June 20, 2003

Honorable Supreme Court Justices:

Thank you for the opportunity to address / write a letter regarding public comments on child support and child custody.

Thursday June 19, 2003 my family (Wife Andrea, Daughter Taylor 10 years old, Daughter Erin 6 Weeks old, and myself Robert Roach attended public comments concerning child support and custody, but we were missing one family member Daughter Natalie 10 ½ months old. (We wanted to address the Honorable Supreme Court Justices, but we were not on the list and time ran out)

Thursday I was feeling great after leaving the public comment session, and a low after finding out that my brothers child (Riley) of 2 ½ years old (has been battling Leukemia for the past year and a half) has just a short time left to live unless there is a medical miracle from God above. (Riley has had Chemo multiple times and a bone marrow transplant every time the Leukemia cells have come back from remission).

Thirty years ago I had Leukemia and should have died. I had about a four percent chance of living. I was one of the first Leukemia patients to have chemo therapy in the treatment of Leukemia and spent the majority of five years in and out of a hospital. (I had so much chemo that it is or should have been almost medically impossible to have children, I now have three beautiful daughters). I have been blessed and this is why I'm writing you my story. I pray that you will take this into consideration when making your recommendation.

If you need insight into the friend of the court I have all the experience in the world and I'll tell you why.

Excerpt: (The whole story can be told if need be at any time)

In the fall of 1991 I got married soon after; we found out that she had become pregnant, our relationship started to change during her pregnancy, for all intensive purposes we were not together when our daughter Taylor was born in August, 1992. She filed for a divorce and I with no attorney I went through the system not having any clue of what was going on and believing that I would be able to see our daughter any time I wanted to, and after getting very little time on paper to spend with my daughter. (Even though I have seen our daughter almost every day since birth). It has not been easy and, I have had an uphill battle to see her, but now after the friend of the court in 1999 decided that we should share equally in Taylor's life our relationship has grown to become from one of combative to becoming good friends because one party does not have the control over the other party.

Both Taylor's mother (Sally) and I see or talk with Taylor every day.
It is awesome, and Sally and I can see a tremendous difference in Taylor.

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Taylor is one of the greatest children, very loving, giving, does excellent in school and very much enjoys living with two parents, she does not know anything different and she loves life. Everyone loves Taylor!!!
My wife and I have been living together for the past five years married in October, 2002 and on May 8th, 2003 gave birth to our beautiful daughter Erin. My wife Andrea is a 1st grade teacher and is the nicest, kindest, sweetest person I have ever known. (God bless her for standing beside me this past year and a half.)

In November of 2001 I had for all intensive purposes an affair that lasted less than a moment in time, and out of this came Natalie whom is 10 ½ months old. This is where the story goes right off the charts. In short Natalie's mother (Nicole) does not want to let me see Natalie and is using Natalie as a pawn. (This is very common in custody / paternity cases)

As a parent without custody I cannot have a say in her last name, if Nicole says she cannot get along with Andrea or myself the court will not allow shared parenting. She can come up with false allegations of anger that I have to defend. (These are all common occurrences in the friend of the court cases).

I feel as though I'm a criminal even though I have no criminal record of any type even my driving record is perfect, but the system treats fathers as though they should be punished for having a child.

When Nicole found out about being pregnant she wanted an abortion, My mother and I talked her out of it. It would have been easier for me financially, and mentally, to have agreed, but I believe in human life and I knew that this would not be an easy route but I stood behind my morals. (I love my daughter)

Nicole has had extensive legal experience and has at least two attorneys working for her. She say's that it is Robert's way or the highway, but she is the one bringing this case to the point it is today.

I have given Nicole in excess of $18,500 and have paid attorney fees in excess of $20,000 to try to establish even the little time that I have with Natalie (10 ½ months old). (This is four times what I pay Sally for Taylor's support. Now that I have Erin, Andrea gets nothing. (Where is the equality?).
It took three months to even get in front of a conciliator at the Friend of the Court for an hour long meeting in which she said that I could see Natalie Tuesday Nights from 5:30 PM to 7:30 PM and on every other weekend from 9:30 AM Saturday Morning until 7:00 PM Saturday Night and on 9:30 AM Sunday until 7:00 PM Sunday Night.
WITH ABSOLUTLY NO OVERNIGTHS.

No one from the friend of the court has even seen me interact with my daughter. Natalie has her own room at our house and our family has pulled together to help out financially. They do not want me to go to jail for being a good father and not being able to afford to pay child support.

Nicole has an excellent job as a lobbyist, and I'm in the field of telecommunications that has hit a depression. Times are very tight for my family.

Times change, and I did not expect a child nor did I expect the depression that the field of telecommunications is in currently

The formula for child support is flawed; because they take the past three years income, but it does not consider changes in your income based on the current economic climate. I have registered to go back to school to get into another field. I need stability for my family. (The courts hands seem to be tied to this formula.)

If I did not care about my children I would not be writing this letter.

I'm an excellent father. I have been extremely involved in the Lansing area community for the past decade.

I have been a Soccer coach, Baseball / Softball Coach, Floor Hockey and Basketball Coach for the past 6 ½ years. I touch hundreds of children's lives in the community and would do anything for anyone.
I was a camp counselor for six years, but do they take that I'm great with children into consideration?
My wife is a teacher and we both love kids.
Everyone who knows about this case is shocked that this is going on. If it continues we would have to sell our home and go into bankruptcy.

Why I ask? I thought that children were blessings from GOD.

If someone were to say to you after you have your child you can see your child one day a week from 5:30 PM until 7:30 PM Tuesday nights and you need to pay someone $347 a week in support. (How would you feel?)

It is all right for the father to go a week in between seeing their child, but it is not ok for the mother. Why is this the case? Nicole and I live 10 miles apart it is not like we live in two different states.

I have always kept a very positive position about life after what I went through when I was a child and I know better than anyone how important the mother and father are to a child, but I also know that the child is important to the parents.

In the same day that I heard public comments on the matter of child support / custody I heard about my brother's child. The family left and went to see them.

Reality hits hard when there are two true-life cases: (I'm living both of them)

One parent not allowing the other parent to see a child the father begging for the Friend of the Court to grant shared parenting and gets no relief. (It is about control and money)

The other is a case where no matter how much money you have, billions of dollars cannot save a little precious life only GOD. (No control, No Money only LOVE!)

It's ironic in today's society when parents want to be extremely active in a child's life they cannot; even when that child is theirs.

I feel that since I have a disability (Unable to give birth / carry the child for 40 weeks) that I'm less of a person. I thought that the 14th amendment was on equal protection?

There are no winners only losers that come out of this.

The parties are financially ruined, physically and mentally exhausted, and who really gains?

Nobody has ever given me a dime for having three children yet I have to pay thousands and thousands.

I'm not an attorney I'm a Dad, Father, Papa, Husband and great person to three wonderful lives. (The system needs to change)

This is the time where a few people can make such a big change in the lives of so many for years to come.

Someday this might be even your children or grandchildren or great grandchildren.

"The interest of the parents in the care, custody, and control of their children - - is perhaps the oldest of the fundamental liberty interests recognized by this Court."
***U.S. Supreme Court,* 2000**

There are hundreds of publications on this matter. This is just a few articles, case laws, and state decisions that I would like to share with you.

Amendment XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

First:

Immediate shared custody

If both parents have a chance to share equally in the upbringing of their child then they would be on their very best behavior which is a benefit to not only the mother and father, but also the child or children involved. Call it Shared Parenting or Shared Family Parenting Time. The word Custody should be eliminated. Just the word is contentious.

From the start both parents should have 50/50 shared relationship with their child. Unless one of the parties does not want to share the parenting time. The party not wanting to share in their child's life would have to sign their right's away it should not be the system taking their right away.

1) 24 million children (34 percent) live absent their biological father.

2) Nearly 20 million children (27 percent) live in single-parent homes.

3) 1.35 million births (33 percent of all births) in 2000 occurred out of wedlock.

4) 43 percent of first marriages dissolve within fifteen years; about 60 percent of divorcing couples have children; and approximately one million children each year experience the divorce of their parents.

5) Over 3.3 million children live with an unmarried parent and the parent's cohabiting partner. The number of cohabiting couples with children has nearly doubled since 1990, from 891,000 to 1.7 million today.

6) Fathers who live with their children are more likely to have a close, enduring relationship with their children than those who do not. The best predictor of father presence is marital status. Compared to children born within marriage, children born to cohabiting parents are three times as likely to experience father absence, and children born to unmarried, non-cohabiting parents are four times as likely to live in a father-absent home.

7) About 40 percent of children in father-absent homes have not seen their father at all during the past year; 26 percent of absent fathers live in a different state than their children; and 50 percent of children living absent their father have never set foot in their father's home.

8) Children who live absent their biological fathers are, on average, at least two to three times more likely to be poor, to use drugs, to experience educational, health, emotional and behavioral problems, to be victims of child abuse, and to engage in criminal behavior than their peers who live with their married, biological (or adoptive) parents.

9) From 1960 to 1995, the proportion of children living in single-parent homes tripled, from 9 percent to 27 percent, and the proportion of children living with married parents declined. However, from 1995 to 2000, the proportion of children living in single-parent homes slightly declined, while the proportion of children living with two married parents remained stable.

10) Children with involved, loving fathers are significantly more likely to do well in school, have healthy self-esteem, exhibit empathy and pro-social behavior, and avoid high-risk behaviors such as drug use, truancy, and criminal activity compared to children who have uninvolved fathers.

Start with shared parenting responsibility. It takes two to have a child.

Sanford Braver,"Determining the Impact of Joint Custody on Divorcing Families",

Study consisted of 378 families; some with unmatched partners, in various custody arrangements.

". . .Sharlene Wolchik, Iwrin Sandler and I found in 1985 that children in joint custody had higher feelings of self-worth than children in sole maternal custody."

