

## Re-examining the Research on Parental Conflict, Coparenting, and Custody Arrangements

Linda Nielsen  
Wake Forest University

This article addresses 4 questions: First, how much weight should be given to parental conflict and the quality of the coparenting relationship in determining parenting time—specifically with respect to children's living at least 35% time with each parent in joint physical custody? Second, to what extent are low conflict and cooperative coparenting connected to better outcomes for children? Third, to what degree are children's outcomes linked to whether their parents take their custody disputes to court or have high legal conflict? Fourth, is joint physical custody associated with worse outcomes than sole physical custody for children whose parents have a conflicted, uncooperative coparenting relationship? Recent research does not support the idea that conflict—including high legal conflict—should rule out joint physical custody as the arrangement that best serves children's interests. Parents with joint physical custody do not generally have significantly less conflict or more cooperative relationships than parents with sole physical custody. Conflict and poor coparenting are not linked to worse outcomes for children in joint physical custody than in sole physical custody. The quality of the parent–child relationship is a better predictor than conflict of children's outcomes, with the exception of the most extreme forms of conflict to which some children are exposed. While continuing our efforts to improve parents' relationships with one another, we should become more invested in helping both parents maintain and strengthen their relationships with their children.

**Keywords:** coparenting, divorce conflict, custody conflict

Parental conflict and the quality of the coparenting relationship generally play pivotal roles in child custody evaluations and court decisions, especially with regard to children's living with each parent at least 35% of the time in joint physical custody (JPC). When separated parents have considerable conflict and get along poorly as coparents, it is often assumed that their children cannot benefit from JPC and may, in fact, have worse outcomes than if they lived in sole physical custody (SPC) with one parent. In addressing this issue, this paper focuses on four questions: First, to what extent do low conflict and a cooperative coparenting relationship benefit children? Second, do children whose parents are in high legal conflict or who take their custody disputes to court have worse outcomes than children whose parents reach a custody agreement without high legal conflict? Third, if children live with each parent at least 35% of the time in JPC, are the outcomes significantly better if their parents have little to no conflict and work closely together as a friendly coparenting team? That is, are conflict and poor coparenting more strongly associated with worse outcomes for children in JPC than in SPC families? Fourth, do JPC parents have significantly less conflict and more communicative, cooperative coparenting relationships? If we base our answers to these

questions on outdated, flawed, misrepresented, or incomplete data, then we are allowing the conflict and coparenting "tail" to wag the custody "dog."

### Have You Been Woozled?

Professionals involved in custody issues are too often bamboozled or "woozled" by research in ways that can lead them astray (Cashmore & Parkinson, 2014; Johnston, 2007; Ramsey & Kelly, 2006). Woozling is the process by which faulty, partial, or misinterpreted research is repeated and misrepresented so often that it becomes widely accepted as true. The idea or the belief that becomes widely accepted, even though it is not firmly grounded in the research, is called a woozle. The process of woozling and its influence on child custody decisions have been extensively described elsewhere (Nielsen, 2014a, 2015a). The present paper illustrates four of the ways that the research on conflict and coparenting has been woozled. First, only those studies that support one point of view are repeated and publicized, overlooking or underplaying studies that support the opposite view. Second, findings from particular studies are exaggerated and sensationalized. Data are presented out of context. Serious flaws go unmentioned. Sweeping and unsubstantiated generalizations are offered about the importance of selected findings. Third, a study's findings can be reported incorrectly, sometimes making claims that are the exact opposite of the data or making claims based on data that were not even included in the study. Fourth, a few prestigious or influential people repeatedly promote one point of view, especially in the media, as being representative of the research on the topic.

Some of the data reported in this article were previously reported in Nielsen's articles that have been cited in this paper.

Correspondence concerning this article should be addressed to Linda Nielsen, Department of Education, Wake Forest University, Box 7266, Winston Salem, NC 27109. E-mail: nielsen@wfu.edu

### Woozle Prevention: Recognizing the Limitations of the Research

To reduce the likelihood of woozling the data, five limitations should be kept in mind in regard to the research studies discussed in this paper. First, because all of the studies are correlational, no study can prove that conflict, or the coparenting relationship, or the quality of the parent-child relationship causes better or worse outcomes for children. Nevertheless, correlational studies are valuable because they show us the strength of the relationship between variables and help us make more accurate predictions. More sophisticated correlational techniques, such as those used in many of the studies in the present paper, calculate the correlations after accounting for other factors that might otherwise influence the strength of the correlation. Correlations can also be presented as path analyses which are especially valuable because they assess the strength of the direct and of the indirect relationships between multiple factors. In regard to correlation and causality, when the present paper discusses the "impact" or the "effects" in a study, this refers to the statistical significance of findings and does not imply causality between the variables.

Second, the studies measure conflict and the quality of the coparenting relationship in different ways. Some measure conflict separately from the coparenting relationship, whereas others include conflict as one of several aspects of the overall coparenting relationship. Some use standardized scales that have been specifically designed to assess conflict or the coparenting relationship between separated parents. Other researchers create their own set of questions.

More important still, for the few studies that have specifically asked about conflict that is "violent," no distinctions were made between the various kinds of physical aggression or violent behavior. Most of these studies simply ask the parents, most often only the mother, whether there was any "physical violence" or "domestic violence" before the separation. This limitation is important because there are two distinct categories of physical aggression which should never be considered comparable, especially not in regard to child custody decisions (Hardesty et al., 2015). The most uncommon, but most damaging, physical conflict is referred to as coercive controlling violence, intimate partner terrorism, or battering. This longstanding pattern of emotionally and physically dominating, intimidating and abusing one's partner is typically linked to the abuser's psychological disorders, substance abuse, or both. In contrast, the more common and least damaging physical conflict is referred to as "situational couple aggression" or "separation instigated violence." In these situations the physical anger is not characteristic of the relationship and often only occurs at the time of separation. These forms of physical aggression are not linked to negative outcomes for children and rarely continue after the parents separate (Kelly & Johnson, 2008). Extensive discussions of the various kinds of violence and custody issues are available elsewhere (Kelly & Johnson, 2008; Rossi, Holtzworth-Munroe, & Rudd, 2016).

Third, the studies differ in quality in regard to sample size, representative sampling, design, and sophistication of the statistical analyses. A major limitation is that the data about the children's well-being, the level of conflict between the parents, and the quality of the coparenting relationship only come from the mothers

in most studies. Studies that collect data from both parents are relatively rare and merit special attention.

Fourth, some studies do not specify what "joint physical custody" means in terms of the specific amount of time the children are actually living with each parent. Especially in studies that were conducted several decades ago, the term "joint custody" typically did not distinguish between physical custody and legal custody. Legal custody refers to the decision making responsibilities of each parent in regard to education, health care, religion, and other legal issues regarding the children's care. In contrast, physical custody refers to how much time the children spend either living with each parent or "visiting" with a nonresidential parent. In the present paper the term "joint physical custody" (JPC) is only used for those studies that specified that the children were actually living with each parent at least 35% of the time.

Fifth, most of the conflict studies categorize the parents into low, moderate or high conflict groups—largely based on only the mothers' answers to the particular scale the researchers have used. Far fewer studies actually measure the extent to which the children are exposed to or involved in the conflicts. This is important because it is the frequent exposure to or ongoing involvement in the conflict, not the level of conflict per se, that is linked to worse outcomes for children (Cummings & Davies, 2010). For example, it is possible that in a low conflict family the children are exposed to more conflict than in higher conflict families. For this reason, the few studies that measured the extent to which the children felt caught in the middle of the conflict are given special attention in the present paper.

Though not a limitation of the studies in this paper, another concern is whether findings that are statistically significant have an effect size that is too small to have any practical, "real-world" value. Effect sizes can be measured by correlations between one or more variables, by the strength of the differences between group means (Cohen's *d*), or by odds/risk ratios (Cohen, 1988). Many people may not realize, however, that effect sizes in social science and in medical studies are often relatively small, yet they can have important implications for large numbers of people (Ferguson, 2009). In fact many public health policies and treatment protocols are based on research findings with correlations in the range of only .15 to .30, which are considered weak to moderate (Meyer et al., 2001).

This information is important because some social scientists incorrectly report studies with small effect sizes as showing "no relationship" between the variables. For example, one influential meta-analysis that assessed the correlation between children's well-being and the frequency of contact with their nonresidential fathers (Amato & Gilbreth, 1999) has been reported (Emery, 2014) as finding that: "father contact made zero difference" (p. 87). But, as Amato and Gilbreth emphasized in their paper, despite the small effect sizes, their findings do have practical significance in respect to the importance of father's contact and children's well-being:

Although child support, feeling close and active parenting are significantly associated with child outcomes, readers may be concerned about the relatively small effect sizes in Table 2. It is worth remembering, however, that even small effects sizes can have substantively important consequences. Consider a hypothetical sample of 100 children with the following characteristics: (a) Half the children have an authoritative father and half do not and (b) 30% of children without authoritative fathers experience a particular behavior problem com-

pared with 20% of those with authoritative fathers. This would mean that authoritative fathering is associated with a one third decline in the probability of experiencing the problem (or a 42% decline in the odds of experiencing the problem). Most observers would probably agree that this is a substantively important effect. Yet this example would yield a correlation of  $-.115$ , a value comparable in magnitude with many reported in this meta-analysis.

Further explaining their data in context, Amato concludes: "Contact is a necessary condition for a high-quality relationship to develop and be maintained. And the more recent studies showed a positive link between contact and child wellbeing" (P. Amato, personal communication, April 20, 2016).

Understanding why small effect sizes should not be discounted is also important because the effect sizes for the links between conflict and children's well-being are often in the small to moderate range (Cummings & Davies, 2010). For example, in a meta-analysis of 71 studies, the correlation between children's blaming themselves for their parents' conflicts, feeling threatened by the conflict and having internalizing problems was a moderate effect size (Rhoades, 2008). But the effect size became small for the link to externalizing problems; and it disappeared altogether for girls under the age of 10 after the researchers factored in age and gender. Similarly, in another meta-analysis of 68 studies, the effect size for the link between how frequently the parents argued and children's adjustment problems was weak (Buehler et al., 1997). But when aggressive conflict was analyzed separately, the effect size rose to midway between weak and moderate. When parental education was factored, the effect size for aggressive conflict and worse outcomes for children rose to "strong" for parents without a high school degree, but remained in the weak to moderate range for college educated parents. The point is that effect sizes should be viewed with the understanding that they can vary dramatically depending on which aspects of children's well-being are measured and which factors are considered in the analysis.

This is not to say that small or moderate effect sizes should carry as much weight as larger ones. It is evident that larger effect sizes tell us which factors are the most closely correlated with one another or which group means are the most different from one another. But it will be rare in the present paper, as in most social science papers, to find "strong" effect sizes. In short, when effect sizes are reported in this paper as weak or moderate, they should not be discounted as unimportant.

### Putting Conflict in Perspective: The Tail That Wags the Dog?

Keeping these limitations in mind, this paper reviews the empirical data that address the four questions about parental conflict listed at the outset of this paper. To be clear, the question addressed in this paper is not whether chronic, poorly managed conflict that frequently and directly involves the children is linked to worse outcomes for children. The question is how much weight the conflict and cooperation in the parents' relationship with one another should be given in determining which parenting plans are the most likely to benefit the children. More specifically, when parents have a conflictual, uncooperative relationship, are children's outcomes linked to worse outcomes in joint physical custody than in sole physical custody families—or linked to worse outcomes for SPC children who see their father more frequently?

### Selection of the Studies

To identify relevant studies, computer searches were conducted of three databases—Psych-Info, Social Science Citation Index and ProQuest Social Science. The keywords used in the search were: divorce conflict impact on children, high conflict divorce, joint custody conflict, shared parenting conflict, custody conflict, coparenting, and coparental relationships. The search was limited to English language academic journal articles and to nationally representative government sponsored surveys. Eight journals likely to publish articles on these topics were also searched by keyword searches at each journal's website: *Journal of Family Psychology*, *Child Development*, *Journal of Marriage and Family*, *Child Custody*, *Family Court Review*, *Family Relations*, *Journal of Divorce and Remarriage* and *Psychology, Public Policy, and Law*. Articles were then selected on the basis of whether they had statistically analyzed quantitative data that addressed any of the five questions presented at the outset of this paper. All 44 studies identified through this search were included. In addition, the three published papers where a group of experts have made recommendations regarding JPC and SPC in situations where the parents had conflictual, uncooperative relationships were included.

### Empirical Basis for the Conflict Hypothesis

The assumption that, unless parents have a low conflict, cooperative relationship, the children will fare more poorly if they have frequent contact with their father or if they live in a JPC family seems to have originated from five studies in the 1980s. Twenty-five to 30 years ago when these studies were conducted, it was generally assumed that children benefitted most from maximum mothering time while their parents lived together, as well as after they separated. From this perspective, restricting the children's time with their father would have a less negative impact than exposing them to the parental conflict. The assumption was that, unless the parents had a friendly, low conflict relationship, the more time fathers and children spent together, the more conflict would likely arise. These beliefs are reflected in custody laws which have historically restricted children's time with their fathers to every other weekend and occasional vacation time (DiFonzo, 2014).

The earliest of the five studies (Johnston, Kline, & Tschann, 1989) garnered nationwide attention when cited in Wallerstein's bestselling book on divorce (Wallerstein, Lewis, & Blakeslee, 2000) to support the view that,

Joint custody arrangements that involve the child in going back and forth at frequent intervals are particularly harmful to children in a high conflict family. Children who are ordered to traverse a battleground between warring parents show serious symptoms that affect their physical and mental health. The research findings on how seriously troubled these children are and how quickly their adjustment deteriorates are very powerful. (Wallerstein et al., 2000, p. 215)

Wallerstein's books received national media attention for well more than a decade (Kirm, 2012). Prioritizing conflict and recommending against JPC or frequent "visitation" unless conflict was low gained further momentum in books written for family court and mental health professionals (Garrity & Baris, 1997; Hodges, 1991; Johnston & Campbell, 1988; Stahl, 1999).



Johnston et al. (1989) was a pioneering study that for many years was misinterpreted and cited as evidence that joint physical custody was only suitable for parents with little to no conflict. Given its longstanding influence and the fact that its author (Johnston, 1995) has expressed regret about how the study has been, and continues to be (e.g., Shaffer, 2007) misunderstood and misused, it merits careful attention. Thirty-five years ago, Johnston and her colleagues collected data from 100 lower middle income families (62% white) in the San Francisco Bay area. All of these high conflict, litigating parents had been referred by the courts because they had been unable to resolve their custody issues in the four years since separating, even with help from lawyers and mediators. Given the high levels of physical and verbal aggression and physical violence in this particular sample, the researchers warned: "This study helps to remind us that it is important not to make custody and visitation decisions or to frame social policy and laws based on studies on studies from unrepresentative populations" (Johnston, et al., p. 590). Of the 100 children, 28 were living in JPC families where they had a "split week, alternate week or weekday/weekend schedule," spending an average of 12 nights a month with their nonresidential mother or father (p. 581). In contrast, the SPC children saw their nonresidential parent an average of only 4 days a month, sometimes without overnight visits. At the 2 1/2 year follow up, the female children in SPC who had "more frequent" contact with their father were more emotionally and behaviorally disturbed and their parents were more verbally and physically aggressive. In contrast, the SPC boys who saw their fathers more frequently were more well-adjusted than the SPC boys who saw their fathers less frequently. Importantly, the researchers assessed whether or not the children were caught in the middle of the conflicts in addition to the overall level of conflict.

Aggression between parents had no direct effect on the children and had only a very weak indirect effect but if the child was caught in the middle and used in the conflict, the connection was stronger. The degree to which children were caught and used in the dispute predicted child disturbances more than the overall level of conflict. (p. 587)

"There was no evidence that clinically disturbed children [16 of the 100 children] were more likely to be in joint than in sole custody" (p. 583). "Patterns of access [frequency of contact with nonresidential parents] and parental conflict explained less than one fifth of the variance in the children's behavior" (p. 590). "In the present study, as a group, these children of chronic custody disputes are not distinguishable from a normal population" (p. 590). Johnston (1995) warned that her study should not be used to argue against JPC or against frequent time with the nonresidential parent: "The findings from these studies should not be used to discourage parents from trying to work out shared parenting arrangements" (p. 422). For high conflict parents, "A clearly specified, regular visitation plan is crucial and the need for shared decision making and direct communication should be kept to a minimum" (p. 423). Because parents are more likely to have conflicts when the children are being exchanged from one parent to the other, Johnston recommended that "Frequent transitions for visitation purposes are also to be avoided in these [high conflict] cases" (Johnston, p. 423).

Two other studies may have contributed to the belief that JPC is linked to worse outcomes for children when their parents are in

conflict. Both studies were conducted in the late 1970s and early 1980s in the San Francisco Bay area. In one study, all 32 children had been living 35% to 50% time with each parent and two thirds had been living in this arrangement for four or more years (Steinman, 1981). Importantly, data came from both parents and from the children. In most of these JPC families the differences in child rearing styles were not major. "But where the parents were in conflict over childrearing values or had major philosophical differences that involved the children, the children were greatly troubled by it" (p. 409). In the other study (Brotsky, Steinman, & Zimmelman, 1988) 67 children were assessed one year after their parents had completed a voluntary counseling program to resolve their ongoing custody issues. Forty of the 48 families had JPC plans, but the researchers did not specify whether the children actually lived 35% time with each parent. At the end of the year, 16 of the 67 children were "seriously at risk" for major emotional problems or had serious developmental delays. These children's parents had the most hostile, conflicted relationships. Both studies might have misled people to believe that when parents are in conflict, JPC is linked to worse outcomes for children, even though neither study could have reached that conclusion since the researchers did not compare JPC to SPC children.

The fourth study is a well-known and often-cited longitudinal study conducted in Virginia (Hetherington, 1989; Hetherington & Kelly, 2002). The researchers assessed white, middle class children and parents from 72 divorced and 72 intact families two years after divorce. Additional families were added to the original sample for the six and 11 year assessments, bringing the total to 150 divorced families. Two years after divorce, only 18 of the 72 fathers were "frequently" seeing their children which meant at least once a week. Eleven years after divorce, 50% of the fathers had not seen their children in the past year and only 20% saw their children weekly. Importantly, this study assessed whether the children were caught up in the conflicts. In high conflict families when children were placed in the middle of the conflicts or in lower conflict families where the father was an "incompetent or antisocial" parent, the boys—but not the girls—had more behavioral problems, lower self-esteem, and lower school achievement when they saw their father weekly than when they saw him less frequently. Even though these data came from fewer than 20 fathers, and even though there were no significant findings for the girls, the study might have been misinterpreted more broadly to mean that, unless conflict was low, boys and girls with competent, attentive fathers would be better off having infrequent contact.

