awards at the time of divorce, and substantial differences between categories of cases. The table displays child support awards, automatic wage withholding orders, alimony awards, and health insurance awards for children over the same three time periods as in the above section on the marital home.

During the past decade Wisconsin law changed considerably with regard to child support and wage withholding. In 1987 the Wisconsin State legislature made mandatory the use of the percentage standard promulgated by the Wisconsin Department of Health and Social Services (DHHS) to determine the amount of child support except in cases where the court found that use of the percentage standard was unfair to the child or any of the parties. When the percentage standard was not used, the statute required the court to state in writing or on the record the reasons for finding use of the percentage standard unfair, the reason for the amount of the modification, and the basis for the modification.

Also in 1987, a requirement was added to the statute that in addition to ordering child support, the court, after considering whether the child was covered by a parent's health insurance, had to assign specific responsibility for and direct the manner of payment of the child's health care expenses.

TABLE 14

Support Awards in the Final Divorce Judgment, by Physical Custody Type

Support Awards	Physical Custody					All Cases
	Father	Mother	Split	Unequal Shared	Equal Shared	
<u>Cohorts 1–3</u>						
Child Support	19.3%	86.4%	71.7%	*	48.5%	79.2%
Imm. wage withholding	25.0%	21.5%	20.8%	*	11.5%	21.5%
Maintenance	7.0% ^a	4.4%	6.2%	*	2.4%	4.7%
Health Insurance for Children ^b	81.3%	79.1%	80.7%	*	97.5%	79.6%
N cases	226	1939	89		41	2301
<u>Cohorts 7–8</u>						
Child Support	34.2%	89.8%	70.0%	69.8%	42.6%	81.1%
Percent-expressed order	19.2%	38.9%	35.9%	25.5%	9.1%	33.7%
Imm. wage withholding	72.1%	77.7%	76.4%	65.2%	77.6%	77.0%
Maintenance	10.9% ^a	8.4%	16.0%	9.1%	3.4%	8.7%
Health Insurance for Children ^b	83.2%	91.0%	98.1%	95.4%	96.3%	90.9%
N cases	169	1334	52	65	69	1689
<u>Cohorts 9–12</u>						
Child Support	41.9%	94.5%	61.1%	80.4%	37.9%	83.9%
Percent-expressed order	27.3%	58.6%	24.6%	40.7%	11.6%	50.5%
Imm. wage withholding	74.7%	77.6%	78.0%	78.4%	74.1%	77.4%
Maintenance	10.2% ^a	18.5%	19.3%	16.6%	13.1%	17.3%
Health Insurance for Children ^b	86.6%	92.4%	92.3%	97.7%	95.6%	92.3%
N cases	282	2130	87	135	190	2824

^aThis category shows the award of maintenance by custody type. In almost all cases it is an award to the mother, even in those cases where the father is the custodial parent. Maintenance was ordered to be paid by the father to the mother in 100 percent of the custodial father cases in Cohorts 1–3 and 7–8, and 96 percent of the custodial father cases in Cohorts 9–12.

^bIncludes acknowledgment by the court that the children are covered by Medicaid.

*Too few identified cases to report ($N \leq 10$).

The 1978 Divorce Reform Act had included a provision for wage withholding in response to delinquency. Although it was required in several counties before 1989, immediate wage withholding was required statewide in 1989. No changes in the law affected maintenance (alimony) awards.

The figures in Table 14 show that the percentage of cases with child support awards has changed over time. The percentage of awards in sole-custody cases has increased substantially: in mother-custody cases, from 86.4 percent to 94.5 percent; in father-custody cases, from 19.3 percent to 41.9 percent. The percentage of father-custody cases with child support awards remains relatively low, however. As noted above, the custodial fathers in these cases generally have higher incomes than the noncustodial mothers. Other researchers have also shown that noncustodial mothers begin with, and continue to have, greater contact with their children after the divorce than do noncustodial fathers (Seltzer and Bianchi 1988; Pearson and Anhalt 1994). Factors that might affect the lower amount of support awards in father-custody cases are the lower income of noncustodial mothers and costs associated with the relatively high level of expected mother-child contact.