"Our results showed considerable benefits for joint custody, even when equating predisposing factors. After this adjustment, children in joint custody were found to be significantly better adjusted, and to exhibit less antisocial and implulsive behavior than sole custody families. Fathers also visited more, and were more involved in child care, as well as more satisfied with the divorce settlement. Mothers, however, were significantly less satisfied with the custody arrangements in joint custody families."

"When the couple disagrees initially, which is better for the family, for the father to get his preference (joint [custody]) or for the mother to get her preference (sole [custody])? We found that the groups differed significantly in terms of how much financial child support was paid: when sole custody was that arrangement despite the fathers' wishes, 80% was paid (according to what the father reported; the figure was 64% by mothers' report), while when joint custody was awarded despite the mothers' preference, it zoomed to almost perfect compliance (97% by fathers' report; 94% by mothers' report) . . . A similar relationship was found for fathers' contact with the child. It was significantly highest for the group in which joint custody was awarded despite the mothers' preference." "Joint custody, even when awarded despite the contrary preference of the mother, leads to more involved fathers, and almost perfect of financial child support; controlling for predisposing factors, it leads to better adjusted children. . . We belive these findings call for policy makers, in the best interest of the children, to adopt a presumption that is rebut table for joint legal custody, that is, a judicial preference that both parents retain their right and responsibilities toward their children post divorce."

On child satisfaction: "Children have expressed higher levels of satisfaction with joint physical custody than with sole custody arrangements; citing the benefit of remaining close to both parents. Joint custody does not create confusion for the majority of youngsters about their living arrangements or about the finality of the divorce, nor does increase loyalty conflicts (Leupnitz, 1982; Shiller, 1986a, 1986b; Steinman, 1981)."

On parent satisfaction: "A surprising fading in one study was that mothers who share custody are more satisfied than those having sole custody and whose children see their father periodically. However, both groups expressed more satisfaction with their residential arrangement than did sole-custody mothers whose children had no paternal contact."

On conflict situations: "Dual-residence (joint physical custody) parents had the highest co-operative-communication scores but did not differ from mother custody or father custody parents in the amount of discord. Shared residence did not exacerbate or diminish conflict but did appear to lead to more co-operative communication."

On child adjustment: "The adjustment of 517 adolescents (aged 10 years, 6 months to 18 years) in three residential arrangements was compared 4.5 years after separation by Buchanan, Maccoby, and Dornbusch (in press). Looking at both family process and status variables, these researchers assessed adolescent adjustment in terms of depression, deviance, school effort, and school grades. Statistically, more boys were in dual-residence and father-residence arrangements, whereas more girls were in mother-residence arrangements. Overall, dual-residence adolescents were better adjusted than were mother-residence adolescents."

See Also: Kelly, J., Current research on children's post divorce adjustment. *Family and Conciliation Courts Review*, 31.29-49, 1993

Even in Extreme Situations with high levels of conflict, mental illness, or domestic violence, joint physical custody is no better (and no worse) than sole custody.

Kelly, J. B.. Children's adjustment in conflicted marriage and divorce: A decade review of research. Journal of the American Academy of Child and Adolescent Psychiatry, 39, 963-973 (2000).

This study re-confirmed the negative effects of divorce and high conflict between parents (in divorce or marriage), particularly in risk of drug use, lower academic achievement and behavior problems. However, some factors reduced problems: 1) children whose fathers remain involved with their school activities have better outcomes, 2) divorce and custody mediation results in lower conflict between parents, 3) joint custody leads to better outcomes for children.

Study:
Joint custody best for kids after divorce

Reprint of an article written by Karen S. Peterson, USA TODAY, 3/24/02

Children in divorced families tend to do better in joint custody — either physical or legal — than those who live and interact with just one parent, says a major new study.

Children in joint-custody settings have fewer behavioral and emotional problems, have higher self-esteem, better family relations and better school performance than children in sole custody, usually with the mother, says the report in the March issue of the Journal of Family Psychology, published by the American Psychological Association.

That does not mean that those in sole custody are "clinically maladjusted or need some kind of therapy," says researcher and psychologist Robert Bauserman of the Maryland Department of Health and Mental Hygiene. "It just means they don't do as well on average."

The newest findings are the latest salvo in an ongoing dispute over what is the best arrangement for the children of divorce. This meta-analysis, or scientific study of studies, comes down solidly in favor of both parents sharing all aspects of a child's life, as long as both are capable parents.

The study defines joint custody as either physical custody, in which the youngster spends time with each parent, or shared legal custody, in which the child lives with one parent but both share decision-making and stay involved. This keeps the father in the loop, which helps a child adjust to parental divorce, experts say.

Bauserman examined 33 studies that looked at 1,846 sole-custody and 814 joint-custody children, as well as kids in 251 intact families.

He found that the bulk of the studies show that children in joint-custody arrangements are virtually as well adjusted as those in the intact families, "probably because joint custody provides the child with an opportunity to have ongoing contact with both parents."

These findings contradict experts who believe that joint custody disrupts the stability of a child's life, shifting back and forth between parents, or that it exposes the child to two parents who endlessly bicker.

To the contrary, Bauserman speculates that parents who contain their anger at the time of the divorce may self-select into joint custody.

They are quite capable of continuing to parent together without a lot of rancor, Bauserman says. It is the sole-custody parents who report continued high levels of conflict over parenting decisions with ex-partners.

Almost all states offer a joint-custody option, Bauserman says, although many judges still favor maternal custody and oppose joint physical custody.

Alan Booth, a sociologist and researcher at Pennsylvania State University, says Bauserman's research is solid. "This is very consistent with the things we find. If couples are able to cooperate in joint custody, we would expect the children to do better," Booth says.

Although joint custody may sound good, it does not automatically mean parents won't be in continued conflict, warns Lynne Gold-Bikin, past chairman of the American Bar Association Family Law section. "It is a no-brainer" that children will do well if their parents both continue to parent well after divorce, she says. But we are talking about parents who, when married, "couldn't decide on the toothpaste. Why will they get along now?"

Journal of Family Psychology
2002, Vol. 16, No. 1, 91–102

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0893-3200/02/$5.00 DOI: 10.1037//0893-3200.16.1.91

Child Adjustment in Joint-Custody Versus Sole-Custody Arrangements: A Meta-Analytic Review

Robert Bauserman
AIDS Administration/Department of Health and Mental Hygiene

The author meta-analyzed studies comparing child adjustment in joint physical or joint legal custody with sole-custody settings, including comparisons with paternal custody and intact families where possible. Children in joint physical or legal custody were better adjusted than children in sole-custody settings, but no different from those in intact families. More positive adjustment of joint-custody children held for separate comparisons of general adjustment, family relationships, self-esteem, emotional and behavioral adjustment, and divorce-specific adjustment. Joint-custody parents reported less current and past conflict than did sole-custody parents, but this did not explain the better adjustment of joint-custody children. The results are consistent with the hypothesis that joint custody can be advantageous for children in some cases, possibly by facilitating ongoing positive involvement with both parents.

Research evidence has clearly demonstrated that, on average, children from divorced families are not as well adjusted as those in intact families, although this relative disadvantage does not necessarily imply clinical levels of maladjustment (Amato & Keith, 1991b; Guidubaldi & Perry, 1985). Joint custody, an arrangement that involves shared legal and/or physical custody of children following divorce of their parents, has increased in popularity as an option in divorce since the 1970s, with many states now having either a preference or presumption for joint legal custody (Bender, 1994). An ongoing debate between proponents and opponents of joint custody has continued since the 1970s as well, with different researchers and authors expressing both strong opposition (e.g., Goldstein, Freud, & Solnit, 1973; Kuehl, 1989) and strong support (e.g., Bender, 1994; Roman & Haddad, 1978). Arguments in favor of joint custody have often focused on benefits for the child of maintaining relationships with both parents. In contrast, opponents have argued that joint custody disrupts needed stability in a child's life and can lead to harm by exposing children to ongoing parental conflict.

A variety of theoretical perspectives have been proposed to explain the links between divorce and child adjustment (Hetherington, Bridges, & Insabella, 1998): individual characteristics of the child that might increase vulnerability to maladjustment; the change in family composition and the possible negative effects of father absence in the typical maternal custody situation; the increased economic stress and problems in shifting from a two-parent to a one-parent household; effects of parental distress on the child; and changes in family processes such as conflict and expression of emotion. Buchanan, Maccoby, and Dornbusch (1996) classified factors affecting children's postdivorce adjustment into three categories: loss of a parent, interparental conflict, and diminished parenting (in which the quality of parenting from the custodial parent deteriorates, typically during the first 2 years after divorce). In an analysis of several large-scale national samples, McLanahan (1999) found that father absence due to divorce is associated with less school achievement for both boys and girls, more labor market detachment (i.e., unemployment) for boys, and early childbearing for girls. The impact of father absence seemed to be mediated by several variables, including loss of parental resources (less involvement and supervision), loss of financial resources, and loss of community resources (the broader network of social involvement, interaction, and support obtained from each parent). In a meta-analysis of 63 studies of nonresident fathers' role in children's well-being, Amato and Gilbreth (1999) found that authoritative parenting and feelings of closeness between father and child related to well-being. In addition to child support payments, authoritative parenting by the father was the most consistent predictor of outcomes including school achievement, externalizing (behavioral) problems, and internalizing (emotional) problems.

Notably, joint custody (and joint physical custody in particular) is relevant to many of the issues raised by Buchanan et al. (1996), Amato and Gilbreth (1999), Hetherington et al. (1998), and McLanahan (1999). For example, ongoing and frequent access to both parents may mitigate potential effects of parental absence as seen in sole-custody households, and access to the households and resources of both parents may reduce economic stress and disadvantage for the child. On the other hand, as critics of joint custody have noted, close ongoing contact with both parents might expose the child to ongoing conflict. Thus, research on custody and adjustment needs to examine not just differ-

This research was not done as part of official duties with the Maryland Department of Health and Mental Hygiene or under its auspices.