At about this same time, a larger nationally representative study arrived at similar results (Amato & Rezac, 1994). In this 1986 sample, 725 children whose parents had been married before separating were compared with 560 children whose parents had not been married. All of the children were living with their mothers who provided all of the information about conflict, contact with the father, and children's behavioral problems. It is important to note that "contact" was broadly defined as anything from phone calls and letters to actual time spent with the father. The children with divorced parents had more contact with their fathers than children with never-married parents, and the divorced mothers reported more parental conflict. Both the divorced and the never married mothers reported more conflict when the fathers "stayed in contact" with the children. Conflict was not significantly linked to behavior problems for the 13- to 18-year-old boys or girls. But



conflict was linked to more behavior behavioral problems for the 5 to 13 year-old boys, though not the girls. Unlike conflict, being “in contact” with their father was not significantly linked to behavioral problems for boys or girls in either age group. “Overall the results do not appear to support the hypothesis of an interaction between parental conflict and contact in relation to children’s behavior” (p. 199). But in the high conflict group, when the researchers analyzed the data separately for the married and the never married parents, the 42 boys (average sample size) with divorced parents who had the most contact with their fathers had more behavioral problem than boys with less contact with their fathers. The boys had fewer behavioral problems when father contact was high and parent conflict was low. There were no significant links between conflict and father contact for the girls or for children whose parents had not been married before separating. The researchers also pointed out that “It is possible that residential parents [mothers] who are distressed by high levels of conflict and contact with the ex-spouse may exaggerate the number of behavior problems exhibited by their [male] children” (Amato & Rezac, 1994, p. 204).

The most recent data that have been cited to support the hypothesis that high conflict is linked to worse outcomes for children in JPC families came from a government sponsored Australian study (McIntosh, Smyth, Kelaheer, & Wells, 2010). McIntosh and Smyth report their study as evidence that JPC exposes children to more conflict (Smyth, McIntosh, Emery, & Howarth, 2016). As reported in the original study (McIntosh et al., 2010), four years after the parents had separated, the 45 teenagers in JPC reported higher levels of parental conflict than the 44 teenagers in SPC. The 2016 publication, however, did not report that the JPC adolescents were not more upset or more distressed than the SPC adolescents by their parents’ conflicts, an important finding that was acknowledged in their original report: “At the four year mark, the groups [of teenagers] did not differ significantly [in distress or adjustment] from each other” (McIntosh et al., 2010, p. 44). In their original report (McIntosh et al., 2010) the researchers had also acknowledged that many SPC fathers had dropped out of their children’s lives which, the researchers speculated, probably explained why the SPC parents had less conflict than the JPC parents four years after separating.

In sum, these studies seem to have contributed to the hypothesis that, unless parental conflict is low and the parents get along relatively well as coparents, having frequent contact with the nonresidential parent or living in a JPC family is linked to worse outcomes for children.

### How Prevalent Is the Conflict Hypothesis?

The view that sharing physical custody or perhaps even sharing legal (decision making) custody is inappropriate for high conflict or uncooperative parents is still prevalent (DiFonzo, 2015): “Most courts and commentators agree with the oft-quoted dictum that joint custody is encouraged primarily as a voluntary alternative for relatively stable, amicable parents behaving in mature civilized fashion” (p. 216). When parents are unable to communicate face-to-face and when there is a level of distrust between them, even joint decision making (joint legal custody) is often not considered to be in the child’s best interests. “This principle is abundantly established in case law” (DiFonzo, 2015, p. 218). Another “well-

established principle” in family law is that “joint custody is not appropriate where the parties are antagonistic toward each other and have demonstrated an inability to cooperate in matters concerning the child, even if the parties have agreed to the joint custody arrangement.” A court-ordered shared custody arrangement imposed on embattled and embittered parents, “can only enhance familial chaos” (DiFonzo, 2015, p. 220).

Among social scientists, these opinions about conflict and JPC have also been voiced. For example, Emery (2014) believes that: “The *best* research supports this conclusion . . . In high conflict divorces children do worse in joint physical custody than in other arrangements” (p. 1) [Italicized by Emery]. “Conflict is more damaging to children in divorce than having only a limited relationship with your other parent” (Emery, 2016b, p. 51). Similarly, McIntosh and Smyth (2012) believe that there are “over two decades of research in the U.S.” that is “demonstrating a poor fit between the many demands of shared time parenting arrangements and ongoing high levels of conflict between parents” (p. 174). A majority of the 32 social scientists and family law professionals in one think tank also concur that JPC is not in children’s best interests when the parents have high conflict or a “non-collaborative” coparenting relationship (Pruett & DiFonzo, 2014).

Parental conflict is also accorded high priority in many custody evaluations and in books written for custody evaluators. For example, 57% of 213 custody evaluators with doctorates who had been in practice at least five years ranked cooperation, low conflict and communication among the most important variables influencing their recommendations for or against JPC (Ackerman & Pritzl, 2011). Only 13% of these custody evaluators considered “maintaining or maximizing the parent-child relationship” a high priority in making custody recommendations. Similarly in a recent book on conducting child custody evaluations, the author places a high priority on past and present parental conflict when JPC is under consideration (Hynan, 2015) Reducing conflict has also been the primary or the exclusive focus of educational programs for separated parents—with very few programs aimed at improving each parent’s skills as a parent or strengthening their relationship with their children (Goodman, Bonds, Sandler, & Braver, 2004). This is not to say that conflict is the sole determining factor in most custody evaluations or in most judges’ decisions. Still, it is clear that conflict carries considerable weight.

In sum, several assumptions underlie the belief that low conflict and cooperative coparenting are essential in order for JPC to benefit children. First, it is assumed that children are more likely to be caught in the middle of disagreements, pressured into loyalty conflicts, or forced to align with one parent against the other in JPC than in SPC families. Unless conflict is low, there is a supposedly a greater risk of children being stressed, depressed or otherwise troubled in JPC—or perhaps even when they have frequent contact (that falls short of living together 35% of the time) with their noncustodial parent in SPC arrangements. Second, presumably JPC parents have to communicate far more often and must work much more closely together than SPC parents. Unless conflict is low and communication is good, the outcomes for the children will likely be worse in JPC. Third, supposedly JPC parents have very little conflict from the outset, mutually and voluntarily agreeing to the arrangement with little to no pressure or interference from others. In short, low conflict and collaborative coparenting at the time of separation and in subsequent years are

the bedrock of JPC arrangements. If these assumptions are correct, then whatever positive outcomes for children might be linked to JPC may in fact be linked to the low conflict and cooperation, not to living with each parent at least 35% of the time.

### The More Recent Hypothesis on Conflict

The alternative and more recent perspective is that conflict and the quality of the coparenting relationship should not be such pivotal issues, especially when the children have—or would be able to develop—supportive, loving relationships with their parents (Kelly, 2014; Lamb, 2016; Warshak, 2014). According to this view, the concept of conflict in and of itself is problematic—in part because it is difficult to define or to assess reliably and in part because parents sometimes exaggerate or provoke conflict to “win” sole custody. Then too, conflict generally subsides within the first two years after separation, meaning that high conflict at the time of separation is not a reliable way to predict future conflict (Hetherington & Kelly, 2002). Similarly conflict often stems from a sincere desire by competent, loving parents to remain actively involved in their children’s lives by maximizing their parenting time in the custody agreement (Friedman, 2004) or stems from parents’ different opinions on child rearing and different parenting styles—the kinds of conflict that are common in married families (Cowan & Cowan, 1999). Moreover, there are ways to reduce conflict without restricting the children’s time with one of their parents and without eliminating the possibility of JPC. For example, in a meta-analysis of studies on court affiliated parenting programs, the parents who attended were 50% more likely to reduce their conflicts than parents who did not attend (Fackrell, Hawkins, & Kay, 2011). To simply allow parents to report and/or to feign that they cannot cooperate or communicate and therefore that joint parallel parenting will not work is far too simplistic (Birbaum & Fidler, 2010). Absent domestic violence, the quality of the parents’ relationship with the children is more closely linked to children’s well-being than the quality of the parents’ relationship with one another. Reducing children’s time with one parent is likely to weaken their bond, but is not likely to reduce the parents’ conflict or to protect the children from it (Braver, 2014). In that vein, JPC may offer a protective buffer that helps children cope better with their parents’ conflicts. In short, we should be asking which policies will reduce conflict rather than assuming that JPC is not an option for high conflict parents (Braver, 2014).

Although both views—that conflict and the quality of the coparenting relationship should or should not play a major role in deciding whether JPC is in children’s best interests—appear logical to their proponents, the question is: How strongly does the research support the assumptions underlying each perspective?

### Considerations Regarding Parental Conflict

Before examining the research on the links between conflict, coparenting, and children’s well-being, several findings can help put the data into perspective. First, parents who have a child with chronic emotional, behavioral or medical problems are more likely to have high, ongoing conflict, to be more critical of one another’s parenting, and to have higher divorce rates (Kerns & Prinz, 2016). After separating, their conflicts may remain high given the ongoing stress in parenting their troubled or special needs child. Yet

these are the very children who might benefit most from JPC where the additional parenting burdens are more equally shared and each parent has “time off” to relax and recuperate.

Second, the literature has long acknowledged that the impact of parental conflict on children depends on many factors—and that its impact is sometimes overstated and oversimplified (Cummings & Davies, 2010). Conflict’s impact should not be exaggerated and should be considered in the context of factors such as the child’s resilience and temperament and the quality of the parent–child relationship. This point is reiterated in the *Diagnostic and Statistical Manual of Mental Disorders*, fifth edition, where a new condition named “child affected by parental relationship distress” (CAPRD) is described (Bernet, Wamboldt, & Narrow, 2016). The parents’ distressing behaviors include high levels of disparagement, ongoing animosity, abusive language, threatening language, coercive interactions, or physical violence. These children may develop behavioral problems, loyalty conflicts, anger, anxiety, depressed mood, and psychosomatic problems. “On the other hand, children who are unusually resilient—because of innate hardiness, support from extended family, community resources, or other situational factors—may experience parental relationship distress and manifest no psychological symptoms at all” (Bernet et al., 2016, p. 571).

Conflict is also closely linked to a parent’s depression, substance abuse, mental disorders and negligent or abusive parenting, each of which can have a worse effect on children than the conflict itself. In some cases, after the parents separate, the negative outcomes correlated with high conflict could result from too little fathering time, since fathers generally spend less time with their children when conflict with their mother is high (Fabricius et al., 2012). Finally, and perhaps most important, when conflict is found to be correlated with worse outcomes for children, this does not mean that conflict caused or contributed to the problem. For example, as a child’s behavioral or emotional problems get worse, parent conflict may be likely to increase. Conversely, if the child’s problems start to decline, the parents’ conflicts may also be likely to decline. In short, the link between parental conflict and children’s well-being is complex.

Third, the link between conflict and children’s well-being is often closely linked to the child’s gender, with girls having more problems than boys when parental conflict is high in most studies. In an American study, four years after the parents’ divorce, adolescent girls felt more caught in the middle of their divorced parents’ arguments than did boys (Buchanan, Maccoby, & Dornbusch, 1996). In a study with 207 Canadian college students, daughters’ relationships with their fathers were more damaged than sons’ when parental conflict was high regardless of whether the parents were married or divorced (Frank, 2007). Similarly, in a nationally representative sample of 750 Swedish teenagers with separated parents, girls were more stressed than boys in high conflict families (Turunen, 2014). In a study of almost 200,000 children from divorced families in 36 countries, daughters were two times more likely than sons to have a hard time talking to their fathers about things that were worrying them (Bjarnason & Arnarrson, 2011). Similarly in a Swedish national survey of 8,840 ninth graders from intact and separated families, the adolescents who turned to their parents for help with their problems were less depressed, less afraid, and had fewer stress related health problems. But the girls had more of these problems than the boys



(Låftman, Bergstrom, Modin, & Ostberg, 2014). Both Swedish studies suggest that when conflict is high, daughters may be less likely than sons to reduce their stress by talking to their fathers about their concerns. These findings may help to explain why daughters' relationships with their fathers are generally more damaged than sons' after their parents separate (Nielsen, 2011).

High conflict and poor parenting often go hand in hand. This makes it difficult to determine whether it is the conflict or the poor parenting or the combination of the two that is most closely linked to worse outcomes for children. For example, in a meta-analysis of 39 studies, high conflict was closely linked to poor parenting (Krishnakumar & Buehler, 2000). But the conflict was not as closely linked to bad outcomes for boys, preschoolers, and children whose parents had not attended college. Moreover, the link between high conflict, poor parenting and children's problems was two thirds stronger in married than in separated families. Emphasizing the importance of this finding, the researchers stated:

There has been a trend in the literature to believe that the hostility associated with conflict is primarily an issue for divorced families. This is not the case . . . hostility and aggression are more strongly associated with parenting quality in married families. (p. 30)

### Physical Conflict and Violence

As previously emphasized, this paper's discussion of conflict does not apply to the 10%-12% of parents with a history of ongoing violence and severe emotional and physical abuse that has traditionally been referred to as "domestic violence" or "battering." And as already explained, one of the limitations of the research on "violence" or "physical abuse" in the literature on custody is that the studies do not differentiate between the various types of physical conflict. Keeping this in mind, it is important to understand that even when parents are violent toward each other while they live together, this does not necessarily allow us to draw conclusions about what parenting plans are likely to be most beneficial for the children after the parents separate. For example, in a nationally representative Australian sample of 6,485 families with sole custody and 1,235 with JPC one to two years after separation (Kaspiew et al., 2009): "While a history of family violence and highly conflictual inter-parental relationships appear to be quite damaging for children, there was no evidence to suggest that this negative effect is any greater for children with shared care (JPC) time" (p. 16). Although the study did not use a validated scale to measure the children's well-being and did not distinguish between the various kinds of physical aggression, Kaspiew's findings support the conclusion that Lamb (2016) reached after reviewing the research on domestic violence and child custody:

Minor or isolated instances of domestic violence should not affect custody decisions. The conflict that hurts kids is repeated incidents of violence between parents who have substantial psychiatric problems and personality disorders. . . . Significant numbers of children have warm and supportive relationships with parents who have highly conflicted or violent relationships with one another. (p.185)

In other words, it is a mistake to assume that JPC will be more harmful than SPC for children whose parents were physically abusive toward one another when they lived together.

### High Legal Conflict and Custody Hearings

Some people believe that parents with high legal conflict, especially those who take their disputes to court, have substantially more damaging conflict than parents who settle their conflicts out of court with less legal wrangling. This belief supports the opinion that JPC cannot benefit children whose parents take a custody dispute to court or who have protracted legal battles. For example, Emery (2014) stated that JPC is "all but certain to be the worst arrangement when parents end up in court because the parents, by definition, aren't working together. . . . Wise judges already know it's a lousy compromise for children in high conflict divorces" (Emery, 2014). Similarly McIntosh has stated that, according to the research: "families involved in repeat court involvement display more conflict and maladjustment" (McIntosh, 2015). To support her statement, McIntosh cited only one study—a study with 18 divorced parents, only 4 of whom had any court involvement in their custody case (Bing, Nelson, & Wesolowski, 2008). None of the four were repeat cases and they did not have higher scores on conflict or maladjustment than the 14 parents with no court involvement. Similarly, Jaffe (2014) has opined: "Parents who enter the justice system to litigate about child custody or access have passed the point where shared parenting should be presumed or even encouraged" (p. 187). This view is also promulgated in the legal community. For example, in a paper presented at an American Bar Association conference, the author (Treneff, 2014) claimed that the impact of "high conflict custody cases" was "significant and long lasting" for children (p. 2). Similarly, one widely read book for custody evaluators (Ackerman, 2006) recommends that: "When a custody dispute occurs, 50-50 placement should rarely be recommended" (p. 251). How strongly do empirical data support these opinions?

Only two quantitative studies have explored the link between children's well-being and their parents having or not having had a contested custody case. The more recent study included 94 divorced couples who were randomly selected from court records in one Arizona county (Goodman et al., 2004). The children were four to 12 years old. Four to six months after the divorce, high interpersonal conflict (arguing, physical aggression, badmouthing) was linked to the children's having more social and behavioral problems. But high legal conflict was not linked to children's problems.

The earlier study was longitudinal and collected extensive information from parents, teachers, clinicians and the children (Wolman & Taylor, 1991). This study compared 12 children whose parents settled their custody issues without hiring attorneys, filing court petitions, or having any court hearings to 19 children whose parents had legal disputes. The sample came from an ethnically and socioeconomically diverse area in Massachusetts; and the two groups were matched on demographic variables. Both of the parents and the children were interviewed at 3 month intervals during the first year and then at 18 months. At the end of 18 months, the 19 children in contested cases had better outcomes on almost all measures of well-being than the 12 children in uncontested cases, even though the two groups' scores were not significantly different at the outset on most variables. The contested children felt significantly more in control of events in their lives (internal locus of control) and felt less anger, less hostility, less rejection, and less self-blame. At the outset, the contested children had more negative



feelings about their families and felt more acute separation anxiety. But 18 months later they had more positive feelings and less separation anxiety than the uncontested children. The researchers concluded that,

It is conceivable that the benefits of involvement (as the valued subject/object of a contest), the increase in open discussion of family conflict which often occurs in the context of custody litigation, increased opportunities for catharsis, and pressures to resist parental lobbying (to "think for oneself") may actually provide contested children with vehicles for development of adaptive coping mechanisms (e.g. reality testing) and a stronger sense of personal influence on events. (Wolman & Taylor, p. 409)

Naturally we cannot draw conclusions from only two studies. But at the very least, we should be aware that no quantitative data yet exist to support the assumption that children whose parents contest custody have significantly worse outcomes than children whose parents agree at the outset on the custody arrangements.

As for why some parents have higher legal disputes than others, we might wonder: what are most of these parents arguing about? The most extensive exploration of this question was a study with 950 SPC couples and 150 JPC (referred to as "dual residence" in the study) couples who were randomly selected from divorce records in 1984 in two counties in the San Francisco Bay area (Maccoby & Mnookin, 1992). Nearly 25% of the JPC couples had substantial legal conflict, 4% of which involved custody hearings. Four major findings emerged. First, most of the conflict was about parenting time, with 82% of the mothers not wanting to share physical custody. Second, there was more legal conflict when the children were under the age of three. Third, the parents who went to court were not wealthier, making it unlikely that their legal conflict was driven by having substantially more money than other divorcing couples to spend on legal battles. Fourth, and most surprising to the researchers, the parents' hostility toward each other was not closely linked to high legal conflict. "There were many intensely hostile parents who did not express their anger through legal conflicts—and some of the parents who did engage in legal conflict were not intensely angry" (Maccoby & Mnookin, p. 144).

Overall, high legal conflict or custody hearings have not been found to be reliable measures of how much conflict exists between the parents, how damaging the conflict is to the children, or whether the children could benefit from JPC. This is an important finding because negative assumptions about parents with high legal conflict could lead to custody decisions that restrict children's time with one of their parents, or that deny them the possible benefits of JPC.