In contrast to the *increase* in child support awards in sole-custody cases, we find a *decline* in the percentage of split-custody and equal shared-custody cases with support awards. The support guidelines promulgated in 1987 by the DHSS contained a separate support guideline for split-custody and unequal shared-custody situations, but did not mention the option of equal shared custody. Perhaps the omission of any mention of equal shared custody in the child support guidelines of 1987 gave the impression to judges, parents, and lawyers that equal shared custody cases did not require a child support award. In the 1989–1992 cases, only 37.9 percent of equal shared custody cases contained a child support order. In the split-custody child support guideline promulgated in 1987, each parent was defined as an obligor of child support for the child *not* in his or her custody, and an obligee for the child *in* his or her custody. The parent designated as payor was the parent who owed the greatest amount of support, and he or she was ordered to pay the difference between the two owed amounts. Perhaps the relatively low awards that

would result with the use of this formula in some cases motivated those parents to dismiss the issue of child support entirely.

We looked at several factors that might explain why no award was made in some cases. Row 3 of Table 15 shows that, according to the guidelines, a substantial percentage of no-award cases should have had an award amount of under \$50. In split-custody cases, 44.4 percent of no-award cases would have been less than \$50, and 33.8 percent of no-award mother-custody cases would have had awards of under \$50. Although the child support guidelines in effect at the time that these cases went to court did not mention equal shared-custody situations, the current guidelines (put into effect in 1995) were used here as an approximation of an appropriate child support award in equal time-share families. Again, a large percentage (33 percent) of the case calculations returned an award of less than \$50, indicating that the two parents in these equal shared custody cases are earning relatively equal incomes. The final row shows that for cases with support awards, very few, in fact, are ordered at levels of less than \$50 per month. Perhaps parents, after calculating a guideline-appropriate award level which is a very small dollar amount per month, decide that the difficulties associated with a child support order outweigh the benefits of receiving very small amounts of child support. The rarity of awards found to be under \$50 per month supports this idea.

When wage withholding was ordered primarily in response to delinquency (see Table 14, Cohorts 1–3), only about 22 percent of the cases included a wage withholding order in the final judgment. Since immediate wage withholding became required in 1987, the percentage of cases with wage withholding has risen to about 77 percent. In Cohorts 9–12 the percentage of cases with immediate wage withholding is about the same in all types of custody cases (74–78 percent).

In contrast to the use of immediate wage withholding, the use of percentage-expressed orders differs substantially between custody types. Its use has become relatively popular in mother-custody cases (58.6 percent of child support awards in these cases from the most recent cohorts are expressed as a

TABLE 15

**Child Support Awards in Divorce Cases with
Low Awards and No Awards, Cohorts 9–12**

	Physical Custody				
	Father	Mother	Split	Unequal Shared	Equal Shared
Percentage of Cases with No Child Support Award	58.1%	5.5%	38.9%	19.6%	62.1%
Of those cases without a Child Support Award: N Cases	170	113	35	28	115
Percentage of cases, with known income, in which award would have been less than \$50/month	13.8%	33.8%	44.4%	—*	(33.0%) ^a
Of those cases with a Child Support Award, percentage of cases with an award of less than \$50/month	2.2%	0.6%	0.0%	0.0%	1.3%

*There were insufficient no-award cases with the full information to report; percentage of time with the child as well as income is necessary in order to calculate child support in these cases.

^aThe child support guidelines in effect at the time that these cases came to court did not mention equal shared physical custody. The formula used here to approximate an “Appropriate” award is the guideline currently in effect in Wisconsin which does include equal shared custody cases.

percentage amount). Although percentage-expressed awards can be used in other custody situations, it has been less commonly adopted outside of mother-custody cases. It is used least often (11.6 percent) in child support awards in equal shared-custody cases.