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ences in adjustment across different custodial settings, but also how the factors identified here may relate to any adjustment differences found. It is important to recognize that such comparisons cannot establish a causal role for joint versus sole custody in child adjustment, because such research is necessarily relational rather than experimental in nature. However, it would still be possible to identify which custody type (if any) is associated with better adjustment in different areas, and what variables appear to moderate any relationship found.

During the past 20 years, an increasing body of research evidence on the adjustment of children in both types of custody settings has developed, and some reviewers have specifically compared child adjustment in joint- and sole-custody settings (e.g., Johnston, 1995; Twaite & Luchow, 1996). These reviewers presented varying conclusions: some argued that the research literature unequivocally supports joint custody (Bender, 1994); others argued that variables such as parental conflict are more important than custodial arrangement in determining child outcomes (Twaite & Luchow, 1996) and that joint custody is likely to be inappropriate in high-conflict situations (Johnston, 1995). Still others presented mixed findings in which no single custody arrangement can be assumed to be preferable (Kelly, 1993). These authors conducted traditional narrative literature reviews that attempt to organize and make sense of a literature by reporting on the findings of a number of relevant studies, noting significant and nonsignificant findings, and forming holistic impressions of the literature reviewed. However, such reviews are subject to a number of potential problems: selective citation of studies; reporting results consistent with the reviewer's perspective, combined with minimization or nonreporting of inconsistent results; focusing on statistical significance rather than on the magnitude of the relationship between variables; and failure to examine study characteristics as moderators of results (Johnson, 1989; Rosenthal, 1984).

In this review, a meta-analysis of child adjustment in sole- and joint-custody situations was conducted in order to avoid some of the problems of traditional literature reviews and to integrate as much of the relevant literature as possible. Meta-analytic reviews integrate research literature in a more systematic and quantitative fashion than traditional narrative reviews (Rosenthal, 1984) by converting different statistical results into a common metric of effect size such as Cohen's (1988) *d* and systematically examining the effect of various study qualities on the magnitude of the effect.

The goal of this review was to locate and meta-analytically integrate reports of child adjustment that directly compare children in joint-custody (legal and/or physical) and in sole-custody settings following divorce. Based on the arguments advanced in favor of joint custody (e.g., Bender, 1994), the literature demonstrating adjustment difficulties for children in sole-custody families when compared to children in intact families (e.g., Amato & Keith, 1991b; Guidubaldi & Perry, 1985), and the relevance of ongoing relationships with both parents to theoretical perspectives on child adjustment in divorce (e.g., Hetherington et al., 1998), it was hypothesized that on average children in joint-custody arrangements would demonstrate better adjustment than children in sole-custody arrangements. Although the suggested hypothesis (and subsequent hypotheses) is directional, all statistical tests were based on appropriately conservative two-tailed probabilities. As noted previously, joint custody cannot be proven to be the causal factor in any such difference. However, such an outcome would be consistent with suggestions that, by providing for an ongoing, close relationship with both parents in a way not possible in sole-custody arrangements that emphasize limited visitation with the noncustodial parents, joint custody may work to overcome the difficulties for the child potentially caused by the parental absence, economic stress, socioeconomic disadvantage, and changes in family processes that might accompany divorce. Exposure to parental conflict may potentially be greater in a joint-custody setting than in a sole-custody setting, and consequently offset some of these possible benefits, but this is a concern that can be examined empirically.

Because most sole-custody arrangements are maternal rather than paternal custody, the primary focus of the review was comparison of joint-custody samples with primarily or exclusively sole maternal custody samples. In addition, some studies also included separate paternal custody groups or intact family groups. These groups were used to conduct secondary meta-analyses comparing paternal custody and joint-custody children, and intact-family and joint-custody children. Based on the reasoning that joint custody is more beneficial than harmful because it provides a higher degree of ongoing support and resources from both parents than other custody arrangements, it was hypothesized that joint-custody children would be relatively better adjusted than paternal custody children. It was further hypothesized that joint-custody and intact-family children would be relatively equal in level of adjustment because both groups are maintaining ongoing relationships involving frequent contact with both parents.

A secondary goal of the current review was to examine how theoretically relevant characteristics of participant populations and of studies might moderate the relationship between custody arrangements and outcomes. For example, some critics of joint custody have expressed concern that this arrangement will expose children to ongoing parental conflict, resulting in more stress and adjustment problems. Thus, wherever possible joint-custody and sole-custody groups were compared on levels of conflict between parents either now or in the past, and conflict level was examined as a moderator of adjustment differences. Although interparental conflict might reduce potential benefits, joint-custody parents may experience lower levels of conflict at the time of divorce than sole-custody parents, which allows them to enter into joint-custody arrangements to begin with. The potential confounding role of conflict is also considered.

Other researchers have claimed that children in sole-custody arrangements are better adjusted when living with the same-sex than with the opposite-sex parent (e.g., Warshak, 1986), a variation of the family-composition perspective on the effects of divorce. Given that most sole-custody arrangements involve maternal custody, boys might therefore show more benefit than girls in a comparison of joint and maternal custody. Thus, one variable coded as a poten-

tial moderator was the proportion of boys in each study's sole-custody and joint-custody groups. It was hypothesized that the benefits of ongoing involvement with both parents would be robust, such that better adjustment for joint-custody children would be found even when controlling for a variety of participant and study characteristics as potential moderators.

Method

Sample of Studies

Studies were located through (a) electronic databases, including PsycINFO, Sociofile, and *Dissertation Abstracts International*, and (b) reference lists of relevant studies. Both narrowly focused searches (with the term "joint custody") and broader searches (combining the terms "custody" and "adjustment") were performed. The electronic databases were searched from the earliest available dates through December 1998. *Dissertation Abstracts International* was searched in an effort to incorporate as many unpublished findings as possible. Contacts with researchers in the field identified an additional study, which has since been published (Gunnoe & Braver, 2001).

To be included in this review, a study had to include groups of children living in joint legal or physical custody arrangements and in maternal or sole-custody arrangements, and had to report the statistical outcome of some test comparing psychological or behavioral adjustment between the groups. Studies that reported only qualitative descriptions of different groups, or that reported the adjustment of a joint-custody group without a sole-custody comparison group (e.g., Steinman, 1981), were therefore excluded. Similarly, studies that included both sole- and joint-custody children, and some measure of adjustment, were excluded if they did not provide any information (statistics or p values) on direct comparisons of the sole- and joint-custody groups (e.g., Kline, Tschann, Johnston, & Wallerstein, 1989).

Coding of Studies

For each study, the following information was coded: (a) statistics provided on adjustment for sole-custody and joint-custody children (and paternal custody and intact-family children, if included), including group sample sizes, means and standard deviations, t tests, F tests, correlations, and proportions; (b) the specific definition of joint custody used in the study (joint physical, joint legal, or undefined); (c) type of adjustment measure (described further below); (d) by whom the adjustment measure was completed; (e) ages of each group of children at the time of parental separation or divorce; (f) current ages (at time of study) of each group of children; (g) the proportion of boys in the joint-custody group and in the sole-custody group; (h) proportion of custodial mothers in the sole-custody group (usually 1.0, but less in some cases where authors did not report separate results for maternal and paternal sole-custody groups); (i) published versus unpublished status; (j) sex of first author, coded from the first name of the author; (k) sample source; (l) date of publication; (m) parental conflict in the past; and (n) parental conflict now.

Most studies included more than one codable measure of adjustment, which often represented conceptually different types of adjustment and were completed by different individuals. Effect sizes were calculated for each result, referred to here as *measure-level* effect sizes. Although this procedure meant that not all effect sizes were independent of one another, it allowed separate meta-analyses on the basis of type of adjustment measure (e.g., self-esteem) and the individual (e.g., child or parent) who completed the measure. For each study with more than one measure-level effect size, all effect sizes were also averaged to obtain a single effect size, referred to here as *study-level* effect size (Rosenthal, 1984). Although this procedure meant that disparate measures might be averaged for some studies, it also meant that each effect size represented an independent study. This procedure allowed examination of study qualities, such as published versus unpublished status or sex of author, as potential moderators of effects. (The coding of some specific qualities is described in the following.) A total of 140 measure-level effect sizes were coded for the joint-custody and maternal custody comparisons.

For eight of the studies that were eventually included, statistics were provided that allowed calculation of effect sizes for some of the measures used, but not for others for which comparisons were reported to be nonsignificant. Rather than selectively include measures from these studies, effect sizes for these measures were set equal to zero and included in the measure-level meta-analyses and in calculation of the study-level effect sizes. This procedure provides a conservative and unbiased way to include these measures that does not favor either custody arrangement. As a result, a total of nine effect sizes estimated to be zero were included.