### **Sole Physical Custody Families: Conflict and Communication After Separation**

Before exploring whether JPC parents have much less conflict than SPC parents, we should ask: How common is low conflict and cooperative coparenting for couples with SPC arrangements? The research from the past several decades is robust and consistent: most SPC parents do not have low conflict, cooperative relationships. In one of the earliest studies with white, middle class families in Virginia, only 18 of the 72 couples had low conflict, cooperative relationships six years after their divorce (Hetherington

ton & Kelly, 2002). The other 25% were in high conflict, whereas the majority (50%) were civil but rarely communicated or coparented. In a similar study, 98 couples were randomly selected from Wisconsin court records and both parents provided information (Ahrons, 1994). One year after separation, only 10% of the parents frequently communicated and cooperatively coparented, 40% were civil but rarely communicated, and 50% were angry and hostile. Five years later, nearly one fourth of the formerly "civil" relationships had turned "angry" which the researchers attributed to remarriages and financial issues.

Studies published during the past decade are consistent with the older findings on conflict and coparenting. In a nationally representative survey of 356 divorced mothers, low conflict and cooperative coparenting was not the norm (Sobolewski & King, 2005). Only one third of the parents talked with one another even once a month or made child rearing decisions together. In yet another nationally representative survey of 1,247 parents, only 29% had a low conflict, cooperative relationship; 35% had moderate conflict and cooperation, and the remainder had no conflict or coparenting because the fathers were not in contact with the children or the mother (Amato et al., 2011). For another 270 parents in a court ordered parenting program, only one third had a low conflict relationship where they communicated frequently; 45% communicated but with moderate to high conflict; and 25% had no conflict because they had stopped communicating altogether (Beckmeyer, Coleman, & Ganong, 2014). In short, low conflict, amicable coparenting is relatively rare for couples with SPC arrangements.

### **JPC Versus SPC Parents: Conflict at the Time of Separation**

Do JPC parents have significantly less conflict and significantly more collaborative coparenting relationships than SPC parents at the time of separation or in subsequent years? Some contend that this is the case and that this largely explains why JPC children generally have better outcomes. For example, Smyth et al. (2016) assert that:

Most shared time arrangements are made by separated parents who respect each other as parents, who cooperate, and who can avoid or contain conflict when they communicate. . . . The positive reports [about JPC] likely reflect characteristics that predate shared time [JPC] and lead families to choose a shared-care time arrangement. (p. 123)

How strongly do the empirical data support these assumptions?

Knowing whether JPC couples work much more closely together as a low conflict, collaborative team than SPC couples is important for several reasons. First, if this is the case, then it might explain why JPC is linked to better outcomes for children in the 42 studies that have compared the children in the two types of families. (For summaries of these studies see Nielsen, 2011, 2014b, 2014c.) It may be that it is the parents' low conflict, cooperative teamwork, not shared physical custody, that is linked to the JPC children's better outcomes. Second, if JPC couples have significantly less conflicted and more collaborative relationships, then there might be grounds for discouraging the vast majority of parents from trying JPC because, as we have just seen, most separated parents do not get along well as coparents.

Looking first at the incidence of conflict over the parenting plan for JPC couples at the time of separation, four studies have explored how many of these parents agreed at the outset to share physical custody. The percentage who were initially in conflict over sharing, but who eventually compromised and agreed to JPC arrangements, ranged from 40% for 64 couples (Pearson & Thoennes, 1990), to 50% for 51 couples, (Brotzky et al., 1988; Luepnitz, 1986), to 82% for 110 couples (Maccoby & Mnookin, 1992). As Brotzky et al. (1988) noted:

The most interesting findings concerned the stressed [higher conflict] group. They had been able to reach [a JPC] agreement only with considerable professional help and still had unresolved difficulties. However, 18 months later they now looked substantially the same as the parents who had mutually agreed on joint custody at the outset. (Brotzky et al., 1988, p. 174)

These four studies did not report how many of the parents agreed to JPC without considerable conflict and without the involvement of lawyers, mediators, or therapists. It would be woozling these studies, therefore, to claim that the JPC parents reached their custody agreement with less conflict than SPC parents. Despite the parents' initial conflict over custody, in these four studies the JPC children had better outcomes than the SPC children. (For detailed summaries of these studies see Nielsen, 2014b, 2015b). In a similar vein, conflict was not linked to whether parents had

shared or sole legal (not physical) custody for 254 parents who were randomly selected from court records in one Arizona county (Gunnoc & Braver, 2001). In fact from a list of 71 possible factors that might influence custody decisions, the couples only chose 20—and conflict at the time of separation or conflict two years later was not one of them.

Nine studies have compared the conflict levels at the time of separation for JPC and SPC parents, as Table 1 illustrates. In two studies the JPC parents had significantly less conflict than the SPC parents. The first was based on a 1984 sample of parents who were involved in mediation or counseling programs in Denver and San Francisco (Pearson & Thoennes, 1990). The 63 JPC mothers reported significantly less conflict at the time of the divorce than the 363 SPC mothers. Unlike SPC mothers, none of the JPC mothers reported any history of physical violence or physical abuse. The second study was based on a sample randomly chosen from 37 schools in Flanders (Spruijt & Duindam, 2010). The 125 JPC couples had "quarreled" significantly less than the 350 SPC couples before they separated. But one to seven years later, the JPC couples no longer had substantially less conflict than SPC couples.

In six of the nine studies there were no significant differences in JPC and SPC conflict at the time of separation. In two of these studies the researchers specified that the samples included couples

Table 1  
*Is There More Conflict Between Sole Physical Custody Than Joint Physical Custody parents?*

Researcher	No difference in conflict JPC vs. SPC couples	Sample size & type	Location
Barumadaza	After separation – unspecified years	453, from 37 schools	One region France
Beck	At separation	463, mediated cases statewide	Arizona
Buchanan	After separation – 4 years	365, random court records	3 CA counties
Fabricius	At separation	152, volunteer college students	Arizona
Juby	After separation 1–4 years	758, national survey	Canada
Johnston	After separation 4 years	100, counseling center volunteers	3 CA counties
Kline	After separation 4 years	93, community volunteers	1 CA county
Lodge	After separation 2 years	503, national sample	Australia
Maccoby	At separation	1,100, court records	California
Putz	At separation	205, mediation clinics	Indiana
Shiller	At separation no difference	40, convenience sample	Connecticut
Sodermans	After separation 1–6 yrs. less in JPC		
	At separation JPC not less 1995–2010	2, 207, all divorces 1971–2010	Belgium
	At separation JPC less 1971–1994		
	Less conflict in JPC		
Spruijt	At separation – less	455, random from 37 schools	the Netherlands
	After separation 1–7 years - not less		
Luepnitz	After separation 1–2 years	43, convenience sample	Pennsylvania
Pearson	At separation	426, mediation & counseling	Denver & San Francisco
	After separation 3 years		
	Mixed results		
McIntosh	After separation 1–5 years	National sample	Australia
	Not less parents of 1–3 year olds	587	
	Less parents of 4- to 5-year-olds	1,215	
Cashmore	After separation 4–5 years	1,026 (597 moms, 429 dads) National Survey	Australia
	Less JPC conflict according to dads		
	No difference according to moms		
	More conflict in JPC		
Lee	After separation 4 years	59, convenience sample	Ohio
Kaspiew	At separation & 1–2 years after separation	7,720, national sample	Australia
Melli	After separation 3 years	1,180, court records	Wisconsin

Note. JPC = Joint physical custody.

who had a history of domestic violence, though the exact percentage was not provided. In the statewide random sample from court records of 205 couples who had been in mediation in Indiana (Putz, Ballard, Arany, Applegate, & Holtzworth-Munroe, 2012) and in the sample of 463 families in Arizona (Beck, Walsh, & Weston, 2009), SPC was not significantly more likely when there had been a history of "intimate partner violence." In the other three studies, SPC and JPC couples had similar levels of conflict at separation. The earliest was a convenience sample of 40 couples in Connecticut (Shiller, 1986). The next was a much larger, more representative study with 950 SPC and 150 JPC California couples, randomly chosen from court records (Maccoby & Mnookin, 1992). The largest study illustrates a weakening link between conflict and custody arrangements in Belgium (Sodermans, Matthijs, & Swicegood, 2013). The study included all 2,207 couples who divorced in this region of the Netherlands between 1971 and 2010. Parents who divorced before 2005 were more likely to have JPC if they had low conflict. But after 2005 when custody laws became more supportive of JPC, there was no longer a significant link between low conflict and JPC. The researchers speculated that, as custody laws become more supportive of JPC, the link between low conflict and JPC may become weaker. In the most recent study of college students in Arizona whose parents had separated when the children were under the age of four, the 15 JPC couples did not have significantly less conflict when they separated than the 103 JPC couples (Fabricius & Suh, 2017).

In contrast, in one study the 1,234 JPC (shared care) parents from a nationally representative Australian sample had more family violence prior to separating than the 6,485 SPC parents (Kaspiew et al., 2009). "Both the mothers and fathers with shared care (JPC) time were more likely to report having experienced some form of family violence prior to separation" (p. 10). "Families where violence had occurred were no less likely to have shared care (JPC) time than those where violence had not occurred" (p. 164). "While a history of family violence and highly conflictual inter-parental relationships appear to be quite damaging for children, there was no evidence to suggest that this negative effect is any greater for children with shared care time" (p. 16).

In sum, seven of the nine studies fail to support the belief that JPC couples have significantly less conflict than SPC couples at the time they are separating. In two studies, however, the JPC couples did have less conflict than SPC couples. Overall then, conflict is not closely linked to whether the parents have a JPC or a SPC arrangement.

### JPC Versus SPC Parents: Conflict After Separation

In the years following their separation, do JPC couples have significantly less conflict than SPC couples? Thirteen studies have addressed this question, as Table 1 illustrates.

In three of the 13 studies the JPC parents had significantly less conflict than SPC couples one to six years after separation. The first was based on a 1984 sample of parents who were involved in mediation or counseling programs in Denver and San Francisco (Pearson & Thoennes, 1990). The 63 JPC mothers reported significantly less conflict three years after separation than the 363 SPC mothers, as they had at the time of separation. The second was a convenience sample from Pennsylvania where the 11 JPC couples had less conflict than the 16 couples with sole father

custody and the 16 couples with sole mother custody (Luepnitz, 1986). The third was a convenience sample from Connecticut where the 20 JPC mothers reported less conflict 1 to 6 years after separating than the 20 SPC mothers, although there were no significant differences between the two groups at the time the parents separated (Shiller, 1986).

In two of the 13 studies the JPC couples had more conflict than SPC couples after separating. In a convenience sample of 59 couples from Ohio, the JPC mothers reported more verbal and physical aggression than the SPC mothers four years after separation (Lee, 2002). In a representative sample from Wisconsin the 590 JPC couples reported more conflict over child rearing issues than the 590 SPC couples (Melli & Brown, 2008). The researchers attributed this to the fact that many of the fathers in SPC had disengaged from parenting or had dropped out of their children's lives altogether.

In 10 of the 13 studies, JPC and SPC conflict was not significantly different in the years following their separation. In the earliest study with 150 JPC and 900 SPC couples in California four years after divorce, given the similar levels of conflict in the two groups of parents and given that the dual residence [JPC] children had better outcomes, the researchers (Buchanan et al., 1996) concluded: "Parents can share the residential time even though they are not talking to each other or trying to coordinate the child rearing environments of their two households" (p. 292). For 93 high conflict families from three California counties who were receiving free counseling services to help resolve their problems, conflict was not lower in the JPC than in the SPC families four years after separation (Johnston, Kline, & Tschann, 1989). This was also the case in a sample of 93 well educated, white parents in California recruited through community outreach (Kline, Tschann, Johnston, & Wallerstein, 1989).

A large, representative study from Wisconsin is particularly instructive (Melli & Brown, 2008). Importantly, the data came from both parents (408 fathers and 402 mothers with JPC and 283 fathers and 391 mothers with SPC) and the large sample was randomly chosen from statewide court records. According to both parents' reports, roughly 15% in both types of families had a hostile, high conflict relationship. About 40% of fathers and 50% of mothers with JPC and 46% fathers and 38% mothers with SPC described the relationship as friendly. The researchers concluded that,

parents with shared time (JPC) and those with traditional mother custody (SPC) do not differ greatly. . . . This study shows that, if you take a group of ordinary divorced parents, the majority of them are managing to overcome their dislike and distrust of their former spouse in the interest of working out ways to raise their children. (Melli & Brown, p. 260)

Data from the three Australian studies are consistent with the American results. Even though they did not undergo anonymous peer review, these government commissioned Australian studies are reported here because they have the benefit of large nationally representative samples and of feedback from both parents. In a survey of 1,026 parents, the mothers with JPC and SPC reported no significant differences in conflict, but the fathers in JPC reported less conflict (Cashmore & Parkinson, 2010). In another sample with 105 JPC and 398 SPC couples, in both groups only 30% said they had a friendly, low conflict relationship; only 30%



only communicated every 1 to 3 months and 16% never communicated at all (Lodge & Alexander, 2010). Similarly, for 1,800 Australian couples 1 to 5 years after separation, the JPC and SPC mothers reported similar levels of conflict in families with 1- to 3-year-old children—but no significant differences in conflict in families with 4- to 5-year-old children (McIntosh et al., 2010).

Two other international studies further illustrate the similarities between JPC and SPC couples' levels of conflict. In a nationally representative sample from the Netherlands of 1,045 children in SPC and 395 children in JPC, there were no significant differences in conflict eight years after separation (Sodermans et al., 2013). And in a French sample of 1,561 children from intact families, 328 children in maternal custody, 34 in paternal custody and 91 in JPC, according to the children's reports, there were no significant differences among the four types of families in how frequently their parents argued or how often the children felt caught in the middle (Barumandzadah, Martin-Lebrun, Barumandzadeh, & Poussin, 2016).

In contrast to these 12 studies, in one Australian study the 1,235 JPC mothers and fathers were more likely than 6,485 SPC parents to report having been physically violent when they lived together (Kaspiew et al., 2009). After separation the JPC mothers reported the coparenting relationship as more "fearful" (5%–8%) than SPC mothers (3.8%–4%) and as more "distant" (17%–18%) than SPC mothers (11%–14%).

Four other studies are worth mentioning because, although the researchers did not directly measure parental conflict, they did measure the quality of the coparenting relationship which included questions about conflict. In a Toronto study the 100 JPC parents were more likely to describe their relationship as "friendly" (55%) than the 292 SPC couples (44%; Irving & Benjamin, 1991). The researchers pointed out, however, that "friendly" generally meant the parents limited their communication to child rearing issues; and that those JPC couples who were dissatisfied with their coparenting relationship still maintained the JPC arrangement. In contrast, when SPC parents were dissatisfied with their relationship, the fathers were likely to reduce the time they were initially spending with the children. Along similar lines, in a larger and more nationally representative Canadian study, even though the 182 JPC mothers were more likely to be "dissatisfied" (20%) with the coparenting relationship than the 578 SPC mothers (14%), the JPC arrangement continued (Juby, Burdais, & Gratton, 2005). And in a small study of 20 white, college-educated American mothers whose children had been living in JPC for three years, only four mothers said the coparenting relationship had been "amicable" since the time of separation. Seven said it had "improved" over the years; but nine said it remained "continually contentious" (Markham & Coleman, 2012). In that vein, in a study with 111 JPC and 543 SPC families from four different states, most of whom had been in counseling or mediation for custody related problems, conflict increased by 25% in the SPC families, but only increased by 10% in the JPC families (Pearson & Thoennes, 1990).

Overall then, couples with JPC do not have substantially less conflict than SPC couples at the time they are separating or in subsequent years. As noted, in two studies the JPC parents had more conflict than SPC couples did over child rearing issues in the years following their separation—a situation that the researchers attributed to the fact that more of the SPC fathers had disengaged

from the parenting or had withdrawn altogether from their children's lives. Still, most JPC couples did not arrive at their custody plan because they were getting along so much better than SPC couples at the time they were separating. Nor are JPC parents a "special" atypical group who have a low conflict, collaborative relationship in the years following their separation.

### JPC Versus SPC Families: Children's Outcomes After Accounting for Conflict

Given that the majority of both JPC and SPC parents do not have low conflict, friendly, communicative coparenting relationships, are children any better off in one type of family than in the other? That is, given the conflict and poor communication, is JPC linked to any better or worse outcomes for children than SPC?

As Table 2 illustrates, 17 studies have taken account of parental conflict in comparing the well-being of children in JPC and SPC families. In some studies there were no significant differences in conflict between the two groups of parents, meaning that conflict could not account for any differences in the outcomes for these two groups of children. In other studies the researchers eliminated the influence of conflict on the outcomes by including parental conflict in the statistical analysis as a moderating variable.

In only one of the 17 studies was JPC linked to any worse outcomes for the JPC children (McIntosh et al., 2010). There were no significant differences between JPC and SPC children on the six measures of well-being for the four- and five-year-olds or on four of the six measures for the two- to three-year-olds. The 59 toddlers in JPC had lower scores on "persistence at tasks" and displayed more "difficult behavior" with their mother (whining, sometimes refusing to eat, clinging to her). Their "difficult behavior" scores were not significantly different, however, from the scores of the majority of toddlers from intact families in the national survey. In contrast to the other 16 studies, this government sponsored study (republished in a 2013 journal article, McIntosh et al., 2013) has been widely criticized for its limitations—above all for using measures with no established validity or reliability, which means the data cannot be interpreted with any confidence since there is no way of knowing what was actually being assessed (Cashmore & Parkinson, 2011; Lamb, 2016; Ludolph & Dale, 2012; Nielsen, 2014a; Warshak, 2014).

In 16 of the 17 studies, after accounting for parental conflict, the children in JPC families had better outcomes on most measures than the children in SPC families. A brief, general overview of these 16 studies is presented in Table 2. The specific outcomes and detailed descriptions of these studies are available elsewhere (Nielsen, 2013a, 2013b, 2014c). In all nine studies that assessed children's relationships with their fathers and/or their stress-related health problems, the JPC children had better outcomes. In the nine studies that measured behavioral problems (aggression, delinquency, hyperactivity, or drug and alcohol use) JPC children had better outcomes in six studies and equal outcomes in three studies. In the 12 studies that assessed social and emotional problems (depression, anxiety, low self-esteem, overall dissatisfaction with life), JPC children had better outcomes in eight studies and equal outcomes in four studies. The fewest differences were in grades and cognitive skills, where the JPC children were only better off than SPC children in two of the five studies and equal in the other three.