Table 14 also shows a trend in increased use of maintenance (alimony) awards. Maintenance awards were relatively rare in the early 1980s. Although the nationwide incidence of maintenance awards has not increased noticeably over time (Melli 1996), our data show that in *child support cases* in Wisconsin, the incidence of alimony awards has increased from 4.7 percent of the cases in Cohorts 1–3 to 17.3 percent of the cases in Cohorts 9–12. Even in cases where the father is the custodial parent, almost all maintenance awards are made to the mother. As might be expected, the category of cases with the lowest percentage of maintenance awards (to the mother) are father-custody cases. But in some father custody cases, the father does owe the mother maintenance, out of which she may owe him child support. The category of cases with the next lowest percentage of maintenance awards are equal shared-custody cases. Mothers in these cases are more apt to be employed, and to have earnings similar to fathers’.

Children’s health insurance awards are currently receiving more attention, due to the increased costs of health care. In 1987 courts were required to provide for the payment of health care in addition to ordering child support. Equal shared-custody cases showed very high rates of health insurance awards even in the early 1980s. Health insurance orders have increased substantially in mother custody and split-custody cases over the last decade, reaching 92 percent in the most recent cohorts. Health insurance coverage of children in father custody remains at the lowest percentage (86.6 percent in the most recent cohorts).

VI. POSTDIVORCE OUTCOMES

After the Divorce

How do parents fare in the years following the divorce? The following discussion looks at several postdivorce issues dealing with parental conduct.

Child Support Compliance. The court record data collected for several years after the divorce, along with information gleaned from matched Department of Revenue, State of Wisconsin employment records (DILHR), and AFDC data, show some differences between parents in child support compliance that may be related to the physical custody decision made at the time of the final judgment. Table 16 shows pay-to-owe ratios for cases with a child support award. For most categories, Year 0, the calendar year of the final divorce decree, shows somewhat lower mean child support compliance levels than the year following the divorce. This may be an artificial depression in pay-to-owe ratios due to timing in payments (made at the end of the month for which they are owed), or for the recording of payments (a delay of several days between payment and record of receipt). By the first full calendar year after the divorce (Year 1) these timing issues have been evened out over the course of the year, and this year shows a generally greater average compliance record. The second full calendar year after the divorce (Year 2) shows an overall slight decline in mean compliance rates.

Table 16 shows that shared custody cases have the highest child support compliance rates in all three years (79–82 percent mean compliance in the last year shown). Father custody cases show the lowest mean child support compliance rate of 54 percent. Split custody and mother custody have mean compliance rates of 71–74 percent. The explanation for these differences in compliance rates is not clear. Shared custody cases may show greater compliance due to greater satisfaction and/or greater preservation of the relationship between the paying parent and the child. Alternatively, the greater compliance rates of parents with shared custody may be due to differences in the characteristics of parents who are awarded shared custody. For example, parents with shared custody have higher average incomes, a factor shown

TABLE 16

**Child Support Compliance Two Years after the Divorce for
Cohorts 7–12 Cases with Final Divorce Judgments 1986–1992**

Child Support Compliance	Physical Custody at Final Judgment					
	Father	Mother	Split	Unequal Shared	Equal Shared	All Cases
Mean compliance (percentage of owed that was paid)						
Year 0*	56.3%	70.9%	75.1%	79.9%	77.3%	70.7%
Year 1	51.9%	75.3%	69.7%	87.0%	85.5%	74.8%
Year 2	53.7%	73.7%	71.1%	78.8%	82.5%	73.2%
Percentage of cases with zero compliance						
Year 0	28.3%	15.7%	9.3%	13.0%	9.5%	16.1%
Year 2	32.6%	14.5%	22.1%	18.3%	11.7%	15.5%
Percentage of cases with full compliance***						
Year 0	35.4%	48.0%	46.8%	62.9%	60.2%	48.4%
Year 2	35.6%	56.9%	59.7%	77.2%	67.7%	56.4%
N Cases	292	2333	91	134	171	3021

*Year 0 is the calendar year of the divorce decree. Year 1 is the first full calendar year after the divorce. Year 2 is the second full calendar year after the divorce.

**These are primarily cases with percentage-expressed orders in which the income of the payor was not recorded at the final divorce judgment, nor can it be ascertained through Wisconsin DOR or DILHR records, and therefore the “effective order” (income * percentage order) cannot be calculated. This category also includes complex orders in split custody cases in which each parent owes child support to the other parent.