Definition of Joint Custody

The term *joint custody* can refer to either shared physical custody, with children spending equal or substantial amounts of time with both parents, or shared legal custody, with primary residence often remaining with one parent. Joint physical custody clearly implies ongoing close contact with both parents. However, joint legal custody implies shared decision making by the parents and ongoing, active involvement of the nonresidential parent in the child's life, even if residential custody remains primarily with one parent. Rather than exclude one form or the other from the current review, studies based on either joint physical or joint legal custody were included; study definitions were coded as "joint physical" or "joint legal" so that comparisons on the basis of definition would be possible. In 64% of the studies (n = 21), joint custody was defined specifically on the basis of time spent with each parent. Typically this meant at least 25% of the child's or adolescent's time was spent with each parent; schedules could and did vary widely from subject to subject and study to study, but in all of these cases involved a substantial proportion of time actually spent living with each parent. In an additional 18% of studies (n = 6), joint custody was self-defined by parents or was left undefined in the report of the study. For 12% of the studies (n = 4), joint custody groups combined joint legal and joint physical custody. Two studies (Isaacs, Leon, & Kline, 1987; Lerman, 1989) included separate joint physical custody and joint legal custody groups. However, there was only one sole-custody comparison group within each study, so comparisons of joint physical versus sole custody and joint legal versus sole custody were not independent within each study. In these two cases, measure-level and study-level effect sizes were calculated based on sole-custody comparisons with both the joint physical and joint legal groups. Only the joint physical/sole-custody comparisons were used in later analyses of measure-level effect sizes. Study-level effect sizes were computed for sole-custody comparisons with both the joint physical and joint legal groups in each study, and study-level comparisons of adjustment in joint and sole custody were computed using both (a) joint physical/sole-custody comparisons only, and (b) joint physical and joint legal comparisons with sole custody. For custody definition, studies were dummy-coded with "1" for time-based joint physical custody, and "2" for joint legal custody or samples that left joint custody undefined or combined the two types.

Types of Adjustment Measures

Because of the possibility that differences between sole and joint custody children might be greater on some dimensions of adjustment (e.g., family relations) than others (e.g., measures of general adjustment), measures were categorized into the following groups: general adjustment, emotional adjustment, behavioral adjustment, self-esteem, family relations, academic performance, and divorce-specific adjustment.

General adjustment. This category included results reported for broad-based measures of adjustment covering a range of behavioral and emotional problems, including the Child Symptom Checklist; the Child Behavior Checklist (CBCL; Achenbach & Edelbrock, 1983); the Personality Inventory for Children, Adjustment subscale (Wirt, Lachar, Klinedienst, & Seat, 1984); the California Test of Personality (California Test Bureau, 1950); the Health Resources Inventory (Gesten, 1976); the Adaptive Behavior Inventory for Children (Mercer, 1979, ch. 15); the Louisville Behavior Checklist (Miller, 1977); and scales or items created by the authors included in the meta-analysis.

Behavioral adjustment. This category included measures specifically assessing behavioral problems, including the Conduct Disorder subscale of the Adolescent Multiphasic Personality Inventory (*MPI*; Duthie, 1985); the Behavior Problem Checklist (Quay & Peterson, 1979); the Externalizing subscale of the CBCL (when scale scores for the CBCL were reported rather than total scores), the Externalizing subscale of the Youth Self-Report Inventory (Achenbach, 1991), and various author-created scales for rating behavioral problems.

Emotional adjustment. This category included measures intended to assess emotional symptoms and reactions, including the Neuroticism subscale of the Adolescent MPI; the Internalizing subscale from the CBCL; the Children's Depression Inventory (Kovacs, 1981); the Revised Children's Manifest Anxiety Inventory (Reynolds & Richmond, 1985); the Children's Social Desirability Questionnaire (Crandall, Crandall, & Katkovsky, 1965); the Draw-A-Person Test (Koppitz, 1966); the Differential Emotions Scale (Boyle, 1984); the House–Tree–Person Test (Buck, 1977); Locus of Control (Nowicki & Strickland, 1973); the Internalizing subscale of the Youth Self-Report Inventory; and various author-written items related to emotional problems and adjustment.

Self-esteem. This category included the California Attitude Survey; the Self-Esteem subscale of the Children's Personality Questionnaire (R. Porter & Cattell, 1968); the Coopersmith Self-Esteem Inventory (Coopersmith, 1967); the Culture-Free Self-Esteem Inventory; the Inferred Self-Concept Scale (Hughes, 1984); the Perceived Competence Scale for Children (Harter, 1982); the Piers–Harris Children's Self-Concept Scale (Piers, 1984; Piers & Harris, 1964); the Tennessee Self-Concept Scale (Fitts, 1965); and author-written items or composites of self-esteem items.

Family relations. This category included the Child Report of Parental Behavior Inventory (Schaefer, 1965); items from the Cornell Parent Behavior Inventory (Devereaux, Bronfenbrenner, & Suci, 1962); the Draw-A-Family Test (Isaacs et al., 1987); the Family Adaptability and Cohesion Evaluation Scales (FACES; Olson, 1986); the Family Relations Test (Anthony & Bene, 1957); the Kinetic Family Drawings Test (Burns & Kaufman, 1970); the Kvebaek Family Sculpture Test (Cromwell, Fournier, & Kvebaek, 1980); the Loyalty Conflict Assessment Test (Shiller, 1986); the Parental Acceptance and Rejection Questionnaire (Rohner, 1980); the Stepfamily Adjustment Scale (Crosbie-Burnett, 1991); and various author-created scales.

Academic/scholastic. This category included one measure specific to classroom behavior, the Classroom Adjustment Rating Scale (Lorion, 1975), and measures related to school performance or intelligence such as grade-point average, IQ, and school attendance.

Divorce-specific. This category included the Children's Attitudes Toward Parental Separation Inventory (CAPSI; Berg, 1982); Children's Beliefs about Parental Divorce (CBAPD; Kurdek & Berg, 1987); the Structured Divorce Questionnaire (Kurdek & Siesky, 1980); the Divorce Experiences Scale for Children (Wolchik, Braver, & Sandler, 1985), and various author-written items specifically concerning adjustment to the divorce, such as parental ratings of whether the child was harmed by or benefited from the divorce, and positive versus negative experiences in the divorce.

Sample Source

There were five different types of sample sources identified. First were court and divorce records, in which researchers identified joint-custody families by examining court records of divorce and custody proceedings in specific jurisdictions. Second were convenience samples, in which researchers identified and recruited participants through such means as newspaper and media advertisements, word of mouth, and personal contacts. Third were school-based samples, in which participants were recruited within particular schools or school systems. Fourth were national samples (only one, Donnelly & Finkelhor, 1992). And finally, clinical samples of families undergoing counseling or other mental health services related to the divorce (only two, Johnston, Kline, & Tschann, 1989; Walker, 1985).

Conflict

Samples were also coded for measures of current conflict between parents (conflict now) and past conflict between parents (conflict then). Past conflict typically involved assessments of conflict during the marriage or around the time of separation. Measures of current conflict were coded from 14 studies and included such measures as the Straus Conflict Tactics Scale (Straus, 1979); the O'Leary–Porter Overt Hostility Scale (B. Porter & O'Leary, 1980); Ahrons's scales for various dimensions of parental conflict, communication, and support (Ahrons, 1979, 1981, 1983); and various author-created items or scales for parents (and sometimes children) to report on such constructs as discord, hostility, cooperation, and conflict over custody or other issues. Measures of past conflict were coded from 5 studies and included the Locke–Wallace Marital Adjustment Scale (Locke & Wallace, 1959); the O'Leary–Porter Overt-Hostility Scale; the Straus Conflict Tactics Scale; and various author-created items or scales for parents or children to rate parental conflict in the past.

Analysis

Data analysis was carried out using DSTAT software for meta-analysis (Johnson, 1989). This program uses the Hedges and Olkin (1985) methods for meta-analysis for most calculations. For modeling of study qualities that are continuous rather than categorical variables, however, the program uses Rosenthal's (1984) techniques. This difference is reflected in the statistics reported for modeling of study qualities.

Results

Study Characteristics

A total of 33 studies, 11 published and 22 unpublished, were included (21 of the unpublished studies were doctoral

dissertations). The 33 studies contributed a total of 140 measure-level effect sizes. These studies dated from 1982 to 1999. The combined sample size across studies was 1,846 sole-custody and 814 joint-custody children. Over one third (n = 12) were convenience samples drawn from various sources such as child-care centers, single-parent groups, and word of mouth. Court records of divorce filings and litigation were the source of 11 samples: 6 were drawn from school populations; 2 from clinical samples; 1 from highly conflicted parents (Johnston et al., 1989); 1 from parents seeking counseling at a social services agency (Walker, 1985); and 1 from a national telephone survey (Donnelly & Finkelhor, 1992). Only 6 had a male first author, whereas 26 had a female first author (author sex could not be determined for one study, due to an ambiguous name; see Table 1).

Adjustment in Joint Versus Sole Custody

First, the study-level effect sizes for joint versus sole custody were analyzed (this analysis included only the joint physical custody effects for Isaacs et al., 1987, and Lerman, 1989, so there was only one effect size for every study). Across the study-level effect sizes, joint-custody children scored significantly higher on adjustment measures than sole-custody children, d = .23 (SD = .27, 95% confidence interval (CI) = .14–.32), corresponding to an r of .114. According to the guidelines described by Cohen (1988), this effect size is slightly greater than what would be considered a small effect size (d = .20). The effect sizes were not significantly heterogenous, $Q(32) = 27.67$, p = .62, meaning that they were statistically consistent across studies. As noted earlier, the sole-custody groups were either exclusively maternal custody or primarily maternal custody with a small minority of paternal custody cases; a separate analysis (see the following) was conducted to compare joint and paternal custody children.

A second overall analysis was conducted using both the joint legal and joint physical samples from Isaacs et al. (1987) and Lerman (1989), so each of these studies contributed two effect sizes. As noted previously, each of these studies had only one sole-custody comparison group, so the study-level effect sizes for joint physical and joint legal custody were not truly independent of each other. Results were nearly identical to the first analysis, d = .26 (SD = .28, 95% CI = .17–.34), and effect sizes were not heterogenous, $Q(34) = 32.06$, p = .86.