Table 2

*Is Joint Physical Custody Linked to Better, Worse, or Equal Outcomes Than Sole Physical Custody After Controlling for Parental Conflict?*

Lead researcher	Number of children		Ages	Grades cognitive skills	Depressed anxious dissatisfied low self esteem	Aggression drugs-alcohol misbehavior hyperactive	Physical health & stress illnesses	Father-child relationship
	Joint	Sole						
Barumandzadah	91	328 mom 34 dad	11-12		Better			
Buchanan	51	355 mom 100 dad	13-16	Better	Better	Better	Better	Better
Cashmore <sup>b</sup>	84	473	0-17	Better	Better	Better		
Cashmore <sup>b</sup>	90	411	0-17		Better	Better		
Cashmore <sup>b</sup>	26	110	13-17		Equal			Better
Fabricius	75	188	College				Better	Better
Fabricius	30	122	College				Better	Better
Fransson	391	654	10-18		Better			
Kaspiew <sup>b</sup>	947	3,513	0-17	Better, dad report; Equal, mom report	Better, dad report; Equal, mom report			
Johnston	35	65	4-12		Equal	Equal		
Lee	20	39	6-12			Better		
Lodge	105	398	12-18	Equal		Equal		Better
McIntosh <sup>b</sup>	14-71	589-1161*	2-5			Mixed <sup>a</sup>	Better	
Melli	597	595	1-16		Equal		Better	Better
Shiller	20	20	12-14			Better		
Spruijt	135	250	10-16	Equal				
Vanassche	395	1,045	12-19		Boys better, girls worse			Better

<sup>a</sup> Researchers used measures with no established validity or reliability. <sup>b</sup> Government commissioned report not subjected to blind peer review. <sup>c</sup> Samples sizes varied widely for the six measures and child's age.

\* Means sample sizes varied depending on variable measured.

Of these 16 studies, only one has examined the long term association between conflict at time of separation, the custody plan, and children's relationships as young adults with each parent (Fabricius & Suh, 2017). The 30 JPC couples did not have significantly less conflict or less disagreement over the parenting plan when they separated than the 122 SPC couples. But as young adults, the children who had custody plans where they frequently overnights with their fathers, including JPC, between the ages of one and four had better relationships with both parents than those who less frequently or never overnights.

Even when parents present with high conflict, intractable disagreement about overnights, and a child under 1 year old, both parent-child relationships are likely to benefit in the long term from overnight parenting time up to and including equally-shared overnights at both parents' homes. (Fabricius & Suh, 2017)

In sum, after accounting for parental conflict, in 16 of the 17 studies JPC was linked to better outcomes for the children on most measures and was not linked to worse outcomes on any measure. To be clear, these studies did not conclude that high, ongoing conflict had no impact on children or that JPC erased the negative impact of intense conflict involving the children. What these researchers did find is that, even after accounting for conflict, children in the JPC families had better outcomes on almost all measures. These findings are extremely important because they refute the claim that JPC cannot be linked to better outcomes for children unless the parents have a low conflict, amicable, collaborative relationship.

### Low Conflict, Cooperative Coparenting: How Beneficial Is It?

Why is JPC linked to better outcomes for children even after parental conflict is taken into account? If a low conflict, collaborative relationship is supposedly linked to more benefits for children, then why did the JPC children have better outcomes even when the conflict was not low? First, as Amato and his colleagues have noted, very few studies have actually tested the assumption that cooperative coparenting is closely linked to children's well-being (Amato, Kane, & James, 2011). Moreover, there is very little quantitative empirical evidence to support the belief that coparenting matters more than the quality of parenting or the quality of the parent-child relationship (Sigal, Sandler, Wolchik, & Braver, 2011). Moreover, based on his reviews of the literature, Lamb (2014) concludes: "Parents who collaborate in child rearing tend to have better adjusted children . . . although some children thrive even when their parents do not collaborate . . . even when those parents are in open conflict" (Lamb, 2014).

What do the data reveal about the links and the interactions between children's well-being, conflict, coparenting, and the quality of the parent-child relationship? In the most robust study in terms of size and methodology, researchers analyzed data from a nationally representative sample of 1,247 children from separated families and 3,055 from intact families over a 10 year period (Amato et al., 2011). The researchers used standardized measures to assess parental conflict and cooperation and the children's well-being as adolescents and then again as young adults. The

parents fell into three clusters in regard to whether they had a "good divorce": 30% "cooperative coparenting" (high coparenting/modest conflict), 35% categorized by the researchers as "parallel parenting" (very little coparenting/moderate conflict), and 35% "single parenting" (no coparenting or conflict because the parents were not in touch with each other). There was no statistically significant difference between adolescent children with modest conflict/high coparenting parents and those with higher conflict/low coparenting parents with regard to their grades, self-esteem, substance use, or liking school and feeling that life was going well. There was a weak link between modest conflict/high coparenting and adolescents' behavioral problems. But as young adults, these children were not significantly less likely to have had sex before the age of 16, to have married early or cohabited, or to have used drugs than children from the modest conflict or no conflict families. The low conflict/high coparenting was, however, strongly linked to closer relationships between the young adult children and their fathers. It may be that when the parents got along better with one another, the fathers spent more time with their children which, in turn, strengthened their bond—a speculation that is consistent with the findings from other studies (e.g., Fabricius & Leucken, 2007; Pruett et al., 2004). Overall then, the researchers concluded that their results "are not consistent with the hypothesis that children who experience a good divorce have the most positive outcomes" (p. 519).

In a smaller study with 270 parents, there were modest links between conflict, coparenting and children's outcomes (Beckmeyer et al., 2014). The parents were recruited from a court-ordered parenting education program. The study controlled for family income, time since separation, and gender and age of parents and children. Conflict was moderately linked to children's externalizing problems and weakly linked to internalizing problems and social skills. Coparenting communication was only weakly linked to internalizing behavior. The parents' relationships fell into one of three categories: 31% had the most cooperation/least conflict, 45% had moderate cooperation/moderate conflict, and 24% had least cooperation/highest conflict. When the 13- to 18-year-old children from these three groups were compared, there were no significant differences in their internalizing or externalizing problems or social skills. "Our results support the notion that divorcing parents can effectively rear children even when coparenting is limited or conflictual" (p. 533). Given their findings, these researchers recommended that less emphasis be placed on reducing conflict and improving the coparenting relationship and more emphasis be placed on teaching parents how to strengthen their relationships with their children and how to improve their parenting skills.

Two other studies are noteworthy for using large representative samples from the longitudinal National Survey of Families and Households. The first wave of the study included 1,172 children ages five to eighteen living with their mothers who had a father living elsewhere (King & Heard, 1999). Since only 8% of the mothers reported a "great deal" of conflict, the researchers categorized the groups as either "no" conflict or "some or a great deal" of conflict. The presence or absence of conflict did not make a significant difference in the children's overall adjustment, global well-being or behavioral problems. In 10% of the families the children were worse off on all three measures. In these families the mothers were dissatisfied either with the amount of time the father was spending with the children or with the coparenting relation-

ship. As in the families where the children were not troubled, the absence or presence of conflict was not linked to the children's problems in these families. But the mother's dissatisfaction was linked to children's problems. The most dissatisfied mothers were the women who had been married before the separation, as opposed to cohabiting, and whose ex-husbands were visiting the children, but were not engaged with the mother in coparenting. The researchers speculated that the formerly married mothers were more dissatisfied because they expected more from the fathers than the mothers who had been cohabiting. Four years later in the second wave of the study with 354 mothers and their adolescent children, the connections between cooperative coparenting, conflict and the quality of the father-child relationship were assessed (Sobolewski & King, 2005). The mothers rated the coparenting according to how often the fathers helped in raising the children, discussed the children, and influenced child rearing decisions. The mothers rated conflict in regard to three specific issues: child rearing, where the children lived, and money. Cooperative coparenting was far more strongly linked than conflict to the quality of the father-child relationship and to responsive fathering. In other words, even when the parents had conflict, when the mothers were satisfied with the fathers' coparenting, the children had better relationships with their fathers and the fathers were more responsive.

Findings from a smaller, more in-depth study are instructive in explaining both the indirect and the direct ways that conflict is linked to different aspects of children's well-being (Pruett, Ebling, & Insabella, 2004; Pruett, Williams, Insabella, & Little, 2003). These formerly married or formerly cohabiting white, middle class parents in Connecticut had voluntarily enrolled in a parenting program. Fifteen to 18 months after enrolling, 110 mothers and 102 fathers provided data about their children who were two to six years old. Even though higher conflict was not directly linked to the children's emotional or behavioral problems, it was directly linked to other aspects of the family which, in turn, were directly linked to certain types of problems for the children. Conflict was moderately linked to father involvement which, in turn, was only weakly linked to the children's adaptive behavior. Conflict was not linked to negative changes in the mother's relationship with the child, but was directly linked to negative changes in the father's relationship with the child, which was then moderately linked to children's externalizing and internalizing problems. Mothers' reports of conflict were moderately linked to children's sleep problems and weakly linked to somatic complaints. Fathers' reports of conflict were moderately linked to children's internalizing behaviors and to their destructive behavior. In contrast, negative changes in the father's or the mother's relationship with the child were directly and moderately linked to children's externalizing and internalizing problems. But consistent with studies already discussed, the quality of the parent-child relationship was more closely linked than parental conflict to the children's outcomes.

Conflict may also play a different role depending on whether the mother has remarried, as was the case for 54 fifth graders in one school district in Vermont (Bronstein, Stoll, Clauson, Abrams, & Briones, 1994). After controlling for family income, there were no significant connections between cooperative coparenting (which included an assessment of conflict) and the children's self-concepts, psychological problems, grades, or classroom behavior when the mother had not remarried. The only significant correla-



tion was a moderate link between coparenting and peer popularity. But in the 23 families where the mother had remarried, there were strong correlations between conflict/coparenting and children's self-concept, psychological problems, grade point averages, and classroom behavior. These findings suggest that conflict and coparenting may be more closely linked to children's well-being after a stepfather enters the family network.

On the other hand, in a larger longitudinal study in Wisconsin where most of the parents had remarried, there were no significant differences in the quality of the young adults' relationships with their fathers according to how much conflict there had been between their parents one, three or five years after divorce (Ahrons & Tanner, 2003). Based on the data from these 84 daughters and 89 sons, the researchers concluded: "We were surprised to find no significant differences in coparental relationship quality between those children who reported that their relationships with their fathers got better, stayed the same, or got worse in the 20 years following their parents' divorce" (p. 346).

Along similar lines, even in an extremely high conflict group of litigating families who were unable to resolve their differences despite the help of court mediators, conflict and coparenting communication were only weakly connected to the children's emotional or behavioral problems (Johnston et al., 1989). In the first phase of the study, the 100 children ranged from age 1 to age 13 and a third of them lived in JPC families. These lower middle class SES parents had been separated, on average, for four years. In these very high conflict families, children who were caught in the middle of the conflicts had significantly more behavior problems. But in the SPC or the JPC families, parental conflict or being caught in the middle explained less than one fifth of the difference in the outcomes. With regard to communication, how well the parents "verbally reasoned" with each other at the outset and at the two year follow-up was "unrelated either directly or indirectly to the measures of child adjustment" (p. 586).

In sum, there is not strong support for the belief that high conflict and poor coparenting are closely associated with worse outcomes for children. This is not to say that being dragged into or exposed to ongoing, frequent, high conflict will not be linked to worse outcomes for children when they have close relationships with their parents. But the bulk of the research does not support the belief that the level of conflict is more strongly linked to the outcomes than is the quality of the parent-child relationship. Nor do the data support the generalization that JPC should only be considered appropriate for parents who have low conflict, cooperative relationships or only for parents who resolve their custody disputes without high legal involvement or custody hearings. Further, as we will now see, parental conflict is not more closely linked to children's outcomes than the quality of the parent-child relationship.

### Children's Well-Being: Conflict, Coparenting, and the Parent-Child Relationship

Why have these studies not found strong links between conflict, coparenting, and children's well-being? One possibility is that attentive, authoritative parenting and close parent-child relationships weaken the link between negative outcomes, parental conflict and poor coparenting relationships. This is not to say that having good relationships with their parents will "cause" children

to have better outcomes even when they are repeatedly dragged into or frequently exposed to high conflict. But as the following studies illustrate, the quality of the parents' relationship with the children mediates the association between conflict and children's well-being. Keep in mind, however, that in these studies "high" conflict is not referring to couples with a history of physical violence and battering.

In one of the earliest studies with 62 children in Virginia six years after their parents' divorce, conflict was less strongly connected to worse outcomes when the children had close relationships with both parents (Hetherington, 1989). Similarly, in a study in Georgia with 51 eleven- to 14-year-olds whose parents had divorced within the past year and 46 children from intact families, the quality of the mother-child relationship was more closely associated with children's outcomes than was conflict (Fauber, Forehand, Thomas, & Wiersen, 1990). In the divorced families children's externalizing problems and internalizing problems were strongly connected to having a withdrawn, rejecting mother but only weakly connected to parental conflict. In stark contrast, in intact families conflict and externalizing problems were strongly connected to one another. Moreover, since the connection between high conflict and the mother's being rejecting or withdrawn was significantly stronger in divorced families, high conflict might have a more damaging effect on the quality of the mother-child relationship for separated parents.

How closely is high conflict linked to the quality of the parent-child relationship? In an Australian study with 80 adolescents, conflict was not connected to how close the children felt to their parents; but overnight fathering time was. Even in the high conflict families, the teenagers who were spending more than 30 nights a year with their father felt closer to him than those who spent the same total amount of time with their father, but had much less or no overnight time. The researchers hypothesized that the negative effect of conflict was reduced because the children maintained close relationships with their fathers by spending ample overnight time together which allowed for more natural, more relaxed, more meaningful interactions (Cashmore, Parkinson, & Taylor, 2008).

Newer studies by Sandler and his colleagues in Arizona are consistent with the older studies. In the first study with 182 children aged four to 12, when parent conflict was high and the children did not have a warm relationship with either parent, the children had more internalizing problems (Sandler, Miles, Cookston, & Braver, 2008). When parental conflict was low and they had warm relationships with both parents, children had the fewest internalizing problems. In contrast, children with high conflict parents had no more externalizing problems than those with low conflict parents, but again children with good relationships with both parents had fewer problems. In their second study where all 141 children came from high conflict families, the children only had elevated mental health problems when they had a poor relationship with both parents (Sandler, Wheeler, & Braver, 2013). Even when they were only receiving positive parenting from one parent, children's mental health problems were not elevated in high conflict families. Sandler et al. refer to this as a "compensation effect" where positive parenting by one parent can compensate for poor parenting from the other parent even when conflict is high. But a third factor also came into play—the amount of overnight time spent with their fathers. Even when the children had good relationships with their fathers, they only had fewer behavior or fewer mental health

problems when they were spending at least 11 nights a month together. The researchers suggested that spending a minimum of 30% overnights is necessary for a father's positive parenting to benefit children.

In their more extensive longitudinal study, these researchers assessed 240 children in sole maternal physical custody when they were 9 to 12 years old, then six years later as adolescents, and then again nine years when they were 24 to 29 years old (Elam, Sandler, Wolchik, & Tein, 2016; Modecki, Hagan, Sandler, & Wolchik, 2015). This study merits careful attention since it is longitudinal and since it has been reported in the media as finding that "Young people whose fathers were very involved but fought frequently [with the mothers] were no better off than those whose dads were uninvolved" (Emery, 2016a), and reported at conferences as finding that "the kids in joint physical custody had worse psychosocial outcomes" (Emery & Pruett, 2015) and that "fathers' support and frequent contact do not outweigh the negative impact of conflict on youth outcomes in the long run" (McIntosh, 2015).

Three limitations of this longitudinal study should be kept in mind. First, "father contact" included phone conversations and letters as well as actual time together. Second, the parents divorced nearly a quarter of a century ago (1992–1993) when fathers in our society were less involved with their children during marriage and after separation than they are today. As the researchers noted, the "high contact" group had very little fathering time compared with what would be considered "high contact" today. Third, the first assessments of conflict took place six to eight years after the parents separated. This means that the "high" conflict had been ongoing for many years, which is not typical for the vast majority of divorced parents.

Father "support/involvement" meant how much advice, positive feedback, participation in leisure activities, or help the children felt they had received in the past month. "Conflict" meant how much conflict the children felt their parents had in the past year. The children's internalizing and externalizing problems were reported by the mothers and by the children. Three patterns emerged: high conflict/high contact and support (44%), moderate conflict/low contact and support (20%), and low conflict/moderate contact and support (36%).

When the children were 9 to 12 years old, those who reported high conflict between their parents had more internalizing and externalizing problems regardless of the amount of father contact and support (Elam et al., 2016). But when they were 15 to 19 years old, a different pattern emerged. The adolescents who reported higher parental conflict, but had the most father contact and support, had fewer internalizing problems than those who had lower conflict parents but less father contact and support. Nine years later, when the children were 25 to 29 years old, the situation had changed again (Modecki et al., 2015). Negatively, the young adults with the high conflict/high contact/high father involvement had not achieved as high a level of education as those with low conflict/moderate contact fathers. Positively, the high conflict/high involvement group did not have more externalizing or internalizing problems than the lower conflict, moderate involvement group.

What do these studies tell us? As Sandler states:

The findings are complicated and don't give us a clear and simple understanding of the relationship between high conflict and child adjustment. . . . The larger point we are making in each of our papers

is that you can't look at conflict as a single variable out of context with other aspects of the post-divorce family. It may very well be that conflict in the earlier post-divorce environment has a different impact than conflict that persists over six years. (I. Sandler, personal communication, Feb. 2, 2016)

Sandler and his colleagues (Mahrer et al., 2016) clarify the implications of their findings for custody decisions: "Although high quality parenting does not negate the pathological effects of interparental conflict on children's well-being, high quality parenting by either parent can be a protective factor when parents have moderate or greater levels of conflict" (p. 70). "Recommendations should not decrement parenting time of parents with good quality relationships or the potential for good quality relationships with their children because of a high level of interpersonal conflict between the parents" (Mahrer et al., 2016, p. 63). Sandler and Modecki's study (2015) drew no conclusions about children's psychosocial outcomes in JPC versus SPC families because all of the children were in SPC with their mothers. Because carefully designed, longitudinal studies like these are relatively rare in the literature on conflict and custody, it is especially important that these data be reported accurately and not be bent by advocates to serve their own agendas regarding custody.

Findings from studies by Fabricius and his colleagues' are consistent with Sandler et al.'s findings. In an Arizona sample of 136 college students from SPC families and 78 from JPC families, even when conflict was high, the more time the children had spent with their father during adolescence, the better their relationships were as young adults (Fabricius & Lueken, 2007). The young adults with high conflict parents were not as close to their fathers as those with low conflict parents. But the high conflict did not mediate the positive link between spending time together and the quality of the father-child relationship. A second study involved 337 college students from JPC families and 871 students from SPC families (Fabricius, Diaz, & Braver, 2012). Regardless of how much parental conflict the children felt there had been before, during and up to five years after the divorce, the more time they had spent living with their fathers the better their relationships were as young adults.

In sum, these studies concur that conflict and coparenting interact with the quality of the parent-child relationships. The data do not support the assertion that "Conflict is more damaging to children in divorce than having only a limited relationship with your other parent" (Emery, 2016b, p. 51). Conflict and coparenting should be considered in the context of the children's relationships with their parents. In that regard, it is worth reiterating three points established earlier in this paper: First, children in JPC families have closer relationships with their fathers than children in SPC families. Second, overall JPC parents do not have significantly less conflict or better coparenting relationships than SPC parents. Third, even after levels of conflict are accounted for, JPC is linked to better outcomes for children than SPC.