***Full compliance is defined as a 95 percent compliance rate and above.

by Meyer and Bartfeld (1996) to contribute generally to increased compliance in the payment of child support.

Table 17 shows compliance rates for mother custody cases only, broken down into categories according to the physical placement language in the divorce decree. As discussed above, average time spent by the noncustodial parents with children increases as we move from “reasonable visitation” to “liberal visitation” and then to a specific visitation schedule. Fathers with the least assurance of physical placement with their children after divorce, those with “reasonable time upon reasonable notice” appear to have the lowest mean child support compliance rates (73 percent in the second full calendar year after divorce). Those fathers with liberal physical placement language have higher mean compliance rates (79 percent). And fathers with specified physical placement schedules have the highest mean child support compliance rates (81 percent). The direction of causality is not clear. It may be that fathers who are going to be better payors of child support are also those who are interested in securing a better guarantee of child access, and therefore negotiate a specified child placement schedule. On the other hand, it may be that fathers who have greater access to their children after divorce are more willing to pay child support. Or, specified schedules may tend to prevent conflict between parents, and thereby lead to greater child support compliance.

The last two columns of Table 17 subdivide the sole-mother custody “specified” child placement cases into those cases with below average placement awards, and those with above average placement awards. Those fathers with above average specified placement awards show a higher compliance rate than those fathers with less time awarded. Those fathers, however, with lower than average, but specified, placement time show about the same compliance rate as fathers with “liberal” placement language. This finding is consistent with the explanation that the lack of conflict between the parents, accomplished by a well-specified placement schedule that each parent can refer to, is an important factor in achieving high child support compliance levels.

TABLE 17

**Child Support Compliance Two Years After the Divorce in Sole Mother Custody Cases
Cohorts 7–12 cases with Final Divorce Judgments 1986–1992**

Child Support Compliance	Physical Placement Award			Specified 1–16% of Year	Specified 17–30% of Year
	Reasonable	Liberal	Specified		
Mean compliance (percentage of owed that was paid)					
Year 0*	71.6%	73.9%	75.5%	73.0%	80.4%
Year 1	74.6%	79.2%	82.2%	80.4%	86.0%
Year 2	72.6%	79.0%	81.3%	78.7%	84.0%
Percentage of cases with zero compliance					
Year 0	15.9%	13.6%	10.6%	11.4%	8.1%
Year 2	15.1%	10.8%	8.1%	9.4%	5.5%
Percentage of cases with full compliance***					
Year 0	49.5%	53.1%	50.1%	48.0%	54.7%
Year 2	55.7%	60.3%	65.1%	62.7%	68.1%
N Cases	1021	239	556	297	200

*Year 0 is the calendar year of the divorce decree. Year 1 is the first full calendar year after the divorce. Year 2 is the second full calendar year after the divorce.

**These are primarily cases with percentage-expressed orders in which the income of the payor was not recorded at the final divorce judgment, nor can it be ascertained through Wisconsin DOR or DILHR records, and therefore the “effective order” (income * percentage order) cannot be calculated. This category also includes complex orders in split custody cases in which each parent owes child support to the other parent.

***Full compliance is defined as a 95 percent compliance rate and above.

An increase in specified child placement orders might have the beneficial side effect of increasing child support compliance rates. As seen in Table 3, only 30 percent of sole-custody divorce cases had specified placement schedules in Cohort 12, the latest cohort of data available. If “parenting plans” were required from each set of divorcing parents (as they now are in the states of Washington and Montana), and if specified placement schedules resulting from such parenting plans do tend to prevent conflict between the parents (see Tompkins 1995; Emery and Dillon 1994; Pearson 1993) and thereby increase child support payments, then a large percentage of divorce cases might benefit from potentially greater child support compliance.