Because joint physical and joint legal custody may differ greatly in terms of time spent with each parent (with only the former clearly involving substantial amounts of time spent living with each parent), separate study-level analyses were conducted to compare joint physical custody and joint legal custody groups to sole-custody groups. In both cases, the joint-custody groups were better adjusted. For joint physical custody versus sole custody (n = 20 studies), d = .29 (SD = .30, 95% CI = .14–.42), and effect sizes were not significantly heterogenous, $Q(19) = 18.80$, p = .53. For joint legal custody versus sole custody (n = 15 studies, including the joint legal samples from Isaacs et al., 1987, and Lerman, 1989), d = .22 (SD = .24, 95% CI = .10–.34), and effect sizes were again not significantly heterogenous, $Q(14) = 12.50$, p = .64. Without Isaacs et al. and Lerman, the effect size for the joint legal comparison was smaller but still significant, d = .15 (SD = .21, 95% CI = .01–.28), $Q(12) = 6.40$, p = .93. A direct contrast of the mean effect sizes for joint physical and joint legal samples revealed that they did not significantly differ from each other either including or excluding the Isaacs et al. and Lerman samples, $\chi^2 = 0.69$, p = .40, and $\chi^2 = 2.50$, p = .12, respectively. Based on these findings, the joint physical and joint legal custody comparisons to sole custody were combined for all further analyses.

Comparisons Based on Study-Level Effect Sizes

Modeling of both categorical and continuous study qualities was performed to determine whether specific qualities of studies or of samples moderated the difference between sole and joint custody. Although effect sizes were not significantly heterogenous, this does not necessarily disallow examination of possible moderators of effect sizes. Rosenthal (1995) stated that contrasts can and should be computed among obtained effect sizes regardless of heterogeneity, because they may still reveal significant results and provide useful information. These analyses included only the joint physical custody effect size for Isaacs et al. (1987) and Lerman (1989), so each study was represented only by a single effect size.

Published and unpublished studies did not differ significantly in effect sizes, $QB(1) = 0.09$, p = .76. Sex of first author also did not moderate effect sizes, $QB(1) = 0.19$, p = .66. The proportions of boys in sole-custody groups and in joint-custody groups were not separately related to effect sizes, $Z = 1.39$, p = .17, and $Z = 1.32$, p = .19, respectively. Age at time of separation/divorce for sole-custody and joint-custody groups also did not relate to effect sizes, $Z = 0.31$, p = .75, and $Z = 0.34$, p = .74, respectively; neither did current age of child/adolescent for sole-custody and joint-custody groups, $Z = -0.44$, p = .66 and $Z = -0.33$, p = .74, respectively. The proportion of mothers in the sole-custody groups also did not affect the relationship between custody and adjustment, $Z = 0.59$, p = .55.

Importantly, sample source was unrelated to effect sizes, $QB(4) = 8.15$, p = .09 (studies not reporting sample source were excluded from this analysis). Effect sizes in each of the categories with more than one effect size (court, school, and convenience samples) were not significantly heterogenous (only the national sample category had a single effect size; see Donnelly & Finkelhor, 1992, Table 1). When examined separately, overall effect sizes were significantly different from zero for convenience samples, d = .28 (SD = .27, 95% CI = .11–.45); samples based on court records, d = .15 (SD = .08, 95% CI = .02–.29); and samples obtained from in-school students, d = .47 (SD = .29, 95% CI = .24–.70). The combined effect size for the two clinical samples did not differ from zero, d = .18 (SD = .49, 95% CI = −.19–.56), and the single national sample had a negative effect size, indicating better adjustment for sole-custody children.

Table 1
Study Variables and Study-Level Effect Sizes

Author	Author sex	Sample size		Definition[a]	Proportion boys		Proportion mothers[b]	Current age		Age at divorce		Published	Study-level effect size
		Joint	Sole		Joint	Sole		Joint	Sole	Joint	Sole		
Bowman (1983)	F	28	54	2			1.00	8.6	9.0			N	.209
Bredefeld (1985)	M	20	20	1	.75	.65	1.00	9.1	9.7	4.2	2.5	N	.050
Buchanan et al. (1991)	F	52	384	1	.51	.51	.78	14.3	14.3	9.8	9.8	Y	.174
Cowan (1982)	F	20	20	1	.50	.50	1.00	10.5	10.5	8.2	7.8	N	.193
Crosbie-Burnett (1991)	F	26	52	2	.44	.44	NA	15.0	15.0			Y	.067
Donnelly and Finkelhor (1992)	F	19	141	2			NA	12.4	12.4			Y	−.101
Glover and Steele (1989)	F	8	8	1	.63	.38	NA	10.6	11.1	8.6	9.0	Y	.665
Granite (1985)	F	20	19	2	.65	.48	.50	10.5	11.0	7.5	8.1	N	.005
Gunnoe & Braver (2001)	F	28	51	2	.61	.49	1.00	10.9	10.9	7.9	7.9	N	.176
Hendrickson (1991)	M	10	10	1	.63	.63	1.00			15.2	15.2	N	.455
Isaacs et al. (1987)	F						.71	10.5	10.5	5.8	5.8	Y	.609
joint physical		41	117	1									
joint legal		44	117	2									
Johnston et al. (1989)	F	35	53	1	.50	.50	1.00	6.5	6.5	4.5	4.5	Y	.027
Karp (1982)	F	16	22	1	.44	.55		8.5	8.5	8.3	8.3	N	.284
Kauffmann (1985)	F	17	13	1	.41	.38		9.9	9.8	4.7	4.8	N	.040
Lakin (1994)	M	40	40	1	.48	.50	.90	12.0	12.0	5.5	5.5	N	.101
Lee (1993)	NA	20	39	2	.45	.48	1.00	7.5	7.5	4.0	4.0	N	−.216
Lerman (1989)	F				.43	.43	1.00	9.5	9.6	5.9	5.7	N	.977
joint physical		30	30	1									
joint legal		30	30	2									
Livingston (1984)	F	32	54	2	.53	.48	.59	11.4	11.8	9.8	8.6	N	.132
Luepnitz (1982)	F	25	34	1			1.00	9.5	12.0	6.0	8.2	Y	.151
Mann (1984)	M	32	26	1	.59	.46	.88	9.5	9.5			N	.068
Mensink (1987)	M	8	64	2	.61	.61	.92	12.5	12.5			N	.276
Noonan (1985)	F	20	20	1	.45	.45		8.1	8.1			N	.246
Nunan (1980)	F	20	20	2	.50	.50		9.5	9.5			N	.340
Pojman (1981)	M	20	20	1	1.00	1.00						N	.688
Rockwell-Evans (1991)	F	21	21	1	.48	.48	1.00	10.3	10.5	7.1	4.4	N	.220
Shiller (1986)	F	20	20	1	1.00	1.00	1.00	8.5	8.5	5.0	5.0	Y	.674
Silitsky (1996)	M	32	169	2	.52	.52	.83	16.5	16.5	6.8	6.8	Y	.114
Spence (1992)	F	15	30	2	.47	.50	1.00	10.1	10.0	6.5	5.6	N	.652
Vela-Trujillo (1996)	F	19	26	2								N	.253
Walker (1985)	F	12	15	1			1.00	14.5	14.5			N	.724
Warren (1983)	F	17	37	1			1.00	15.1	15.1	12.3	12.3	N	.038
Welsh-Osga (1982)	F	10	10	1	.50	.50	.50	9.9	9.9	7.1	7.1	N	.702
Wolchik et al. (1985)	F	44	89	2	.55	.39	1.00	11.1	11.7	9.9	10.5	Y	.251

Note. Mean weighted effect size, $d = .23$; mean unweighted effect size (each study = 1), $d = .27$; median effect size, $d = .209$ (Bowman, 1983). F = female; M = male; N = not published; Y = published. NA = not available. Detailed information on the measure-level effect sizes from each study are available from the author.
[a] A code of 1 means joint custody was defined on the basis of time spent with each parent (joint physical custody); a code of 2 refers to joint legal custody, mixed samples, or undefined. [b] The proportion of mothers with physical custody in the sole custody group.

Comparisons Based on Measure-Level Effect Sizes

Measure-level effect sizes were used for meta-analysis of the effects of type of adjustment measure and identity of the person evaluating the child's adjustment. The measure-level effect sizes obtained for this analysis are displayed in stem-and-leaf format in the Appendix.

Type of adjustment measure. Type of measure did not significantly moderate effect sizes, $QB(6) = 4.85$, $p = .56$. For all categories of adjustment except academic adjustment, joint-custody children were better adjusted than sole-custody children: for general (broad) measures of adjustment ($n = 24$), $d = .29$ ($SD = .41$, 95% CI = .18–.41); for family relations ($n = 41$), $d = .23$ ($SD = .42$, 95% CI = .14–.32); for self-esteem ($n = 22$), $d = .30$ ($SD = .47$, 95% CI = .17–.43); for emotional adjustment ($n = 20$), $d = .21$ ($SD = .38$, 95% CI = .11–.32); for behavioral adjustment ($n = 12$), $d = .25$ ($SD = .18$, 95% CI = .12–.38); and for divorce-specific adjustment ($n = 14$), $d = .13$ ($SD = .42$, 95% CI = .01–.25).

For several categories of adjustment measures, the homogeneity statistic Q indicated that the effect sizes were significantly heterogenous. The largest outlier for each of these categories was removed and the homogeneity rechecked; the procedure was repeated if effect sizes remained nonhomogenous. The DSTAT program identifies the largest outlier as that effect size which, if removed, would reduce the homogeneity statistic Q by the largest amount. Measures of general adjustment were rendered homogenous by removal of two outliers, resulting in an adjusted $d = .29$ (95% CI = .18–.41). Family adjustment effect sizes were homogenous after removal of one outlier, adjusted $d = .19$ (95% CI = .09–.28). Academic-adjustment effects also were homogenous after removal of a single outlier, adjusted $d = .06$ (95% CI = −.17–+.30), as were divorce-specific effects, adjusted $d = .19$ (95% CI = .07–.32).