### JPC Versus SPC: Children Caught in the Middle of Conflict

The complicated links between conflict and the quality of children's relationships with their parents is also related to whether the children are caught in the middle of the conflicts. Perhaps all three

variables interact: the overall level of conflict, being caught in the middle, and the quality of the parent-child relationship.

The California study discussed earlier was the first to compare the interaction of these three variables in JPC and SPC families (Buchanan et al., 1996). Four years after the parents' divorce, 51 adolescents living in JPC families (also referred to as "dual residence" families in the study) were compared with 100 adolescents living with their fathers and 355 living with their mothers. Importantly, this is one of the few studies to assess the extent to which the children felt they were caught in the middle of the conflicts. The researchers created a four question index asking the adolescents to rate how frequently they (a) felt caught in the middle of their parents, (b) were asked to carry messages between parents, (c) were asked questions about the other parent's home that they wish the parent would not ask, or (d) felt hesitant to talk about things concerning one parent when the other parent was around. The answers were combined to create an overall score reflecting the degree to which the adolescents felt caught.

The JPC adolescents had better outcomes than the SPC adolescents in terms of behavioral and emotional issues and the quality of their relationships with their parents. With regard to conflict, the one finding that often gets reported out of context by people who advocate against JPC in high conflict families is this: In the high conflict families the JPC children were more likely than SPC children to feel caught in the middle. This statement can easily lead to the belief that children cannot benefit from JPC if their parents are in high conflict. In fact that is not what the researchers found. First, when they were close to their parents, adolescents who felt caught in the middle in JPC or in SPC families were not more depressed, more stressed, or more involved in delinquent activities in high conflict than in low conflict families. Second, the JPC teenagers were more likely to have close relationships with both parents than SPC teenagers. Even though JPC children were more likely to be caught in the middle if the conflict was high, the fact that they had closer relationships with their parents mediated the link between high conflict and bad outcomes. Third, the JPC were no more likely than the SPC parents to have high conflict, which means JPC children were not more likely to be caught in the middle. "We did not find that dual-resident [JPC] adolescents were especially prone to adjustment difficulties under situations of high interparental conflict" (p. 258). "Interparental conflict had a much smaller direct relationship to adolescent adjustment than we had expected" (p. 257). Even in the high conflict families, the JPC adolescents "did not appear to be paying a price in terms of loyalty conflicts" (Buchanan et al., 1996, p. 265).

Which was more closely connected to bad outcomes for these adolescents: feeling caught in the middle or not feeling close to both parents? It appears they were equally damaging. Adolescents who did not feel close to either parent were just as likely as those who felt caught in the middle to be stressed, depressed or involved in delinquent behavior.

The effects of the coparenting relationship on adolescent adjustment were completely accounted for by its relation to feeling caught between parents. . . . To our surprise, there were no direct associations between coparenting and outcomes. . . . These results indicate that parental conflict need not affect children negatively. (Buchanan et al., 1996, p. 106)

Buchanan et al.'s study merits careful scrutiny because it is still mistakenly being cited as evidence that when conflict is high children fare worse in JPC than in SPC families. For example, the study has been reported as finding that: "Shared time arrangements (JPC) . . . work badly for children exposed to bitter and chronic tension between parents, who are drawn into their parents' conflict, align with one or both parents, or take on the role of parent" (Smyth et al., 2016, p.121) and as finding that: "Children in conflicted shared parenting are exposed to higher levels of conflict between their parents. . . . There is elevated risk of poor mental health outcomes for children who sustain shared care in a climate of ongoing parental acrimony" (McIntosh et al., 2010, p. 104). In fact, however, there were no significant differences in conflict between JPC and SPC parents and in the high conflict families the JPC children did not have worse outcomes than the SPC children even when they were caught in the middle. Even in the high conflict SPC families, "We found no evidence that adolescents who visited the nonresidential parent frequently were more likely to suffer negative consequences of conflict" (Buchanan et al., 1996, p. 258).

Even for young adult children, the quality of their relationship with their parents can mediate the link between being caught in the middle and feeling stressed or dissatisfied. In a sample of 129 young adults with divorced parents who were caught up in the conflicts, those who felt loved and affirmed by their parents were less stressed and more satisfied with their lives (Schrodt & Ledbetter, 2012). These young adults felt more stressed when their mothers were verbally aggressive than when their fathers were verbally aggressive toward one another (Shimkowski & Schrodt, 2012). The researchers speculated that the way mothers behaved during the conflicts has the greater influence on the children.

### Is There Any Consensus on Conflict and Child Custody Among the Experts?

Have any groups of experts ever reached any agreement on the role that conflict should play in custody issues? On three occasions, they have. Group reports such as these merit special attention for several reasons. As a former President of the American Psychological Association (APA) explained (Bersoff, 2013), recommendations based on reviews of the research in amicus briefs by a group of scholars,

show the courts what psychology knows by presenting information in a neutral, objective coherent way so it can resolve a problem on an empirical basis rather than on a common sense approach or on the basis of precedent that may be grounded in false beliefs. (p. 1)

Similarly, a former editor of APA's *Psychology, Public Policy, and Law* (Sales, 1995), in emphasizing the significance of a cosigned amicus brief, stated: "the paper has instant scientific credibility, not only because of its authors' credential and reputations, but also because it was cosigned by 43 other scholars" (p. 245). Another group of 28 social scientists (Warshak, 2003) also concurred that papers endorsed by a large number of experts were especially important:

We are concerned because of the possibility that any given purported summary can be incomplete, selective, idiosyncratic or even deliberately biased. This is possible even for the most distinguished writers, and regardless of how well intentioned. The best safeguard against



this possibility is a summary that has the consensual endorsement of a large number of experienced and respected social science researchers. (p. 2)

The first group convened more than two decades ago in 1994 under the sponsorship of the National Institute of Child Health and Human Development (Lamb, Sternberg, & Thompson, 1997). The 18 participants were experts from developmental and clinical psychology, sociology and social welfare who recommended that parenting time be distributed so that it would “ensure the involvement of both parents in important aspects of their children’s everyday lives and routines—including bedtime and waking rituals, transition to and from school, extracurricular and recreational activities” (p. 400). As for conflict, these experts agreed that there was too little research to reach any conclusions about which custody arrangements would be more beneficial for high conflict families.

The second group was sponsored by the Association of Family and Conciliatory Courts (AFCC) and its report was published in the organization’s journal (Pruett & DiFonzo, 2014). Nineteen of the 32 participants were social scientists or mental health practitioners. The other 12 were judges, lawyers or law school professors. The majority agreed that: “There is enough research to conclude that children in families where parents have moderate to low conflict and can make cooperative, developmentally informed decisions about the children would clearly benefit from JPC arrangements” (p. 162). But the majority felt that high conflict parents and parents who did not have a “collaborative” relationship should not have JPC. How many of the participants agreed with these opinions and how many of them were social scientists was not reported.

The two critiques of the AFCC report were both critical of the conclusions and recommendations. Braver deemed the report and its recommendations “disappointing” because it failed to give proper weight to the empirical data (Braver, 2014). Similarly, Lamb criticized the report for exaggerating the impact of conflict and for inflating its importance as a factor working against JPC (Lamb, 2014).

The third group of experts was unique in several ways (Warshak, 2014). This group consisted of 111 international experts all of whom were social scientists or mental health practitioners. None were lawyers, judges, or law school professors. Most members of this group had held prestigious academic positions, had edited journals and had long histories of publishing books and peer reviewed articles on issues germane to child custody. Among this preeminent group of scholars and researchers were 11 people who had held major office in professional associations, 2 former Presidents of the American Psychological Association (APA), 5 university Vice Presidents, Provosts, or Deans, 17 department chairs, 61 full professors, 8 endowed chairs, 2 former presidents of the American Association of Family Therapy, a former president of the American Counseling Association, and a former president of APA’s Division for Family Psychology. These 110 experts endorsed the conclusions and recommendations in a paper written by Richard Warshak and published in an APA journal. The group concluded that shared physical custody [JPC]

should be the norm for parenting plans for children of all ages, including very young children. . . . The court should rely on evidence that goes beyond the issue of how much conflict exists—such as the quality of parenting from both parents. (p. 59)

“Denying joint physical custody when the parents are labeled high conflict brings additional drawbacks to children by denying them the protective buffer of two nurturing relationships” (Warshak, 2014, p. 57).

The only critique of Warshak’s paper was written by three Australian researchers (McIntosh, Smyth, & Kelaher, 2015) whose own JPC study (McIntosh et al., 2010) was heavily criticized in the consensus paper. Their major complaints were that the 110 scholars who endorsed the paper did not constitute a “consensus group” and that the consensus paper was overly critical of their study—a study that recommended against JPC for young children and for high conflict families (McIntosh et al., 2010).

In sum, the first group of experts reached no conclusions about conflict because there was too little research available at the time. The second placed a great deal of emphasis on conflict and coparenting; and the third placed far more emphasis on the quality of the parent–child relationship than on conflict or coparenting.

## Conclusion

This paper has reexamined the research on conflict, coparenting and custody by addressing the questions: To what extent should conflict and the quality of the parents’ relationship with one another influence custody arrangements? Have we exaggerated their impact and placed too little emphasis on strong parent–child relationships and joint physical custody? If so, then we need a new framework which puts the parents’ conflicts and their coparenting relationship into a more balanced perspective. Based on the studies reviewed in this paper, that new framework might begin with these essential questions: Do the children have a loving, supportive relationship with both parents—or is there the potential to create a close relationship with ample parenting time? Do the parents’ conflicts largely revolve around the allocation of parenting time, their different parenting styles, the logistics of exchanging the children, or parenting a child with chronic behavioral, emotional, psychological or medical problems? Could a parallel parenting plan or an educational program possibly reduce some of the conflict? If the conflict was ever physical, was it limited to isolated incidents as the relationship was ending or during the divorce or custody process? Does the concern about the potential damage of ongoing high conflict arise from the fact that the parents had a court hearing or had protracted legal negotiations to resolve their issues? If the answer to a number of these questions is yes, then conflict and troubled coparenting relationships should not be allowed to “wag the custody dog.”

It would be woozling the research presented in this paper to make exaggerated claims about the links between conflict, coparenting, joint physical custody plans, and children’s well-being. These studies did not conclude that frequently being exposed to or dragged into the middle of intense, ongoing, frightening, or physically aggressive conflict will have little to no impact on children. Nor did these studies conclude that strong parent–child relationships, attentive and authoritative parenting, or JPC will eradicate the negative impact that intense conflict will have on children.

Six salient messages, however, do emerge from these studies. First, the level of conflict and the quality of the coparenting relationship are often not as closely correlated with children’s well-being as the quality of the parent–child relationship. Second, the connection between conflict and children’s well-being is me-

diated by the quality of the children's relationships with their parents. Third, parents' settling their custody disputes in court or through protracted legal negotiations has not been linked to worse outcomes for children. Fourth, JPC is associated with better outcomes for children than SPC even when their parents do not initially both agree to the parenting plan and even when the conflict at the time of separation or in subsequent years is not low. Fifth, most JPC parents do not have substantially less conflict or more collaborative coparenting relationships than SPC parents. And sixth, limiting the time that children spend with one of their parents through SPC is not correlated with better outcomes for children, even when there is considerable conflict and a poor coparenting relationship.

In sum, the best research currently available suggests that the quality of the parent-child relationship is more closely linked than parental conflict or the quality of the coparenting relationship to children's outcomes, with the exception of the most extreme forms of conflict to which some children are exposed. Conflict, coparenting, and the quality of the children's relationships with each parent are all connected to children's well-being. This is not an "either-or" issue that ignores the role that parental conflict or coparenting play in children's lives. Still, the data strongly support the idea that the quality of the parent-child relationship is the best predictor of future outcomes for the children. In other words, the role of conflict has too often been exaggerated and should not be the determining factor in child custody decisions or in regard to JPC arrangements except in those situations where the children need protection from an abusive or negligent parent. While continuing our efforts to reduce parent conflict and to improve the coparenting relationship, we should be equally—or perhaps even more—invested in helping both parents strengthen their relationships with their children and improve their parenting skills.

Given these findings, we can fine tune our "woozle alert" systems so we are less likely to be misled by data that have been cherry-picked, misrepresented, exaggerated, or only partially reported to support only one position on conflict, coparenting, and custody plans. With a more finely tuned alert system, we can better serve the interests of the millions of children whose parents are no longer living together.

## References

- Ackerman, M. (2006). *Clinicians' guide to child custody evaluations*. New York, NY: Wiley.
- Ackerman, M., & Pritzl, T. (2011). Child custody evaluation practices: A 20-year follow-up. *Family Court Review*, 49, 618–628. <http://dx.doi.org/10.1111/j.1744-1617.2011.01397.x>
- Ahrons, C. (1994). *The good divorce*. New York, NY: Harper Collins.
- Ahrons, C., & Tanner, J. L. (2003). Adult children and their fathers: Relationship changes 20 years after parental divorce. *Family Relations*, 52, 340–351. <http://dx.doi.org/10.1111/j.1741-3729.2003.00340.x>
- Amato, P., & Gilbreth, J. (1999). Nonresident fathers and children's well being: A meta-analysis. *Journal of Marriage and the Family*, 61, 557–573.
- Amato, P. R., Kane, J. B., & James, S. (2011). Reconsidering the "good divorce." *Family Relations*, 60, 511–524. <http://dx.doi.org/10.1111/j.1741-3729.2011.00666.x>
- Amato, P., & Rezac, S. (1994). Contact with nonresident parents, interparental conflict and children's behavior. *Journal of Family Issues*, 15, 191–207. <http://dx.doi.org/10.1177/0192513X94015002003>
- Barumandzadah, R., Martin-Lebrun, E., Barumandzadeh, T., & Poussin, G. (2016). The impact of parental conflict and the mitigating effect of joint custody after divorce or separation. *Journal of Divorce & Remarriage*, 57, 212–223. <http://dx.doi.org/10.1080/10502556.2016.1150150>
- Beck, M., Walsh, M., & Weston, R. (2009). Analysis of mediated agreements reporting specific types of intimate partner abuse. *Family Court Review*, 47, 401–415. <http://dx.doi.org/10.1111/j.1744-1617.2009.01264.x>
- Beckmeyer, J., Coleman, M., & Ganong, L. (2014). Postdivorce coparenting typologies and children's adjustment. *Family Relations*, 63, 526–537. <http://dx.doi.org/10.1111/fare.12086>
- Bernet, W., Wamboldt, M. Z., & Narrow, W. E. (2016). Child affected by parental relationship distress. *Journal of the American Academy of Child & Adolescent Psychiatry*, 55, 571–579. <http://dx.doi.org/10.1016/j.jaac.2016.04.018>
- Bersoff, D. (2013). APA's amicus briefs: Informing public policy through the courts. *American Psychological Association Monitor*, 44, 1–2.
- Bing, N., Nelson, W., III, & Wesolowski, K. (2009). Comparing the effects of amount of conflict on children's adjustment following divorce. *Journal of Divorce & Remarriage*, 50, 159–171. <http://dx.doi.org/10.1080/10502550902717699>
- Birnbaum, R., & Fidler, B. (2010). The emergence of parallel parenting orders. *Canadian Family Law Quarterly*, 48, 111–121.
- Bjarnason, T., & Arnarrson, A. (2011). Joint physical custody and communication with parents: A cross national study of children in 36 western countries. *Journal of Comparative Family Studies*, 42, 871–890.
- Braver, S. (2014). The costs and pitfalls of individualizing decisions and incentivizing conflict. *Family Court Review*, 44, 175–180. <http://dx.doi.org/10.1111/fcre.12079>
- Bronstein, P., Stoll, M., Clauson, J., Abrams, C., & Briones, M. (1994). Fathering after separation: Factors predicting children's adjustment. *Family Relations*, 43, 469–479. <http://dx.doi.org/10.2307/585380>
- Brotsky, M., Steinman, S., & Zimmelman, S. (1988). Joint custody through mediation. *Conciliation Courts Review*, 26, 53–58. <http://dx.doi.org/10.1111/j.174-1617.1988.tb01038.x>
- Buchanan, C., Maccoby, E., & Dornbusch, S. (1996). *Adolescents after divorce*. Cambridge, MA: Harvard University.
- Buehler, C., Anthony, C., Krishnamkumar, A., Stone, G., Gerard, J., & Pemberton, S. (1997). Inter-parental conflict and youth problem behaviors: A meta-analysis. *Journal of Child and Family Studies*, 6, 233–247. <http://dx.doi.org/10.1023/A:1025006909538>
- Cashmore, J., & Parkinson, P. (2010). *Shared care parenting arrangements since the 2006 family law reforms*. Sydney, New South Wales, Australia: University of New South Wales Social Research Centre.
- Cashmore, J., & Parkinson, P. (2011). Parenting arrangements for young children: Messages for research. *Australian Journal of Family Law*, 25, 236–257.
- Cashmore, J., & Parkinson, P. (2014). The use and abuse of social science research evidence in children's cases. *Psychology, Public Policy, and Law*, 20, 239–250. <http://dx.doi.org/10.1037/law0000010>
- Cashmore, J., Parkinson, P., & Taylor, A. (2008). Overnight stays and children's relationships with parents after divorce. *Journal of Family Issues*, 29, 707–733. <http://dx.doi.org/10.1177/0192513X07308042>
- Cohen, J. (1988). *Statistical power analysis for the behavioral sciences* (2nd ed.). Hillsdale, NJ: Erlbaum.
- Cowan, C., & Cowan, P. (1999). *When partners become parents*. New York, NY: Routledge.
- Cummings, M., & Davies, P. (2010). *Marital conflict and children*. New York, NY: Guilford Press.
- DiFonzo, H. (2014). From the rule of one to shared parenting: Custody presumptions in law and policy. *Family Court Review*, 52, 213–239. <http://dx.doi.org/10.1111/fcre.12086>
- Elam, K. K., Sandler, I., Wolchik, S., & Tein, J. Y. (2016). Non-residential father-child involvement, interparental conflict and mental health of