Returns to Court

For many families, the final divorce hearing marks the end of all court appearances for the two parents. In other families, however, the parents find themselves back in court many times after the “final” divorce hearing. Are there any patterns in subsequent returns to court that are related to the physical custody award at the final divorce judgment? Table 18 lists a number of reasons for which parents may seek a return to court. This table enumerates *petitions* for a return to court, although all petitions may not have been heard, and the court’s decision may not correspond to the expectation of the petitioner. For example, a petition for a change in legal custody may not have resulted in a judgment in which custody is changed.

Table 18 shows that the main reason for a return to court in the two years subsequent to the divorce was for a change in the child support award. The second most common reason was for enforcement of a child support award. Mother custody cases are those most likely to return to court for child support enforcement issues (11.5 percent), and equal shared custody cases are those least likely to return to court for child support enforcement (3.3 percent). The types of cases which most commonly return to court for a change in child support *amount* are split custody and unequal shared custody cases (34.3 percent and 36.7 percent, respectively). Father, mother, and equal shared custody cases are

TABLE 18**Returns to Court within Two Years after Divorce, Cohorts 9–12**

Percentage of Cases in which there is a petition ^a for a return to Court for	Percentage of Physical Custody at Final Judgment					
	Father	Mother	Split	Unequal Shared	Equal Shared	All Cases
A change in legal custody	3.6%	1.3%	1.1%	0.3%	2.6%	1.6%
A change in physical placement	13.6	8.8	21.5	22.4	10.5	10.3
Enforcement of visitation/placement	0.2	2.3	0.0	4.6	0.0	2.0
Permission to move the children out of state	0.6	1.3	0.0	2.5	0.3	1.2
Change in child support amount	21.9	23.5	34.3	36.7	24.3	24.2
Enforcement of child support	6.6	11.5	4.0	5.9	3.3	10.1
Any of the above reasons	29.9	33.7	42.6	44.5	26.7	33.6
N Cases	205	1611	63	86	136	2101

*This table counts all of this type of petition to court, whether or not they resulted in a change in judgment. Petitions are counted irrespective of sequence and timing, i.e., a petition for enforcement of child support could occur after a change in physical placement.

substantially less likely to return to court for a change in the child support amount (21.9 percent, 23.5 percent, and 24.3 percent, respectively).

It should be noted that a return to court to change child support or custody need not necessarily be an adversarial event; it is possible that the parents have agreed upon a change in residence for the children and a change in child support may be a logical outcome of the change in living situation. Or parents whose income is part of the child support calculation can be expected to return to court for a revised child support award if income changes substantially. These changes in income may explain some of the returns to court in split custody cases, where a relatively large percentage (15) of mothers are unemployed at the time of the final judgment, but become employed in the months following the divorce (data not shown).

Though returns to court do not necessarily identify contentious parents, parents in both split-custody and unequal-shared custody cases were found to be the most likely to have retained legal counsel and to have had conflict prior to the divorce, as discussed above. This pattern of contention between the parents may be continuing in the two years after the divorce. These are the types of cases in which there is most likely a petition to court to change physical placement (21.5 percent of split custody cases, and 22.4 percent of unequal shared custody cases). And unequal shared custody cases are the most likely to enter petitions for enforcement of physical placement orders (4.6 percent). Whether agreed or contentious, parents in split custody and unequal shared custody cases are the most likely to return to court in the two years after the final divorce judgment. Combining all of the six listed reasons for a return to court, 42–45 percent of split custody cases and unequal shared custody cases return to court in this period. Parents in equal shared-custody cases are the least likely (26.7 percent) to return to court to resolve, or record changes in, issues of support and physical placement.

VII. SUMMARY AND CONCLUSIONS

This report has examined data from the court record of Wisconsin divorce cases in twenty-one counties for a period of twelve years from 1980 through 1992 in order to document how child custody is being handled in divorce. In this section we highlight some of the important findings, note a number of findings with potential implications for policy development, and suggest areas for further research.

The Findings

Custody Trends. Probably the most striking trend in postdivorce child custody is the change in the use of joint legal custody and shared physical custody. There is a clear trend toward increased involvement by both parents. Joint legal custody—i.e., shared decision making for the child—increased from 18 to 81 percent during the twelve-year period covered by the study. During the same period, shared physical custody—i.e., cases in which the child resided with each parent over 30 percent of the time—showed a steady increase from 2.2 percent to 14.2 percent. Although sole mother physical custody remains the dominant form of postdivorce custody, it has decreased from almost 86 percent to 73 percent over the twelve-year period.