Person completing measure. The identity of the person completing the adjustment measure did not significantly moderate effect sizes, $QB(5) = 6.74$, $p = .24$. For all categories of persons completing the adjustment measure, joint custody children were better adjusted than sole-custody children, with the 95% confidence interval excluding zero: for child-completed measures ($n = 81$), $d = .19$ ($SD = .44$, 95% CI = .13–.25); for mother-completed measures ($n = 18$), $d = .32$ ($SD = .39$, 95% CI = .20–.45); for father-completed measures ($n = 17$), $d = .30$ ($SD = .18$, 95% CI = .12–.48); for measures completed by an unspecified parent ($n = 17$), $d = .19$ ($SD = .31$, 95% CI = .07–.31); for teacher-completed measures ($n = 9$), $d = .40$ ($SD = .37$, 95% CI = .16 –.64); and for measures completed by clinicians ($n = 7$), $d = .27$ ($SD = .45$, 95% CI = .07–.46).

The Role of Conflict

Effect sizes were calculated comparing joint-custody and sole-custody groups on the basis of conflict now ($n = 14$ studies) and conflict in the past ($n = 5$ studies). The remaining studies did not report conflict data. For current conflict, joint-custody groups reported significantly less across the 14 studies, $d = .24$ ($SD = .58$, 95% CI = .11–.37). For past conflict, joint-custody groups again reported less across the 5 studies, $d = .33$ ($SD = .20$, 95% CI = .10–.55). Next, both past and current conflict were tested as moderators of the adjustment difference between joint and sole custody. Neither was a significant predictor of the joint-custody advantage in adjustment (for past conflict, $Z = 0.505$, $p = .61$; for current conflict, $Z = 1.349$, $p = .18$). One problem that may have obscured a potential relationship was the relatively small proportion of studies that actually provided codable data on group differences in conflict; for past conflict in particular, only 5 studies allowed such a comparison.

Adjustment in Joint Versus Paternal Custody

A total of 8 studies included paternal custody groups composed entirely of custodial fathers (Granite, 1985; Hendrickson, 1991; Johnston et al., 1989; Luepnitz, 1982; Mensink, 1987; Spence, 1992; Warren, 1983; Welsh-Osga, 1982). Separate groups of custodial mothers from these studies were included in the joint- versus sole-custody comparisons already examined. Because of the relatively small number of samples, analyses were conducted based on study-level effect sizes only, and study qualities were not analyzed as moderators of this comparison. As with sole custody, these effect sizes were obtained by calculating measure-level effect sizes and then averaging for each study (there were a total of 40 effect sizes across all 8 studies). Overall, differences in adjustment were in the direction of better adjustment for joint-custody children, $d = .20$, but this difference was nonsignificant (95% CI = −.06–.46). Effect sizes were not significantly heterogenous, $Q(7) = 5.26$, $p = .63$.

Adjustment in Joint Custody Versus Intact Families

A total of 8 studies compared joint-custody children with intact-family children, with 45 effect sizes (Glover & Steele, 1989; Hendrickson, 1991; Ilfeld, 1989; Karp, 1982; Mensink, 1987; Pojman, 1981; Spence, 1992; Welsh-Osga, 1982). Again, average effect sizes were computed for each study and comparisons were based on the study-level effects. As with the joint-custody/paternal custody comparison, study qualities were not analyzed as moderators of the adjustment comparisons. There was no difference between joint-custody and intact-family children, $d = -.0002$ (95% CI = −0.27–0.27). Again, the effect sizes were not significantly heterogenous, $Q(7) = 5.34$, $p = .62$.

Discussion

Based on these results, children in joint custody are better adjusted, across multiple types of measures, than children in sole (primarily maternal) custody. This difference is found with both joint legal and joint physical custody and appears robust, remaining significant even when testing various categorical and continuous qualities of the research studies as moderators. For measure-level effect sizes, the effect

sizes do not significantly differ across types of adjustment measures. This finding is consistent with the hypothesis that joint custody can be beneficial to children in a wide range of family, emotional, behavioral, and academic domains. Similarly, Amato and Gilbreth's (1999) meta-analysis of nonresident father involvement showed that closeness to the father and authoritative parenting by the father were positively associated with behavioral adjustment, emotional adjustment, and school achievement. Joint-custody children showed better adjustment in parental relations and spent significant amounts of time with the father, allowing more opportunity for authoritative parenting. The findings for joint legal custody samples indicate that children do not actually need to be in joint *physical* custody to show better adjustment, but it is important to note that joint legal custody children typically spent a substantial amount of time with the father as well. Importantly, a causal role for joint custody cannot be demonstrated because of the correlational nature of all research in this area.

The effect size did not significantly vary according to the identity of the person completing the adjustment measure, indicating that on average mothers, fathers, children, teachers, and clinicians, all rated child adjustment as better in joint-custody settings. The ratings by mothers are notable because mothers might perceive joint custody as a loss of expected control as primary custodians and be less likely to perceive children as benefiting. Some authors have claimed that mothers are the primary "losers" in joint-custody situations (Kuehl, 1989). However, mothers appear just as likely as other evaluators to perceive joint custody as beneficial to their children's adjustment.

For study-level effect sizes, the better adjustment in joint custody did not vary according to the age of the children in either the sole- or joint-custody groups. Although the period from early childhood through adolescence is marked by many developmental tasks and changes, it may be that ongoing positive involvement with both parents at any of these ages can prove beneficial. The effect sizes also did not significantly vary according to characteristics of the study, such as unpublished versus published status. Unlike research literature in some areas, the literature on child adjustment in different custody arrangements does not show a bias toward larger effect sizes in published studies.

Notably, the source of the sample (court, convenience, or school-based) did not moderate effect sizes either. The effect size for the single national sample (Donnelly & Finkelhor, 1992) was not significantly different from zero, but this telephone survey included only three questions about parent–child relationships only. The two clinical samples also did not show an advantage for joint custody, but at least one of these (Johnston et al., 1989) was specifically selected for unusually high levels of parental conflict. Further research with a variety of sample types, especially national samples if possible, is clearly needed.

Given the relevance of parental conflict to child adjustment, the fact that lesser conflict in joint-custody groups did not significantly predict the better adjustment of children in joint custody may seem puzzling. The result may be an artifact of the small amount of variance found on this measure. Effect sizes for joint-custody/sole-custody conflict comparisons tended to be small, as shown previously, so the small differences found when comparing groups may have obscured a genuine relationship between parental conflict and child adjustment within groups. For past conflict, the small number of studies where such a comparison was possible ($n = 5$) may also have limited power to detect a significant relationship. Future research on custody and adjustment should measure, and statistically control for, the effects of level of parental conflict.

It is also surprising that the majority of the studies reviewed did not attempt to statistically control for parental conflict levels, or even directly compare levels of conflict between joint- and sole-custody parents. In those studies that did examine conflict, joint-custody couples reported less conflict at the time of separation or divorce. This is consistent with the argument that joint-custody couples are self-selected for low conflict and that better adjustment for their children may reflect this lack of conflict; parental conflict remains an important confound in research comparing adjustment in different custody settings. However, some research that has controlled for preexisting levels of conflict continues to show an advantage for child adjustment in joint custody (Gunnoe & Braver, 2001). The fact that joint-custody couples also reported less current conflict is important because of the concern that joint custody can be harmful by exposing children to ongoing parental conflict. In fact, it was the sole-custody parents who reported higher levels of current conflict.

It is also possible that direct comparisons of conflict between joint- and sole-custody parents may not be especially meaningful. King and Heard (1999) analyzed the relationships between father contact, parental conflict, and mother satisfaction in divorced families and found no simple, direct relationship among these variables. Conflict was highest at middle levels of visitation and lower when father contact was very high (as in joint physical custody) or very low. Mother satisfaction was higher at the most and least frequent levels of visitation, and highest with high levels of paternal contact and low levels of conflict. Conflict did not moderate or mediate the relationship between father contact and mother satisfaction. King and Heard argue that some mothers may be grateful for ongoing father contact even if some conflict occurs. Low conflict could signal either good parental relations or very little or no father contact (due to maternal desires, father withdrawal, etc.).

The effect size indicating better adjustment of joint-custody versus paternal custody children was statistically nonsignificant, failing to support the hypothesis of better adjustment for joint-custody children. However, the effect was almost the same in magnitude as the effect size favoring joint over maternal/sole custody. With only 8 studies for the joint versus paternal comparison, but 33 for the broader joint- versus sole-custody comparison, lack of statistical power may have been a problem. Given the relatively small magnitude of the apparent effect size, if joint-custody and paternal custody children really do differ in adjustment, more studies with larger samples may be needed to detect the effect at the level of statistical significance.

As hypothesized, joint custody and intact family children did not differ in adjustment. This finding is consistent with

the argument made by some researchers that joint custody is beneficial because it provides the child with ongoing contact with both parents. At the same time, as mentioned earlier, selection bias cannot be ruled out. Parents who have better relationships prior to, or during, the divorce process may self-select into joint custody, such that quality of parental relationship is confounded with custody status. The lower level of conflict in joint-custody families, relative to sole-custody families, is consistent with this alternative hypothesis. Further research that controls for parental conflict prior to, during, and after divorce may be the only practical way to compensate for this possibility. Another possibility for controlling selection bias might be separate comparisons of sole custody with voluntary and court-imposed joint custody.

Implications for Application and Public Policy

A major shortcoming of many of the studies reviewed was inadequate reporting of statistical results; many did not provide basic information on means and standard deviations of adjustment measures in the different custody groups, even when t tests or other statistical tests were reported and indicated significant differences. In some cases where differences were reported to be nonsignificant, means were reported but no standard deviations, making it necessary to estimate standard deviations from published norms for the measures used. Some studies failed to report any useful statistics at all, simply stating that there were no significant differences between groups (e.g., Ilfeld, 1989), which required that effect sizes be set to zero to allow inclusion of the study. Future researchers need to report statistical findings more carefully to make sure their results are useful for quantitative as well as qualitative reviews.