- children following divorce: A person-focused approach. *Journal of Youth and Adolescence*, 45, 581–593. <http://dx.doi.org/10.1007/s10964-015-0399-5>
- Emery, R. (2014). *Is joint custody best or worst for children?* Brisbane, Queensland, Australia: Relationships Australia Seminar Paper.
- Emery, R. (2016a, September 8). A divorce mediator answers: Can divorced parents just act like parents? *Washington Post*. Retrieved from <http://www.washingtonpost.com>
- Emery, R. (2016b). *Two homes, one childhood: A parenting plan to last a lifetime*. New York, NY: Avery.
- Emery, R., & Pruett, M. (2015, May 28). Lies, damn lies and statistics: Science, advocacy and heated family law controversies (Seminar taped recording). Association of Family and Conciliatory Courts conference, New Orleans, Louisiana.
- Fabricius, W. S. K., Diaz, P., & Braver, S. (2012). Parenting time, parent conflict, parent child relationships and children's physical health. In L. Drozd & K. Kuehnle (Eds.), *Parenting plan evaluations* (pp. 188–213). New York, NY: Oxford University Press. <http://dx.doi.org/10.1093/med:psych/9780199754021.003.0007>
- Fabricius, W., & Luecken, L. (2007). Postdivorce living arrangements, parent conflict and physical health for children of divorce. *Journal of Family Psychology*, 21, 195–205. <http://dx.doi.org/10.1037/0893-3200.21.2.195>
- Fabricius, W. V., & Suh, G. W. (2017). Should infants and toddlers have frequent overnight parenting time with fathers? The policy debate and new data. *Psychology, Public Policy, and Law*, 23, 68–84. <http://dx.doi.org/10.1037/law0000108>
- Fackrell, T., Hawkins, A., & Kay, N. (2011). How effective are court-affiliated divorcing parents education programs? A meta-analytic study. *Family Court Review*, 49, 107–119. <http://dx.doi.org/10.1111/j.1744-1617.2010.01356.x>
- Fauber, R., Forehand, R., Thomas, A. M., & Wierson, M. (1990). A mediational model of the impact of marital conflict on adolescent adjustment in intact and divorced families: The role of disrupted parenting. *Child Development*, 61, 1112–1123. <http://dx.doi.org/10.2307/1130879>
- Ferguson, C. (2009). An effect size primer: A guide for clinicians and researchers. *Professional Psychology, Research and Practice*, 40, 532–538.
- Frank, H. (2007). Young adults' relationship with parents and siblings. *Journal of Divorce & Remarriage*, 46, 105–124. [http://dx.doi.org/10.1300/J087v46n03\\_07](http://dx.doi.org/10.1300/J087v46n03_07)
- Friedman, M. (2004). The so called high conflict couple: A closer look. *American Journal of Family Therapy*, 32, 101–117. <http://dx.doi.org/10.1080/01926180490424217>
- Garrity, C., & Baris, M. (1997). *Caught in the middle: Protecting children of high conflict divorce*. New York, NY: Jossey-Bass.
- Goodman, M., Bonds, D., Sandler, I., & Braver, S. (2004). Parent psychoeducational programs and reducing the negative effects of interparental conflict following divorce. *Family Court Review*, 42, 263–279. <http://dx.doi.org/10.1177/1531244504422007>
- Gunnoe, M. L., & Braver, S. L. (2001). The effects of joint legal custody on mothers, fathers, and children controlling for factors that predispose a sole maternal versus joint legal award. *Law and Human Behavior*, 25, 25–43. <http://dx.doi.org/10.1023/A:1005687825155>
- Hardesty, J. L., Crossman, K. A., Haselschwerdt, M. L., Raffaelli, M., Ogolsky, B. G., & Johnson, M. P. (2015). Toward a standard approach to operationalizing coercive control and classifying violence types. *Journal of Marriage and Family*, 77, 833–843. <http://dx.doi.org/10.1111/jomf.12201>
- Hetherington, E. M. (1989). Coping with family transitions: Winners, losers, and survivors. *Child Development*, 60, 1–14. <http://dx.doi.org/10.2307/1131066>
- Hetherington, M., & Kelly, J. (2002). *For better or worse: Divorce reconsidered*. New York, NY: Norton.
- Hodges, R. (1991). *Interventions for children of divorce* (2nd ed.). New York, NY: Wiley and Sons.
- Hynan, D. (2015). *Child custody evaluations: New theoretical approaches and research*. Springfield, IL: Charles Thomas.
- Irving, H., & Benjamin, M. (1991). Shared and sole custody parents. In J. Folberg (Ed.), *Joint custody and shared parenting* (pp. 114–132). New York, NY: Guilford Press.
- Jaffe, P. (2014). A presumption against shared parenting for family court litigants. *Family Court Review*, 52, 187–192. <http://dx.doi.org/10.1111/fcre.12081>
- Johnston, J. (1995). Research update: Children's adjustment in sole custody compared to joint custody family and principles for custody decision making. *Family & Conciliation Courts Review*, 33, 415–425. <http://dx.doi.org/10.1111/j.174-1617.1995.tb00386.x>
- Johnston, J. (2007). Introducing perspectives in family law and social science research. *Family Court Review*, 45, 15–21. <http://dx.doi.org/10.1111/j.1744-1617.2007.00125.x>
- Johnston, J., & Campbell, L. (1988). *Impasses of divorce: Dynamics and resolution of family conflict*. New York, NY: Free Press.
- Johnston, J. R., Kline, M., & Tschann, J. M. (1989). Ongoing postdivorce conflict: Effects on children of joint custody and frequent access. *American Journal of Orthopsychiatry*, 59, 576–592. <http://dx.doi.org/10.1111/j.1939-0025.1989.tb02748.x>
- Juby, J., Burdais, C., & Gratton, N. (2005). Sharing roles, sharing custody? Couples' characteristics and children's living arrangements at separation. *Journal of Marriage and Family*, 67, 157–172. <http://dx.doi.org/10.1111/j.0022-2445.2005.00012.x>
- Kaspiew, R., Gray, M., Weston, R., Moloney, L., Hand, K., & Qu, L. (2009). *Evaluation of 2006 family law reforms in Australia*. Melbourne, Victoria, Australia: Australian Institute of Family Studies.
- Kelly, J. (2014). Paternal involvement and child and adolescent adjustment after separation and divorce: Current research and implications for policy and practice. *International Family Law. Policy & Practice*, 21, 5–23.
- Kelly, J., & Johnson, J. (2008). Differentiation among types of intimate partner violence: Research update. *Family Court Review*, 46, 476–499. <http://dx.doi.org/10.1111/j.1744-1617.2008.00215.x>
- Kerns, S., & Prinz, R. (2016). Coparenting children with attention deficit disorders and disruptive behavior disorders. In L. Drozd, M. Saini, & N. Olesen (Eds.), *Parenting plan evaluations: Applied research for the family court* (pp. 243–276). New York, NY: Oxford University Press. <http://dx.doi.org/10.1093/med:psych/9780199396580.003.0009>
- King, V., & Heard, H. (1999). Nonresident father visitation, parental conflict and mother's satisfaction: What's best for child well-being? *Journal of Marriage and the Family*, 61, 385–396. <http://dx.doi.org/10.2307/353756>
- Kim, W. (2012). Judith Wallerstein dies at 90. *Los Angeles Times*.
- Kline, M., Tschann, J., Johnston, J., & Wallerstein, J. (1989). Children's adjustment in joint and sole physical custody families. *Developmental Psychology*, 25, 430–438. <http://dx.doi.org/10.1037/0012-1649.25.3.430>
- Krishnakumar, A., & Buehler, C. (2000). Interparental conflict and parenting behaviors: A meta-analytic review. *Family Relations*, 49, 25–44. <http://dx.doi.org/10.1111/j.1741-3729.2000.00025.x>
- Läftman, S. B., Bergström, M., Modin, B., & Östberg, V. (2014). Joint physical custody, turning to parents for emotional support, and subjective health: A study of adolescents in Stockholm, Sweden. *Scandinavian Journal of Public Health*, 42, 456–462. <http://dx.doi.org/10.1177/1403494814526798>
- Lamb, M. (2014). Dangers associated with the avoidance of evidence based practice. *Family Court Review*, 52, 193–197. <http://dx.doi.org/10.1111/fcre.12082>
- Lamb, M. (2016). Critical analysis of research on parenting plans and



- children's well-being. In L. Drozd, M. Saini, & N. Olesen (Eds.), *Parenting plan evaluations: Applied research for the family court* (pp. 170–202). New York, NY: Oxford University Press. <http://dx.doi.org/10.1093/med:psych/9780199396580.003.0007>
- Lamb, M., Sternberg, K., & Thompson, R. (1997). The effects of divorce and custody arrangements on children's behavior. *Family & Conciliation Courts Review*, 35, 393–404. <http://dx.doi.org/10.1111/fj.174-1617.1997.tb00482.x>
- Lee, M. (2002). A model of children's postdivorce behavioral adjustment in maternal- and dual-residence arrangements. *Journal of Family Issues*, 23, 671–687. <http://dx.doi.org/10.1177/0192513X02023005005>
- Lodge, J., & Alexander, M. (2010). *Views of adolescents in separated families*. Sydney, Australia: Australian Institute of Family Studies.
- Ludolph, P., & Dale, M. (2012). Attachment in child custody: An additive factor, not a determinative one. *Family Law Quarterly*, 46, 225–245.
- Luepnitz, D. (1986). A comparison of maternal, paternal and joint custody. *Journal of Divorce*, 9, 1–12. [http://dx.doi.org/10.1300/J279v09n03\\_01](http://dx.doi.org/10.1300/J279v09n03_01)
- Maccoby, E., & Mnookin, R. (1992). *Dividing the child*. Cambridge, MA: Harvard University Press.
- Maher, N., Sandler, I., Wolchik, S., Winslow, E., Moran, J., & Weinstock, D. (2016). How do parenting time and inter parental conflict affect the relations of quality of parenting and child well-being following divorce? In L. Drozd, M. Saini, & N. Olesen (Eds.), *Parenting plan evaluations: Applied research for the family court* (pp. 63–73). New York, NY: Oxford University Press. <http://dx.doi.org/10.1093/med:psych/9780199396580.003.0003>
- Markham, M., & Coleman, M. (2012). The good, the bad and the ugly: Divorced mothers experiences with coparenting. *Family Relations*, 61, 586–600. <http://dx.doi.org/10.1111/fj.1741-3729.2012.00718.x>
- McIntosh, J. (2015). *A child's best interests within parental conflict*. Singapore: Family Justice Practice Forum.
- McIntosh, J., & Smyth, B. (2012). Shared time parenting: A matrix for evaluating risk. In K. Kuehne & L. Drozd (Eds.), *Parenting plan evaluations: Research for the family court* (pp. 154–187). New York, NY: Oxford University Press. <http://dx.doi.org/10.1093/med:psych/9780199754021.003.0006>
- McIntosh, J., Smyth, B., & Kelaher, M. (2013). Overnight care patterns following parental separation: Associations with emotion regulation in infants and young children. *Journal of Family Studies*, 19, 224–239.
- McIntosh, J., Smyth, B., & Kelaher, M. (2015). Responding to concerns about a study of infant overnight care postseparation, with comments on consensus: Reply to Warshak. *Psychology, Public Policy, and Law*, 21, 111–119. <http://dx.doi.org/10.1037/h0101018>
- McIntosh, J., Smyth, B., Kelaher, M., & Wells, Y. (2010). *Post separation parenting arrangements: Outcomes for infants and children*. Sydney, New South Wales, Australia: Attorney General's Office.
- Melli, M., & Brown, P. (2008). Exploring a new family form- the shared time family. *International Journal of Law, Policy and the Family*, 22, 231–269. <http://dx.doi.org/10.1093/lawfam/ebn002>
- Meyer, G. J., Finn, S. E., Eyde, L. D., Kay, G. G., Moreland, K. L., Dies, R. R., . . . Reed, G. M. (2001). Psychological testing and psychological assessment. A review of evidence and issues. *American Psychologist*, 56, 128–165. <http://dx.doi.org/10.1037/0003-066X.56.2.128>
- Modecki, K., Hagan, M., Sandler, I., & Wolchik, S. (2015). Latent profiles of nonresidential father engagement six years after divorce predict long-term offspring outcomes. *Journal of Clinical Child and Adolescent Psychology*, 44, 123–136. <http://dx.doi.org/10.1080/15374416.2013.865193>
- Nielsen, L. (2011). Divorced fathers and their daughters: A review of recent research. *Journal of Divorce & Remarriage*, 52, 77–93. <http://dx.doi.org/10.1080/10502556.2011.546222>
- Nielsen, L. (2013a). Shared residential custody: A recent research review (part 1). *American Journal of Family Law*, 27, 61–72.
- Nielsen, L. (2013b). Shared residential custody: A recent research review (part 2). *American Journal of Family Law*, 27, 123–137.
- Nielsen, L. (2014a). Woozles: Their role in custody law reform, parenting plans and family court. *Psychology, Public Policy, and Law*, 20, 164–180. <http://dx.doi.org/10.1037/law0000004>
- Nielsen, L. (2014b). Parenting plans for infants, toddlers and preschoolers. *Journal of Divorce and Remarriage*, 55, 315–333.
- Nielsen, L. (2014c). Shared physical custody: Summary of 40 studies on outcomes for children. *Journal of Divorce & Remarriage*, 55, 613–635. <http://dx.doi.org/10.1080/10502556.2014.965578>
- Nielsen, L. (2015a). Pop goes the woozle: Being misled by data related to child custody and parenting plans. *Journal of Divorce & Remarriage*, 56, 595–633. <http://dx.doi.org/10.1080/10502556.2015.1092349>
- Nielsen, L. (2015b). Shared physical custody: Does it benefit children? *Journal of the American Academy of Matrimonial Lawyers*, 28, 79–139.
- Pearson, J., & Thoennes, N. (1990). Custody after divorce: Demographic and attitudinal patterns. *American Journal of Orthopsychiatry*, 66, 233–249. <http://dx.doi.org/10.1037/h0079166>
- Pruett, M., & DiFonzo, H. (2014). Closing the gap: Research, policy, practice and shared parenting. *Family Court Review*, 52, 152–174. <http://dx.doi.org/10.1111/fcre.12078>
- Pruett, M., Ehling, R., & Insabella, G. (2004). Critical aspects of parenting plans for young children. *Family Court Review*, 42, 39–59. <http://dx.doi.org/10.1177/15312445040421004>
- Pruett, M. K., Williams, T. Y., Insabella, G., & Little, T. D. (2003). Family and legal indicators of child adjustment to divorce among families with young children. *Journal of Family Psychology*, 17, 169–180. <http://dx.doi.org/10.1037/0893-3200.17.2.169>
- Putz, J., Ballard, R., Arany, J., Applegate, A., & Holtzworth-Munroe, A. (2012). Comparing the mediation agreements of families with and without a history of intimate partner violence. *Family Court Review*, 50, 413–428. <http://dx.doi.org/10.1111/fj.1744-1617.2012.01457.x>
- Ramsey, S., & Kelly, R. (2006). Assessing social science studies: Eleven tips for judges and lawyers. *Family Law Quarterly*, 40, 367–380.
- Rhoades, K. A. (2008). Children's responses to interparental conflict: A meta-analysis of their associations with child adjustment. *Child Development*, 79, 1942–1956. <http://dx.doi.org/10.1111/j.1467-8624.2008.01235.x>
- Rossi, F., Holtzworth-Munroe, A., & Rudd, B. (2016). Intimate partner violence and child custody. In L. Drozd, M. Saini, & N. Olesen (Eds.), *Parenting plan evaluations: Applied research for the family court* (pp. 346–373). New York, NY: Oxford University Press. <http://dx.doi.org/10.1093/med:psych/9780199396580.003.0012>
- Sales, B. (1995). Editorial. *Psychology, Public Policy, and Law*, 1, 243–245. <http://dx.doi.org/10.1037/h0092729>
- Sandler, I., Miles, J., Cookston, J., & Braver, S. (2008). Effects of mother and father parenting on children's mental health in high and low conflict divorces. *Family Court Review*, 46, 282–296. <http://dx.doi.org/10.1111/j.1744-1617.2008.00201.x>
- Sandler, I. N., Wheeler, L. A., & Braver, S. L. (2013). Relations of parenting quality, interparental conflict, and overnights with mental health problems of children in divorcing families with high legal conflict. *Journal of Family Psychology*, 27, 915–924. <http://dx.doi.org/10.1037/a0034449>
- Schrodt, P., & Ledbetter, A. (2012). Parental confirmation as a mitigator of feeling caught and family satisfaction. *Personal Relationships*, 19, 146–161. <http://dx.doi.org/10.1111/j.1475-6811.2010.01345.x>
- Shaffer, M. (2007). Joint custody, parental conflict and children's adjustment to divorce. *Canadian Family Law Quarterly*, 26, 285–314.
- Shiller, V. M. (1986). Joint versus maternal custody for families with latency age boys: Parent characteristics and child adjustment. *American Journal of Orthopsychiatry*, 56, 486–489. <http://dx.doi.org/10.1111/j.1939-0025.1986.tb03481.x>

- Shimkowski, J., & Schrodt, P. (2012). Coparental communication as a mediator of conflict and young adult children's mental well-being. *Communication Monographs*, 79, 48–71. <http://dx.doi.org/10.1080/03637751.2011.646492>
- Sigal, A., Sandler, I., Wolchik, S., & Braver, S. (2011). Do parent education programs promote healthy post-divorce parenting? Critical distinctions and a review of the evidence. *Family Court Review*, 49, 120–139. <http://dx.doi.org/10.1111/j.1744-1617.2010.01357.x>
- Smyth, B., McIntosh, J., Emery, R., & Howarth, S. (2016). Shared time parenting: Evaluating the evidence of risks and benefits for children. In L. Drozd, M. Saini, & J. Olesen (Eds.), *Parenting plan evaluations: Applied research for the family court* (pp. 118–169). New York, NY: Oxford University Press. <http://dx.doi.org/10.1093/med:psych/9780199396580.003.0006>
- Sobolewski, J., & King, V. (2005). The importance of the coparental relationship for nonresident fathers' ties to children. *Journal of Marriage and Family*, 67, 1196–1212. <http://dx.doi.org/10.1111/j.1741-3737.2005.00210.x>
- Sodermans, A., Matthijs, K., & Swicegood, G. (2013). Characteristics of joint physical custody families in Flanders. *Demographic Research*, 28, 821–848. <http://dx.doi.org/10.4054/DemRes.2013.28.29>
- Spruijt, E., & Duindam, V. (2010). Joint physical custody in the Netherlands and the well being of children. *Journal of Divorce & Remarriage*, 51, 65–82. <http://dx.doi.org/10.1080/10502550903423362>
- Stahl, P. (1999). *Complex issues in child custody evaluations*. London, UK: Sage.
- Steinman, S. (1981). The experience of children in a joint-custody arrangement: A report of a study. *American Journal of Orthopsychiatry*, 51, 403–414. <http://dx.doi.org/10.1111/j.1939-0025.1981.tb01389.x>
- Trenneff, C. (2014). *Old and new solutions in high conflict custody cases*. Southampton, Bermuda: American Bar Association.
- Turunen, J. (2014). *Shared physical custody and children's experience of stress*. Stockholm, Sweden: Stockholm University Demography Unit.
- Wallerstein, J., Lewis, J., & Blakeslee, S. (2000). *The unexpected legacy of divorce: The 25 year landmark study*. New York, NY: Hyperion.
- Warshak, R. A. (2003). Amici Curiae on behalf of LaMusga children. *Marriage of LaMusga*, 88, p.3d81. Available at <http://www.warshak.com>
- Warshak, R. (2014). Social science and parenting plans for young children: With the endorsement of the researchers and practitioners listed in the Appendix. *Psychology, Public Policy, and Law*, 20, 46–67. <http://dx.doi.org/10.1037/law0000005>
- Wolman, R., & Taylor, K. (1991). Psychological effects of custody disputes on children. *Behavioral Sciences & the Law*, 9, 399–417. <http://dx.doi.org/10.1002/bsl.2370090405>

Received July 9, 2016

Revision received October 17, 2016

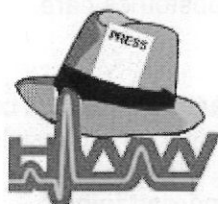
Accepted October 19, 2016 ■

### E-Mail Notification of Your Latest Issue Online!

Would you like to know when the next issue of your favorite APA journal will be available online? This service is now available to you. Sign up at <https://my.apa.org/portal/alerts/> and you will be notified by e-mail when issues of interest to you become available!