Another indication of increased involvement by both parents is found in the more common situation of sole physical custody where there has been a marked increase in more specific arrangements for physical placement—i.e., “visitation.” Although physical placement awards for “reasonable time upon reasonable notice” remain the predominant form in Wisconsin, 30 percent of sole-custody cases in the most recent cohort contain specific language detailing the days and times of physical placement with the noncustodial parent.

Specific Physical Placement Orders. For the majority of cases in which one parent, usually the mother, is awarded sole physical custody, the findings from this report point to the potential importance of specificity in the physical placement order. Language specifying days and times of physical placement is associated both with increased contact between noncustodial parent and child and with better child

support compliance by noncustodial fathers. Maintaining a high level of contact between the noncustodial parent and child is seen as desirable itself. Finding ways to increase time-scheduled physical placements might have the beneficial side effect of increasing more tangible forms of financial support from the noncustodial parent. Specificity in physical placement could be encouraged by requiring parents to file “parenting plans” with their divorce agreement, or by the court in the divorce order.

Unequal Shared Custody. Because of data limitations, previous analyses of these data and studies done elsewhere have failed to distinguish between *unequal* and *equal* shared custody cases. The results reported here suggest that these types of cases are quite different. Unequal shared custody families may be more similar to sole physical-custody families with joint legal custody (shared decision making), than they are to 50/50 equal timeshare families.

The unequal shared custody cases tend to cluster in the 30–39 percentage-of-the-year time-share range. In most of the unequal shared custody cases, the mother is the primary caretaker. Unequal shared custody cases also differ from equal time-share cases in that they appear to be the result of more conflict between parents. Thirty-four percent of the unequal shared custody cases had parents who were in dispute about custody, while only 6 percent of those with the outcome of equal shared custody were in dispute. Although only 53 percent of both divorcing parents were represented by legal counsel in their divorce, 70 percent of the cases with an unequal shared custody outcome involved legal representation for both parents. Unequal shared custody cases required a much longer time period to reach resolution (320 as compared to 252 median days). Unequal shared custody parents also return to court at higher rates, both before and after the final divorce judgment.

Further Research

The findings in this report suggest several areas worthy of further research.

Family Characteristics. Family characteristics that were found to be associated with different custody outcomes were generally consistent with those found in other studies. Related questions

deserving further research effort include the relationship between parents' incomes and custody outcomes; the tendency for increased father custody (father sole custody, split custody, equal and unequal shared custody) in families with male children; the differences in custody in one-child versus multiple-child families; and the low rate of custody awards to fathers who have children from prior relationships or marriages.

The Effect of the Divorce Process. Most of the previous research on child custody has focused on the influence of individual and family characteristics on custody outcomes. The findings reported in Part V suggest that the divorce process may also have an important impact in custody outcomes. Research focused on the divorce process may be particularly policy-relevant since many process variables are more subject to the influence of policy than are family characteristics. Issues that merit further research include the relationship between the lack of legal representation in poor families and custody outcomes, and the impact of the 1995 revisions of administrative child support guidelines upon shared custody awards, and upon revisions to child support awards in unequal shared custody cases.

Shared Custody by County and by Judge. There is substantial variation in the prevalence of shared custody awards by county and by judge. Among judges who presided over at least fifteen divorce cases in the data sample for Cohorts 9–12, two had no shared custody awards, whereas 30 percent of one judge's cases were awarded shared custody. Awards by county varied greatly as well. The range of shared custody awards for counties (taking an average of all judges in counties that had more than one judge) was from 2 percent to 20 percent of the cases. There seems to be no difference in the pattern of shared custody outcomes between rural and urban counties; urban counties show both the lowest rates of shared custody outcomes and the highest rates of shared custody outcomes. Whether the variations in custody outcome are related to differences in the make-up of the cases or to institutional factors is not clear but warrants further analysis.

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