Larger sample sizes would also be valuable in future research. The effect size favoring joint custody in the current meta-analysis (d = .23) is just above what Cohen (1988) labeled a small effect size. Statistical significance is a function of both the effect size, or magnitude, of the phenomenon being studied and the sample size used in the research. Thus, the small size of many of the joint- (and sole-) custody groups in the research to date increases the risk of Type II error (failure to detect real differences). Of the 33 studies included in the meta-analysis, 23 had joint-custody groups and 16 had sole-custody groups with fewer than 30 participants. Especially in studies involving relatively small numbers of participants, researchers should report basic data for each group on each adjustment measure to help reviewers assess the magnitude of effects.

A further need exists for longitudinal research to assess the relative advantage of joint over sole custody across time. More follow-up studies reporting on the same sample over time, beyond adolescence and into adulthood, are needed. In general, researchers have found that as adults, children from divorced family backgrounds continue to have more difficulties than those from intact-family backgrounds (Amato & Keith, 1991a). Comparison of college or community samples of adults from joint- versus sole-custody backgrounds would be especially useful in determining whether joint-custody benefits extend into adulthood, because most of the research to date has been limited to convenience samples or samples from court records.

The current results appear favorable to advocates of joint custody (e.g., Bender, 1994) who favor a presumption of joint custody in divorce cases. By the early 1990s, most states had introduced laws making joint custody available as an option, or even as a rebuttable presumption, in divorce cases (Bruch, 1992). However, current research suggests that judges in some areas continue to show a strong preference for maternal custody and tend to oppose joint physical custody (Stamps, Kunen, & Rock-Facheux, 1997). It is important to recognize that the findings reported here do not demonstrate a causal relationship between joint custody and better child adjustment. However, the research reviewed here does not support claims by critics of joint custody that joint-custody children are likely to be exposed to more conflict or to be at greater risk of adjustment problems due to having to adjust to two households or feeling "torn" between parents. Joint-custody arrangements (whether legal or physical) do not appear, on average, to be harmful to any aspect of children's well-being, and may in fact be beneficial. This suggests that courts should not discourage parents from attempting joint custody.

It is important to recognize that the results clearly do not support joint custody as preferable to, or even equal to, sole custody in all situations. For instance, when one parent is clearly abusive or neglectful, a sole-custody arrangement may be the best solution. Similarly, if one parent suffers from serious mental health or adjustment difficulties, a child may be harmed by continued exposure to such an environment. Also, some authors have proposed that in situations of high parental conflict, joint custody may be detrimental because it will expose the child to intense, ongoing parental conflict (e.g., Johnston et al., 1989). However, this last argument may be applicable mainly to extremes of parental conflict. Some research indicates that joint custody may actually work to reduce levels of parental conflict over time, meaning that whatever risk exposure to parental conflict involves will be reduced (Bender, 1994).

Results of custody and adjustment studies need to be communicated more widely to judges, lawyers, social workers, counselors, and other professionals involved in divorce counseling and litigation, as well as divorce researchers in general. Such communication could lead to better-informed policy decisions based on research evidence, and better-informed decision making in individual cases. There continues to be an urgent need for additional research on child custody and adjustment that corrects problems such as small sample sizes, inadequate control of confounding variables, and inadequate reporting of statistical results. However, the available research is consistent with the hypothesis that joint custody may be beneficial to children, and fails to show any clear disadvantage relative to sole custody.

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Appendix

Stem-and-Leaf Display of Measure-Level Effect Sizes

Extremes: 1.36, 2.50	
1.2	8
1.1	5 9
1.0	2 9
0.9	7 8 9
0.8	2 3 4 4 6
0.7	0 2 2 8 8
0.6	0 1 7 8
0.5	1 1 1 3 4 5 5 6 8
0.4	0 1 2 2 3 5 5 5 6 6 7 8 8 9
0.3	0 2 4 6 7 7 7 9 9
0.2	0 0 0 1 1 2 3 3 4 4 4 4 4 4 4 7 7 7 7 9
0.1	0 0 0 2 2 2 3 3 4 4 6 6 6 7 7 7 8 8
0.0	0 0 0 0 0 0 0 0 0 0 1 2 2 4 4 4 5 6 6 7 8 9
−0.0	1 4 4 6 7
−0.1	0 3 4 6
−0.2	4 5 6 9
−0.3	0 0 0 2 6 8
−0.4	3
−0.5	1 4
Extremes: −0.74, −1.13	

High: 2.5
75th percentile: 0.48
Median: 0.23
25th percentile: 0.01
Low: −1.13

Received September 6, 2000
Revision received March 13, 2001
Accepted July 25, 2001 ■

Second: Financial Aid Child Support and Tax Relief.

Each child should get the same amount and there has to be a limit on the amount of support each party has to pay. The actual cost of raising the child has to be considered. Since each party has to maintain a household that should not be taken into consideration. What needs to be taken into consideration is the daily expenses such as food, clothing, and daycare.

Why in one case can the child support be for $50 dollars and the very next case be for $400 a week.

Children should not be so burden some on a parent as to ruin them financially.

Remember children are blessings.

"Although the dispute is symbolized by a 'versus' which signifies two adverse parties at opposite poles of a line, there is in fact a third party whose interests and rights make of the line a triangle. That person, the child who is not an official party to the lawsuit but whose well-being is in the eye of the controversy, has a right to shared parenting when both are equally suited to provide it. Inherent in the express public policy is a recognition of the child's right to equal access and opportunity with both parents, the right to be guided and nurtured by both parents, the right to have major decisions made by the application of both parents' wisdom, judgement and experience. The child does not forfeit these rights when the parents divorce."

Judge Dorothy T. Beasley,
Georgia Court of Appeals,
"In the Interest of A.R.B., a Child," July 2, 1993

Georgia Superior Court Judge Declares State's Child

Support Guidelines to be Unconstitutional

On February 25, 2002, a courageous Superior Court Judge in the Alapaha Judicial Circuit, by the name of C. Dane Perkins, granted the motion of Michelle L. Sweat, which declared the Georgia Child Support Guidelines to be null and void as the guidelines violate numerous provisions of the constitutions of both the United States and the State of Georgia. Michelle Sweat was divorced on November 12, 1998, and had agreed to allow the father to have custody of the three minor children of the parties while she received visitation, and a provision of the agreement of the parties was that she not be obligated to pay child support. On or about July 14, 2000, Monica Houseal, an agent with the Georgia Child Support Enforcement Agency in Nashville, Georgia, forwarded to Michelle Sweat a written request for "possible modification" of her child support obligation and requested certain financial information. At the time of trial, Michelle Sweat's approximate monthly gross income was $1,862.00, and the father's gross monthly income was approximately $2,650.00. Ms. Sweat was requested by the Department of Human Resources to pay $452.00 in child support and up to $79.00 per month for insurance for the minor children for a total of $531.00 per month. After this request by DHR, Ms. Sweat filed her challenge to the constitutionality of the Georgia child support guidelines.

Judge Perkins noted in his order that in a study conducted in 14 South Georgia counties between 1995 and 1997, it was found that 82.2% of contested custody cases resulted in custody being awarded to the mother and that guideline support had an impermissibly discriminatory affect upon men based upon their gender.

The Georgia child support guidelines were enacted by the legislature in 1989 in order to qualify for approximately $25,000,000.00 from the Federal government for child support enforcement. While the originators of the guidelines no doubt had good intentions, they were extremely rushed and adopted guidelines from the state of Wisconsin, which were based upon poverty cases where the total income of the parents was $12,000.00, which would be approximately $21,000.00 in the year 2000. They were based upon the assumption that the custodial parent had no employment and that the non-custodial parent had no visitation with the children. They were never intended to be applied to higher income families and they had a built-in cap in that they were only intended to recover welfare payments to the custodial parent.

The Federal mandate required that a study be performed as the basis of the guidelines so that an equitable amount could be determined. In the trial of Ms. Sweat's case, Monica Houseal testified that in Georgia no studies were done to establish the cost of caring for a child in Georgia. In accordance with Georgia law, there is to be a commission to examine the guidelines every four years. In the commissions that have been established to review the guidelines, in only one year, 1998, included an economist on the commission, Mr. Mark Rogers. Mr. Rogers testified in the Sweat trial and stressed there are no economic studies which show that the cost of care for a child increases as a percentage of the gross

income of the payor of child support. In fact, the opposite is true. The cost of child support decreases as a percentage of the obligor's income as it rises. His testimony further pointed out that there is no economic data to justify the guidelines. It has further been noted by Judge Perkins that by requiring the non-custodial parent to pay an amount in excess of that required to meet the child's basic needs, as the economic analysis has shown, the Guidelines impermissibly interfere with parental decisions regarding financial expenditures of children.

Once the economic necessities of a child are covered, the government has no right to say how much money should be spent for the care of children. Mr. Bill Atkins, of Stephens County, an advocate for child support reform, stressed that if the guidelines were in fact accurate, Georgia's statute concerning cruelty to children should be revised so that a parent would go to prison if they did not spend a certain percentage of their gross income on their children. Most states in the United States have formulas for determining child support which include, not only the income of both parents but also the amount of time each parent spends with the children during which they expend their funds directly for the children's benefit. In addition to Daryl G. LeCroy, of Atlanta, who assisted Ms. Sweat in the case, Ms. Sweat was represented by Mr. Kontz Bennett, of Waycross, Georgia, who originally filed the motion in behalf of Ms. Sweat.

Judge Perkins further noted that the guidelines do not take into account the large tax benefits that the custodial parent receives. He noted that custodial parents typically receive $200 to $350 per month in extra, after-tax, income just for having custody.