# REPORTER

February 27, 2012

Birth Cost Recovery and the Infant Mortality Puzzle

## In This Issue

Is Birth Cost Recovery a  
"Missing Piece" of the  
Infant Mortality Puzzle?

Background

Policy

Open Questions and Need  
for Further Research

How YOU Can Help!

---

*ABC for Health, in partnership with HealthWatch Wisconsin, a membership organization that focuses work on maximizing access to care and coverage for the people of Wisconsin, has developed "The HealthWatch Wisconsin Reporter."*

*This special edition newsletter tackles the big issues, providing in-depth analysis and insight into complex public health and health coverage questions.*

---

## Special Report, Analysis & Commentary:

*You are receiving this Special Edition Newsletter as a benefit of being a subscriber to the HealthWatch Wisconsin Update Newsletter. Thank you!*

### Is Birth Cost Recovery a "Missing Piece" of the Infant Mortality Puzzle?

Infant mortality rates among black infants have remained stubbornly elevated in Wisconsin. Researchers have devoted time and expense to identify and explain factors causing increased deaths for babies in select cities, of select race. Initial findings suggest that black infants in Wisconsin are twice as likely to die as white infants in the first year of life, among the worst rates in the nation. Stress, poverty, and environmental factors play a key role in these poor health outcomes.

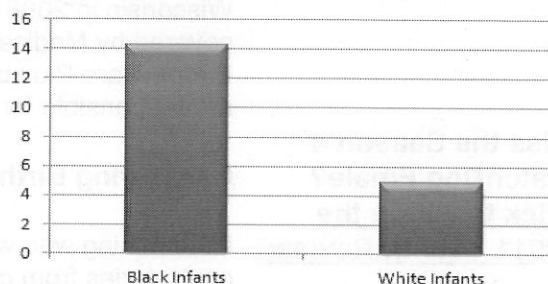
This HealthWatch Reporter examines another possible aspect of infant mortality: Wisconsin's practice of "birth cost recovery," specific to low-income, unmarried families on Medicaid. Wisconsin is one of only a handful of states that prosecutes unmarried fathers to collect birthing costs. Fathers face multiple consequences which could include garnished wages, tax intercepts or perhaps may even include jail time.

Pregnant women that apply for Medicaid must identify the father of their babies or face possible sanctions that include losing health care coverage after the baby is born. In short, women are required to "cooperate" with child support officials. There is a process for women to opt out of requirements to identify fathers called "Good Cause."

However, this process is poorly understood and rarely used in Wisconsin, as we discuss later. Therefore, some women simply fail to begin the BadgerCare or



**WI 2009 Infant Mortality Rate  
(deaths/1,000 live births)**



## JOIN US...

### ...in uniting the Public Health Workforce through comprehensive education and advocacy

Become a member or subscriber of HealthWatch Wisconsin! Team up with an impressive effort in Wisconsin that champions education and the accurate dissemination of health coverage information and the accessibility of health coverage for all people in Wisconsin. Let HealthWatch help you amplify your voice! The membership and subscription year begins July 1 of each year, but individuals or organizations may join at any time! [Click here](#) to complete an application. Thank you!

**Miss the Season 4 WatchDog Finale?**  
[Click to watch the "2011 Year in Review"](#)

[Click here to watch the 2012 Season Premiere of the HealthWatch WatchDog!](#)

Medicaid application to avoid the whole conversation about the father's identity—and hospital-based advocates have told ABC for Health that some full-term women have presented at the emergency room, uninsured, with no prenatal or obstetrics care. The health and safety of the infant is at stake.

Collection of birth costs is now rising after falling off for several years as the result of a combination of a Wisconsin circuit court decision and a decision about Wisconsin's program made by the federal Office of Child Support Enforcement. Wisconsin counties collected over \$18 million dollars last year alone from unmarried fathers--the most in the nation. Counties collect this "child support" money from fathers and process these funds through the state or federal government. Child support agencies take a 15% cut as an incentive to conduct this practice. Now that Wisconsin's new budget cuts state allocations to county offices of child support enforcement in half, ABC for Health is concerned that local offices may seek to recoup lost revenue by becoming more aggressive in their pursuit of birth cost recoveries.

## Background

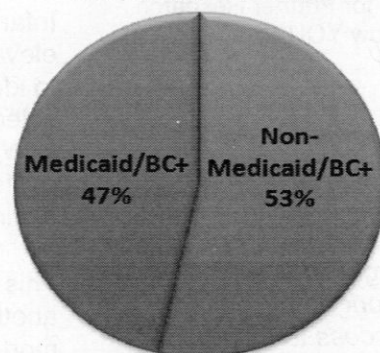
### Defining "Birth Cost Recovery"

Medicaid uses the term "birth cost" (or "lying-in cost") to describe a pregnant woman's medical bills and expenses associated with a pregnancy and baby's birth. Medicaid requires identified fathers to pay these expenses for unmarried women enrolled in Medicaid programs. Medicaid does not require the fathers of married women on Medicaid to pay any birth costs, although local offices and circuit courts do have the discretion to charge a father unmarried at the time of birth even if the father and mother get married later. Information currently available indicates that there were 68,904 deliveries in Wisconsin in 2008 and that 32,082 of those were covered by Medicaid or BadgerCare Plus. 21,594 (67%) of the Medicaid or BadgerCare Plus births were to unmarried women. County child support agencies are responsible for collecting this money from fathers.

### Calculating Birth Cost:

Determining who will pay and what they pay for birth costs varies from county to county. Wisconsin and federal statutes specify the *maximum* amount of birth cost which may be collected from the unmarried father. Federal law limits recovery of birth costs to the amount Medicaid paid for the cost of pregnancy and delivery.

WI Deliveries 2008



WI Medicaid/BC+ Covered Deliveries 2008



## **Miss the Annual Conference?**

Madison was the place to be this spring! As a Presidential primary approaches and "recall fever" is in the air, we gathered elected officials, candidates, experts and more to discuss our featured topic "Waive Goodbye to Medicaid? *Not if we can help it!*"

There's still time to hear the perspectives on the future of health coverage in Wisconsin!

**Contact HealthWatch Wisconsin to get a copy of the Conference CD today!**

The actual amount charged depends on several factors:

- Whether the delivery is uncomplicated, is a cesarean section, or has other complications;
- Whether the mother is a member of a Medicaid/BC+ Health Maintenance Organization (HMO);
- Whether the county includes charges for infants who require neo-natal care;
- Whether other insurance pays all or part of the pregnancy and birth expenses; and
- The father's income.

County child support agencies can provide more information specific to their agency's policies regarding the collection of birth costs. Documentation from the Wisconsin Department of Children and Families notes that child support agencies must ask the court to set the *lower* amount of the following:

1. Approximately five percent of the father's monthly income over a 36-month period
2. Half the regional average amount for birth costs
3. Half the actual birth costs up to the full regional average amount

If either the mother or father had private insurance which covered some of the birth costs, the birth cost amount charged to the father should be reduced by the amount paid by insurance, but the parent with the insurance must show proof of payment.

## **Not Cooperating:**

Birth cost recovery issues may cause pregnant women to be reluctant to apply for Medicaid or BadgerCare Plus. If the mother fails to cooperate in establishing paternity for her child, she will not be eligible for other Medicaid or BadgerCare programs after the child is born. (Note: this will not affect continuing or future coverage for her child.) Exceptions to this policy called "Good Cause" exist, but are not well known and are rarely used in Wisconsin. See more under "Policy" below.

## **Exceptions to Paying Birth Costs**

According to current Child Support Bureau policy, an unmarried father **might** not have to repay birth costs if: the couple previously had another child together; and the couple informed the Medicaid agency that the father was living in the home before the new baby was born. Finally, and most importantly, if there is a good cause reason for not cooperating, the mother does not have to disclose the name of the father. A mother afraid that she or her children may be harmed physically or emotionally by a baby's father as a result of birth cost recovery should talk to her economic support worker about a "Good Cause Claim" exemption form. A woman who qualifies for a "good cause exemption" will continue to receive benefits as long as she is otherwise financially eligible.



## Share your BadgerCare and Medicaid Story:

In Wisconsin, about 1.2 million people rely on BadgerCare and Medicaid programs to provide essential, affordable, and effective health care services. And the impact of these programs reaches thousands more--our friends, neighbors, grandparents, colleagues, and health care providers large and small in every county of Wisconsin. Tell your BadgerCare or Medicaid Story! Why is BadgerCare or Medicaid important to you and your family? What would happen if BadgerCare or Medicaid ended? [CLICK HERE](#) to complete a story form!

## HealthWatch Public Hearings: The Human Impact of Medicaid/ BadgerCare Cuts in Wisconsin

HealthWatch Wisconsin has posted the complete video footage of public testimony on the impact of proposed BadgerCare+ and Medicaid cuts that will affect 1.2 million Wisconsinites covered by these programs. Please [CLICK HERE](#) to view these HealthWatch Wisconsin public hearings.

## Policy

### A. Concerns Regarding the Policy

Birth cost recovery policies have multiple implications for the health and well-being of low-income families and pregnant women. We address three significant concerns. First of all, Wisconsin birth cost recovery policies may discourage unmarried pregnant mothers from getting timely prenatal care services. For example, a pregnant woman may have concerns that identification of the father could lead to possible physical/emotional harm. Some fathers may be very involved with the pregnant mother but may feel burdened if they face significant financial obligations from the state. Other times after identification to child support, fathers may decrease emotional and financial support to her and her unborn child. Consequently, after years of this policy in Wisconsin and thousands of sanctions imposed, community level responses from fathers cause certain pregnant women to delay BC+ applications.

A pregnant woman cannot be denied BadgerCare Plus services for non-cooperation while pregnant but her services will end sixty days after the birth of the child. Notices sent to pregnant women requiring them to cooperate with Child Support Enforcement typically do not inform these women that they cannot lose their coverage while they are still pregnant. Moreover women may not realize that sanctions must be removed during a subsequent pregnancy. Poor birth outcomes such as prematurity are higher for women that experience these complications during previous pregnancies, and access to adequate health care services becomes even more important. Therefore we recommend eliminating these birth cost recovery policies in Wisconsin in order to promote better birth outcomes for low income and high risk women.

Secondly, birth cost recovery policy takes money away from high risk and needy low-income families. Studies consistently link poverty and rates of prematurity as well as rates of infant mortality. The presumed goal of child support is to ensure that an unmarried father financially support the mother and child. However, how does birth cost debt owed to the state constitute "child support," since these funds do not directly support the child but rather pay off a state debt? Even more shocking are situations where the unmarried father and mother are living together and sharing finances. Here, birth cost recovery policy directly removes money from the household of the mother, essentially violating federal law which guarantees the entitlement for the mother. This is especially true if the father is unemployed or has very low income but is still required to make payments according to what the state considers his potential earnings.

Finally, why are child support agencies allowed to keep a portion of recovered birth costs in this era of budget cuts? In the 2011-2013 Biennial Budget, Governor Walker maintained funding to child support agencies at \$4.25 million of general purpose revenue per year, which is matched with federal funds, and leads to a total of \$12.5 million in funds disbursed per year. However, due to recent changes in percentage of federal matching funds, the total amount disbursed this year is much lower than previous disbursements. Child support agencies have reported that these reductions in funding will result in staff cut-backs and decreased child support collections. A reduction in general child support collections would negatively impact low-income

## We're on Facebook and Twitter!

Stay up to date by liking [ABC for Health](#) and [HealthWatch Wisconsin](#) on Facebook and following [@ABCforHealth](#) and [@HealthWatchWI](#) on Twitter!

## Miss a Newsletter?

[Read the Reporter Online](#)

[Visit our HealthWatch "Update" Library](#)

[Watch Archived Videos of the HealthWatch WatchDog](#)

[Read the BadgerCare+ Bulletin](#)

[Read our Latest Press Releases](#)

[See Available Publications](#)

mothers and children living apart from fathers. However, because Wisconsin's birth cost recovery policy allows counties to keep 15% of any birth cost collections for their own use, we believe certain counties will step up their birth cost recovery efforts to make up for state/federal funding short-falls.

## B. The Practically Non-Existent "Good Cause Exemption"

When an unmarried pregnant woman applies for BadgerCare Plus services, she is asked to identify the father of the child. This information gets forwarded to county child support enforcement agencies who can then contact the father for birth cost payment as well as other child support obligations. Per Wisconsin policy, she cannot be denied enrollment in BadgerCare Plus while she is pregnant if she refuses to identify the father, but she can be sanctioned for non-cooperation after the pregnancy and can be removed from the rolls of BadgerCare Plus at that time. (She will also not be eligible for other forms of public assistance such as Wisconsin Shares, SSI Caretaker Supplement, or W-2 benefits.)

If she refuses to identify the father because she is concerned this may lead to violence towards herself or her children, she can apply for a good cause exemption. Women who have received good cause exemptions are not sanctioned for non-cooperation and continue to receive public assistance benefits for which they qualify financially. Initial determination about Good Cause Claims is made by the Economic Support Specialist who is managing the pregnant woman's application. While any particular Economic Support Worker may have a background that makes him or her well-qualified for this task, publicly available position descriptions do not highlight any specific requirements that would match what you might expect for such a decision-making position. Based on the Annual Report to Congress made by the US Department of Health and Human Services, Administration for Children and Families (Office of Child Support Enforcement) in all of 2009, **only 20 good cause exemptions were granted in the State of Wisconsin**. Conversely, during that same year, **over 572 women were sanctioned** for non-cooperation with Child Support and prohibited from using health coverage. In 2011, **records show** only 44 good cause *applications* were submitted for the entire state (and only 5 good cause requests were made for Milwaukee). Data on the number of requests honored by the State in 2011 are not yet available.

## C. Significant Financial Recoveries

By definition pregnant women that qualify for Medicaid have limited financial resources. Often times, fathers can also have limited financial means. We analyzed data from the Wisconsin Legislative Fiscal Bureau and the Wisconsin Department of Children and Families and identified that birth cost recovery funds collected from low-income families totaled from \$17 million to \$23 million per year over the past five years.

In addition, the total amount of birth costs recovered from low-income families statewide from 2006 through 2010 was \$99.1 million. We know that counties keep 15% of collections to use at their own discretion. Thus birth cost recovery from some of the poorest people in Wisconsin generated \$14.8 million for county GPR from 2006-2010.

**Contributors & Editors to this HealthWatch Reporter include:**

- Dr. Meghan Pesko
- Mike Rust
- Erin McBride
- Brynne McBride
- Bobby Peterson
- Adam VanSpankeren

**ABC for Health, Inc.** is a Wisconsin-based, nonprofit public interest law firm dedicated to linking children and families, particularly those with special health care needs, to health care benefits and services. ABC for Health's mission is to provide information, advocacy tools, legal services, and expert support needed to obtain, maintain, and finance health care coverage and services.



(608)261-6939

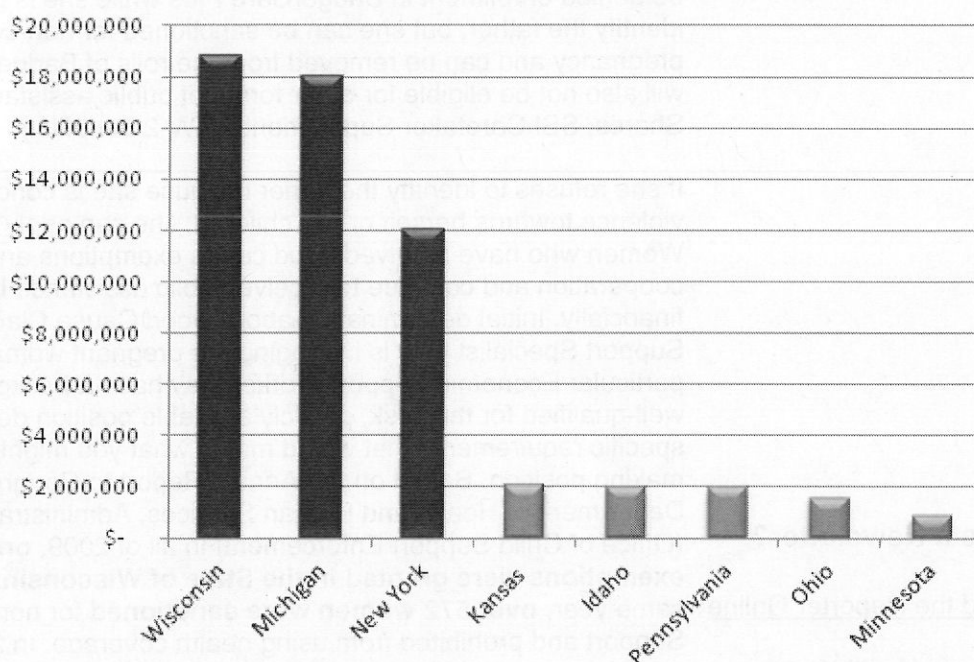
[info@safetyweb.org](mailto:info@safetyweb.org)

ABC for Health, Inc.  
32 N. Bassett St.  
Madison, WI 53703-2606 USA

The US Federal Office of Child Support Enforcement identified Wisconsin as a dubious national leader in birth cost collection efforts. The vast majority of states do not collect birth cost. In fact, only Wisconsin and nine other states continue the practice of birth cost recovery.

The following graphic depicts the amounts collected in 2010 by eight of these states (Hawaii, which practices BCR but doesn't report the amount collected, is excluded):

**BCR Collection by State in 2009 or 2010**  
(NCCSD 2010 Survey)



As noted above, Wisconsin, Michigan, and New York are easily the most aggressive states in birth cost recovery collections.

### Open Questions and Need for Further Research

We continue to research how counties approach birth cost recovery collections. Do some counties approach collection efforts more aggressively than others? Do collection activities correlate to infant mortality rates? What is the impact of BCR policy on rates of incarceration of non-custodial parents for non-payment of child support? What are the reports from mothers, fathers, and families who have struggled to negotiate through the ins and outs of this policy?



November 5, 2018

Margit Kelley & Rachel Letzing  
Legislative Council  
Study Committee on Child Placement and Support  
1 E. Main St., Suite 401  
Madison, WI 53703

Dear Ms. Kelley & Ms. Letzing:

I write you today with a request to review the current child support payment laws. I recently contacted Rep. Stuck's office with a concern about how the payments are calculated. I ask for your assistance in this matter.

I am currently in the process of a divorce. As unfortunate as the divorce is, my wife and I have a 13-year-old daughter. We have been married for 23 years. I have been a career firefighter for about 28 years. I recently left the fire department to take a full-time teaching position at Fox Valley Technical College in the Fire Protection program. My wife is a nurse at a hospital in Chilton and earns approximately \$10,000-15,000 more per year than I do.

Based upon the current law, I would be responsible to pay 17% of my annual gross income. Although I have not been employed with FVTC for the entire year, basing my gross salary on the current wage puts me at \$73,872. The 17% amount equates to \$12,558 per year, or approximately \$1050 per month. This amount surpasses the current house mortgage I'm still paying for. I am paid twice per month. Each paycheck is \$3,078 (gross). I have approximately 38% of the gross taken out for taxes, insurance, WRS, as well as other deductions. The net pay is \$1909 per paycheck. It is at this time that the 17% of my gross would be removed for child support. In looking at the monthly net payment of \$3818, it is reduced to \$2768 after the child support payment. I am responsible for the following bills/payments from this remaining amount:

- Mortgage for cottage (which is my residence 4 nights per week): \$570
- Mortgage for the home: \$850
- School loan for master's degree: \$106
- Electric and gas bill for cottage home: \$95
- Internet/cable bill: \$150
- Cell phone bill: \$140 (which includes a phone for my daughter)
- Approximate gasoline: \$300
- Approximate grocery bill: \$250
- Credit card payments: \$500
- Approximate remaining amount: \$148

This doesn't account for other items such as smaller charge account payments such as Home Depot, Menards, etc. Nor does it include insurance deductibles I have to pay which total around \$3700

annually for the three of us. This will be consumed quickly from my pocket as I am also a Type 1 diabetic with an insulin pump.

In the end, the 17% allowed under State law actually becomes 27% of my net pay. It is unknown if I will have to continue to pay the mortgage for the home my wife and daughter will continue to live in. If I don't that will free some money up for me. But if it doesn't, I will not even be able to afford an apartment locally while I am in town working during the week.

Although these figures aren't inclusive, they list the major items and clearly show the financial impact I will have to endure. It also clearly shows that my quality of life will be greatly diminished. This is a difficult situation to adjust to, especially knowing that my wife does make a higher total annual wage.

I am not looking to avoid my responsibility to my daughter. I love her dearly. But I am looking to have fairness applied to this process. Not only for me, but for all who share in a similar situation. If 17% is the number, it should at least be based off of the net pay, rather than gross. Again, this would be the fair approach to take.

I also request my letter be shared with all members of the Child Placement and Support Committee.

I am more than willing to provide testimony to support the need for changes in how the support payments are calculated. Please feel free to contact me with any questions. I can be reached via the following methods:

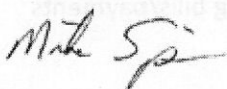
Cell: (920) 209-9507

Email: [sipinf300@gmail.com](mailto:sipinf300@gmail.com)

I wish to extend my deep thanks for the efforts your committee is taking to try to bring positive change to a process that does not include fairness.

I look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Sipin". The signature is fluid and cursive, with the first name "Mike" and last name "Sipin" clearly distinguishable.

Mike Sipin

Almost half of the children in the U.S. are deprived of the lifelong benefits of two parents who share the parenting throughout the first 18 years of their children's lives. Who are children living with? <sup>42</sup>

- 55%** mother & father - 4% unmarried
- 21%** single mother - half divorced & half never married
- 14%** mom & stepdad
- 5%** neither parent
- 2%** mom & her boyfriend
- 2%** single dad
- 1%** dad & stepmom
- .5%** dad & his girlfriend

*Children's Living Arrangements: 2009.*  
Census Bureau.

Research brochure by Dr. Nielsen ©



American Coalition for Fathers & Children

ACFC.ORG  
Michael McCormick, Exec. Dir.  
1-800-978-3237  
[mmccormick@acfc.org](mailto:mmccormick@acfc.org)

## SHARED PARENTING ©

### FACTS & FICTION

Research Brochure by

© Dr. Linda Nielsen

Professor of Education  
Wake Forest University  
[www.wfu.edu/~nielsen](http://www.wfu.edu/~nielsen)  
[nielsen@wfu.edu](mailto:nielsen@wfu.edu)

August, 2011



American Coalition for Fathers & Children

ACFC.ORG  
Michael McCormick, Exec. Dir.  
1-800-978-3237  
[mmccormick@acfc.org](mailto:mmccormick@acfc.org)

#### FICTION

Most children are satisfied with the amount of time they spend (or spend) with their fathers after their parents' divorce.

As long as the mother has enough money, children don't pay a price for having too little or no contact with their father.

Shared parenting is harmful for infants or young children because they should not be separated overnight from their mother.

When parents share parenting, children are worse off financially because their dad pays much less child support.

Children benefit more from living with their mothers because mothers have more impact on their well being than father do.

Most divorced fathers are not interested in having their children live with them more or spending more time together.

Most divorced or never married parents are too hostile to share parenting or to benefit from programs on co-parenting.

Shared residential custody fails for most families, thus creating unnecessary instability for children.

The general public is opposed to shared residential custody – a sentiment that is accurately reflected in our custody laws.

#### FACT

The vast majority of kids want – or wanted – more time living with their dads after their parents divorced. <sup>1-7</sup>

Children who live with both parents at least 33% of the time are equal or better on measures of psychological, academic, behavioral and social well being. <sup>8-19</sup>

Preschoolers shouldn't be separated from either parent for more than a few days & can spend nights in both homes. <sup>20-21</sup>

Dads who share parenting are more likely to pay child support & spend more for things such as college. <sup>22, 23</sup>

Dads contribute as much to children's well being as moms do, even if their styles of parenting differ. <sup>24, 14</sup>

Most divorced dads want more time living together with their children. <sup>25- 29</sup>

Children benefit from shared residential custody even when their parents have ongoing verbal conflicts & are not on particularly friendly terms. <sup>9,10,12,14,20</sup>

Shared residential custody has been stable & successful for most parents. <sup>10,16,30</sup>

In recent public opinion polls men & women are overwhelmingly in favor of shared residential custody <sup>31, 32</sup>

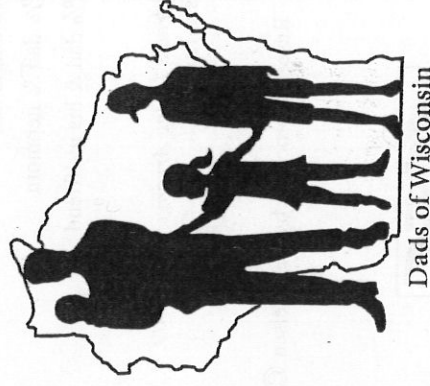


## Endnotes

- <sup>1</sup> Nielsen, L. Review of shared parenting research. In press
- <sup>2</sup> Ahrons, C. *We're Still Family: What grownup children say about divorce*, 2004.
- <sup>3</sup> Fabricius W. Listening to children of divorce. *Family Relations*, 2003.
- <sup>4</sup> Emery, R. *The truth about children & divorce*. 2004.
- <sup>5</sup> Finley & Schwartz. Father involvement & young adult outcomes. *Family Court Review*, 2007
- <sup>6</sup> Harvey & Fine *Children of Divorce: Stories of Loss and Growth*. 2004.
- <sup>7</sup> Amato & Dorius, Fathers, children & divorce in Lamb's *Father's role in child development*, 2010
- <sup>8</sup> Aquilino, W. Noncustodial father child relationships. *Marriage & Family*, 2010.
- <sup>9</sup> Breivik & Olweus, Adolescents' adjustment in four family structures. *Divorce & Remarriage*, 2006.
- <sup>10</sup> Buchanan & Maccoby, *Adolescents after divorce*, 1996
- <sup>11</sup> Fabricius et al. Parenting time & children's outcomes in *Lamb's book*, 2010.
- <sup>12</sup> Juby et al. Sharing roles, sharing custody. *Marriage & Family*, 2005.

- <sup>13</sup> Scott, Booth & King Post divorce father-adolescent closeness. *Journal of Marriage and Family*, 2007.
- <sup>14</sup> Nielsen, L. *Fathers & Daughters: Contemporary Research & Theory*, Routledge, 2012 (in press)
- <sup>15</sup> Lee, M. Children's adjustment in dual & sole residence. *Family Issues*, 2002.
- <sup>16</sup> Melli & Brown, Exploring the shared time family. *Law, policy & family*, 2008
- <sup>17</sup> Prazen et al. Joint physical custody & friendships. *Sociological Inquiry*, 2011.
- <sup>18</sup> Smyth, B. Five year summary of shared care in Australia. *Family Studies*, 2009.
- <sup>19</sup> Spruijt & Duindam, Joint physical custody & children's well being. *Divorce & Remarriage*, 2010
- <sup>20</sup> Pruett et al. Collaborative divorce project. *Family Court Review*, 2005.
- <sup>21</sup> Warshak, R. Overnight contact between parents & young children. *Family Court Review*, 2000.
- <sup>22</sup> Fabricius & Braver. Divorced parents financial support of college expenses, *Family Court Review*, 2003
- <sup>23</sup> Braver, S. *Divorced Dads: Shattering the Myths*, 1998

- <sup>24</sup> Lamb, M. *The Father's role in child development*, 2010.
- <sup>25</sup> Bokker, Farley & Denny. Well being among recently divorced fathers. *Journal of Divorce & Remarriage*, 2005
- <sup>26</sup> Fagan & Hawkins. *Educational Interventions with Fathers*, 2003.
- <sup>27</sup> Hallman & Deinhart. Fathers' experiences after divorce. *Fathering*, 2007.
- <sup>28</sup> Stone, G. Divorced fathers well being. *Journal of Divorce & Remarriage*, 2007.
- <sup>29</sup> Frieman, R. Understanding noncustodial parents. *Divorce & Remarriage*, 2007.
- <sup>30</sup> George, T. Residential time reports. Washington State Courts, 2008.
- <sup>31</sup> Braver, S. Lay judgments on custody. *Psychology, public policy & law*. 2011.
- <sup>32</sup> Fatherhood Coalition, *Shared parenting election results*, 2004.



Dads of Wisconsin

PO Box 302  
Oxford, WI 53952

608-584-6508

[www.DadsOfWisconsin.org](http://www.DadsOfWisconsin.org)

# Why Do Children Need Shared Parenting?

## Without Shared Parenting, children are...


more likely to  
abuse drugs  
and alcohol

as likely to drop  
out of high school


more likely to have  
emotional or  
behavioral problems


more likely to  
become a teen parent


more likely to  
face abuse  
and neglect


63%   
of youth suicides

### And make up...


85%   
of youth in prison


85%   
of all children with  
behavioral problems

75%   
of adolescent patients in  
substance abuse rehab


71%   
of high  
school dropouts


## How do the adult children of divorce and separation feel about Shared Parenting?


Only 7%   
felt their mothers wanted  
them to spend equal  
amounts of time with each parent

70%   
of all children  
believed equal time with  
each parent was best

However...

85%   
of children wanted  
more time with their fathers

93%   
of those who  
actually lived equal  
time with each parent,  
believed it was best

Over 70%  knew their fathers wanted more time and wanted to live equally with them; they also knew their mothers opposed it

## So what have the studies and world-wide experts concluded?



Shared Parenting is linked to better outcomes for children of all ages across a wide range of emotional, behavioral, and physical health measures

### It's simple, Shared Parenting:

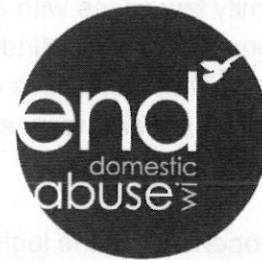
- ☒ Limits at risk youth
- ☒ Diminishes major societal issues
- ☒ Is preferred by children
- ☒ Is endorsed by the professionals

**TIMETOPUTKIDSFIRST.ORG**





# memo



**To:** Study Committee on Child Placement and Support

**Date:** November 20, 2018

**From:** Chase Tarrier, Public Policy Coordinator  
Adrienne Roach, Policy and Systems Analyst

**Re:** Opposition to Contingent Placement

End Domestic Abuse Wisconsin  
1245 E Washington Ave., Suite 150  
Madison, Wisconsin 53703

Phone: (608) 255-0539 Fax: (608) 255-3560  
chaset@endabusewi.org

Dear Chairman Brooks and members of the Study Committee on Child Placement and Support,

This memo outlines End Domestic Abuse WI's concerns regarding a policy that would give Wisconsin family courts the ability to modify legal custody or physical placement contingent upon a future event. End Domestic Abuse WI (End Abuse) is the statewide voice for survivors of domestic violence and the membership organization representing local domestic violence victim service providers throughout the state. The concerns detailed below are grounded in the lived experience of Wisconsin victims of domestic violence and the advocates who serve them. Despite claims that this legislation is "domestic violence neutral," we want to make it clear that survivors of domestic violence and those that serve them disagree. For this reason, End Abuse opposes this legislation and respectfully urges the Committee not to approve its passage.

First, I would like to make it clear that as an organization, End Abuse recognizes that there are cases in which custody or placement modifications predicated on a future event are appropriate and even helpful for parents. In theory, these stipulations would only apply to parents with a healthy co-parenting dynamic who are making a well informed decision that suits the best interests of both the child and the two parties involved in the case. However, the reality of the family law system is such that contingent placement plans are likely to be used by abusers, and the court system by extension, to coerce victims of domestic violence into agreeing to stipulations that are not actually in their best interest nor the best interest of their children. This is particularly true when considering the fact that domestic violence survivors are overwhelmingly unrepresented in the family court system. Operating pro se increases the extent to which non-abusive parents are vulnerable to coercion, even in cases that may appear normal to the judges, GALs and other attorneys involved in the case.

When considering the family law system's response to domestic abuse, it is critical to note that interpersonal violence is routinely ignored by the courts, even in cases in which there has been a previous criminal conviction of domestic violence. Data from a research project conducted by End Abuse (see End Abuse's submitted memo regarding opposition to a presumption of equalized placement for further details) confirms that the family law system tends to ignore instances of domestic violence and instead pushes litigants towards compromise and stipulations that minimize the nuances of often very complex cases. A review of 361 Wisconsin

family law cases with a criminal history of domestic violence revealed that the court made formal domestic violence findings in only 8% of cases and mentioned the abuse at all in fewer than 20%. These statistics demonstrate that, despite the claims of proponents that the policy will only apply to already agreeing parents, it is in fact likely to be applied to families with a history of domestic violence.

Proponents of the legislation also claim that because a judge can still rule that a contingent placement plan is not in the best interest of children, cases with a history of domestic abuse can be dismissed easily by the court and therefore End Abuse's concerns are misguided. However, as our study shows, even in cases with a documented history of domestic violence, the court rarely ordered sole placement to the victim (14 out of 328 cases with documented placement orders). Moreover, in nine of those fourteen cases, the abuser was in prison, therefore making physical placement impossible. If we cannot count on the family law system to award sole placement to non-abusive parents even when there has been a previous criminal conviction of domestic violence, how can we be certain that the court will only allow contingent placement plans to be applied to cases without a history of abuse?

Supporters of this policy also argue that even if the court system itself ignores domestic violence, contingent placement plans only apply to cases in which parents agree, meaning victims of domestic violence can simply deny the stipulation and avoid being forced into a dangerous situation. However, this argument is predicated on a misunderstanding of both domestic violence generally, as well as the ways domestic abuse often presents within the context of family law cases. In an overwhelming majority of cases, victims of domestic violence are subjected to extreme levels of coercion, manipulation and control, meaning their ability to meaningfully oppose the actions of an abuser are fundamentally limited. The typical abuser is adept at using intimidation and deceit to coerce their victims into all sorts of behavior that may appear contrary to the victim's best interest or that of their children. It is within this context that we must consider the limited extent to which victims will actually be able to deny these types of stipulations. This is particularly true for the majority of litigants who operate in the system pro se and are constantly balancing the recommendations of their abuser, GALs, judges and others involved in the case. Therefore, the process outlined in this legislation encourage judges and commissioners to ignore the signs of domestic violence and instead use these stipulations to encourage litigants to "work out their issues," a response that puts victims and their children directly in increased contact with abusers. For example, consider the following scenario:

***A court is considering a motion to adjust placement and custody for two parents. There has been no finding of domestic violence despite the fact that the relationship is very abusive (this is the case over 90% of the time). However, the judge is aware that the abusive parent has been convicted of several OWIs in the past, as well as an aggravated assault. This is obviously a red flag as far as their placement is concerned, so the GAL on the case suggests that their placement be limited until they complete an anger management class and demonstrate six months of sobriety, at which point they would automatically be granted 50% placement. The victim, fearing retaliation by the abuser and not wanting to seem difficult in the eyes of the court as to avoid losing placement***

***entirely, agrees to the plan. After six months of sobriety and an anger management class that does nothing to address the abusive behavior (anger management is often incorrectly assumed to be an appropriate response to domestic violence), the abusive parent is automatically granted equal placement despite continued violent behavior.***

The hypothetical case described above demonstrates that because domestic violence cases are so volatile and often life threatening, it is critically important that family court judges and commissioners make well-informed decisions that reflect *current* realities of a child's life in order to protect the best interest of children. While supporters of contingent placement claim that all of the problems listed above also apply to already existing legal stipulations, the fact remains that modifying placement and custody orders in the future without first returning to court reexamine the realities of the case poses an extra level of danger to survivors and their children. Consider another scenario:

***Two divorced parents with a history of domestic violence have a current placement order that awards sole placement with the non-abusive parent (an extremely rare outcome). The abusive parent files a motion to adjust the order to have visitation with the children on weekends. Knowing that this motion will not be agreed to by the non-abusive parent, the GAL on the case recommends that instead, the abusive parent undergo batterer's treatment therapy for six months, at which time they will be presumed fit for placement. The victim, wanting their former partner to undergo batterer's treatment, and under pressure from the GAL, abuser and judge, agrees to the future change. However, there is limited batterer's treatment therapy available that has been properly accredited, and the abuser is able to technically comply with the contingent placement plan without actually changing their behavior. Furthermore, they engage in stalking and intimidation of the non-abusive parent throughout the six month period. After six months of ineffective treatment and further dangerous behavior, the abusive parent is automatically granted placement despite the objections of the victim who is unrepresented and therefore unaware of how to effectively present evidence of the recent abuse in the case.***

The scenario above demonstrates how important it is that judges reexamine the current realities of a given case before assuming that a change to placement or custody is in the best interest of the child involved. Before moving forward with such a policy safely, there must be serious reform to the family law system such that it adequately recognizes and responds to domestic violence. Barring such reform, any legislation that allows modifications based on future events in the parent's life, even with exceptions for domestic violence cases, will unfortunately not be able to adequately protect the many victims in the family law system who are unable to have their history as a survivor taken into consideration or even recognized.

We appreciate the Committee's willingness to listen to our concerns, and we look forward to continuing to work with its members in the coming months to address the broader issues in the family law system. If you have any questions about End Domestic Abuse Wisconsin's position on this issue, please contact me at 608.237.3985 or [chaset@endabusewi.org](mailto:chaset@endabusewi.org).