He concluded that Michelle Sweat would not be required to pay any child support based upon the income of the parties and the fact that she has at least 20% of the parenting time. She will be required to continue paying approximately $70.00 per month for health insurance for the children, plus 14.3% of any unreimbursed medical expenses that exceed $250.00 per year based upon her share of the parents' combined income which is over a base amount required for the parents support.

Submitted by,

Daryl G. LeCroy, Esq.

There is a new emphasis on parenting in this country. One reason for this emphasis is the realization that children raised with two parents have a head start in life. Single parents do a superhuman job of raising their children, juggling jobs, child care, and other responsibilities, and many children of single parents turn out fine.

But children with two parents, preferably in marriage, but also in divorced and never-married situations, generally do better when they have both a father and a mother active in their lives.

America has focused almost totally on collecting financial child support for the past 30 years, almost ignoring the parenting of children of never-married, separated and divorced parents. The belief has been that if sufficient financial support is transferred from the parent without custody (usually the father) to the parent with custody (usually the mother), the children's needs will be met.

But no matter how much financial child support is collected, there has been a constant complaint that non-custodial parents are not paying enough. So new collection tools have been constantly legislated, including withholding of wages, liens against property, jailings, posting of "Most Wanted" lists, suspension of licenses to drive, hunt, and fish, and other measures.

No remedy seems to be enough. There is a constant cry for new remedies, and new collection methods to make parents pay. Of course every parent is obligated to support his or her child. When you bring a child into the world, you owe that child support--emotional as well as financial.

Yet as evidence has mounted that the child support collection system is not providing enough for children, and that both dads and moms are important for healthy child development, there has been a shift in the wind in Washington, D.C. and some states.

Good research enables us to improve our understanding of issues. For example, the Census Bureau reported several years ago that 90.1 percent of fathers with joint custody (shared parenting) paid their financial child support; 70.2 percent of fathers with access (visitation) to their children paid their financial child support, and fathers with neither joint custody nor access (visitation) paid only 44.5 percent of their child support.

This research enabled people to understand the close connection between money and parenting. Like the chicken and the egg, it didn't necessarily tell us which came first--the money or the parenting--but it did show the interrelationship between the two. In other words, we should not just require financial support, as we have done for 30 years, but also start to encourage good parenting of children.

Research has also shown that two parents are generally better for children than only one parent. This research has been used to encourage implementation of shared parenting (joint custody) laws in various states. Children with two parents, preferably in marriage, but also for children whose parents are never-married, separated or divorced, have less

involvement in drugs and crime, and do better in their studies and higher education, than children raised by one parent.

Single parents do all they can for their children, and they deserve our support. Most single parents would agree, thouhg, that their job would be much easier if the other parent were involved in the child's upbringing.

Good research helps us to understand children's developmental needs By good research we mean use of a control group and a research group, with similar factors in each group, except for the one variable being assessed, such parents with and without shared parenting. The results of such research should be peer reviewed by the researchers' colleagues in the field for accuracy and thoroughness.

Parents working together to raise their children can help children develop into the happy, healthy adults they were meant to be. Involvement by both fathers and mothers in children's lives is a goal Democrats and Republicans, liberals and conservatives can all agree on as conducive to healthy child development. Information obtained at www.info4parents.com

PARENTING AS A PROTECTED CONSTITUTIONAL RIGHT

Don Fischer
March 8, 2001

The U.S. Supreme Court long ago noted that a parent's right to "the companionship, care, custody, and management of his or her children" is an interest "far more precious" than any property right. May v. Anderson, 345 U.S. 528, 533, 97 L. Ed. 1221, 73 S.Ct. 840, 843 (1952). In Lassiter v. Department of Social Services, 452 U.S. 18, 27, 68 L. Ed. 2d 640, 120 S.Ct. 2153, 2159-60 (1981), the Court stressed that the parent-child relationship "is an important interest that 'undeniably warrants deference and absent a powerful countervailing interest protection.'" quoting Stanley v. Illinois, 405 U.S. 645, 651, 31 L. Ed 2d 551, 92 S. Ct. 1208 (1972)

In Troxel v. Granville, 527 U.S. 1069 (1999) Justice O'Conner, speaking for the Court stated,

"The Fourteenth Amendment provides that no State shall 'deprive any person of life, liberty, or property, without due process of the law.' We have long recognized that the Amendment's Due Process Clause like its Fifth Amendment counterpart, 'guarantees more than fair process.' The Clause includes a substantive component that 'provides heightened protection against governmental interference with certain fundamental rights and liberty interest" and "the liberty interest of parents in the care, custody, and control of their children-is perhaps the oldest of the fundamental liberty interest recognized by this Court."

It is accepted constitutional doctrine that the due process clause of the Fourteenth Amendment protects interests that are recognized as constituting "life" or Property". In a number of decisions, the Supreme Court has recognized that individuals possess a fundamental liberty interest -- entitled to constitutional protection -- regarding such matters as the decisions whether to have children, decisions concerning the upbringing of children, and the retention of their children through exercise of custody. Read together, the cases clearly establish a zone of privacy around the parent-child relationship, which only can be invaded by the state when the state possesses a sufficiently compelling reason to do so. As a result, when the marital breakdown occurs, both parents are entitled to constitutional protection of their right to continue to direct the upbringing of their children through the exercise of custody. Adequate protection of this parental right requires that parents be awarded joint custody [or expansive visitation]...unless a compelling state interest directs otherwise. H.L. Robinson, "Joint Custody: Constitutional Imperatives", 54 Cinn. L. Rev. 27, 40-41 (1985) (footnotes omitted). See also, Ellen Cancakos "Joint Custody as a Fundamental Right". Arizona Law Review, Vol. 23, No. 2 (Tucson, Az: University of Arizona Law College), Tuscon, 95721. See also, Cynthia A. McNeely: "Lagging Behind the Times: Parenthood, Custody, and Gender Bias in the Family Court", 25 Fla. St. U.L. Rev. 335, 342+ (1998)
This proposition that the parent-child relationship in a traditional custody and visitation dispute commands constitutional respect is admittedly lacking a long life of specific case authority approving it. This lack of specific case authority is not fatal to the proposition's vitality. At least one federal court has found that the paucity of cases recognizing the constitutional sanctity in the past. That court further held that the historical absence of a strong tradition should not result in denial of the constitutional protection for such relationships as they become increasingly prevalent. See Franz v. United States, supra.

To further underscore the need for courts to consider the constitutional protections which attach in family law matters, one need only look to recent civil rights decisions. In Smith v. City of Fontana, 818 f. 2d 1411 (9th Cir. 1987), the court of appeals held that in a civil rights action under 42 U.S.C. section 1983 where police had killed a detainee, the children had a cognizable liberty interest under the due process clause.

The analysis of the court included a finding that " a parent has a constitutionally protected liberty interest in the companionship and society of his or her child. Id. at 1418, citing Kelson v. City of Springfield, 767 F. 2d 651 (9th Cir. 1985). In Smith the court stated " We now hold that this constitutional interest in familial companionship and society logically extends to protect children from unwarranted state interference with their relationships with their parents." Id.

A failure to accord appropriate constitutional respect to the parent-child relationship between the parties herein and the minor child by failing to award joint custody or substantial parental contact would be error. We respectfully request that this Court fashion a court order which will maximize the available time the minor will spend with each parent.

power of the court to displace a fit and able parent simply because in the court's view someone else could do a 'better job' of 'parenting.'" A parent's right to custody of his or her child originates from state law and the U.S. Constitution, and not from an award of custody by a court. A court now has limited authority to take away that right absent extraordinary circumstances."

Hubin, Donald C., "Parental Rights and Due Process," *Journal of Law and Family Studies*, vol. 1, no. 2. University of Utah, 1999. pp. 123-150.

- "The U.S. Supreme Court regards parental rights as fundamental. Such a status should subject any legal procedure that directly and substantively interferes with the exercise of parental rights to strict scrutiny. On the contrary, though, despite their status as fundamental constitutional rights, parental rights are routinely suspended or revoked as a result of procedures that fail to meet even minimal standards of procedural and substantive due process. This routine and cavalier deprivation of parental rights takes place in the context of divorce where, during the pendency of litigation, one parent is routinely deprived of significant parental rights without any demonstration that a state interest exists—much less that there is a compelling state interest that cannot be achieved in any less restrictive way. In marked contrast to our current practice, treating parental rights as fundamental rights requires a presumption of joint legal and physical custody upon divorce and during the pendency of divorce litigation. The presumption may be overcome, but only by clear and convincing evidence that such an arrangement is harmful to the children."

McNeely, Cynthia " Lagging Behind the Times: Parenthood, Custody, and Gender Bias in the Family Court". *Florida State Law Review,* September, 1998.
"A claim that fundamental rights have been violated requires the reviewing court to apply strict, rather than intermediate, scrutiny. Thus, the state would need to show a necessary and compelling interest to justify its interference with the father's fundamental right. This argument might best be raised in a situation where both parents are fit, reside in the same community, and are suitable for rotating or joint physical custody, yet the trial court awards the mother primary residential custody and the father visitation of every other weekend.[307] When an activity is constitutionally protected, as is the fundamental right to parent, a state must chose the least restrictive means possible to achieve its goal.[308] Absent good cause, it would appear that the court, in this situation, would be interfering with the father's fundamental right to parent his child; the father, then, should be entitled to a review of strict scrutiny. "
Henry, Ronald K., "Divorce Reform and the Fathers' Movement" , Congressional Testimony.
"From birth and throughout the marriage, the law recognizes that the child has two parents. Both of these parents have unrestricted access and equal custodial rights with respect to the child. A custody decree is an order which restricts parents' access and custodial rights with respect to the child and like any other injunction, enjoins the parents from the exercise of their former, unrestricted rights.

While a custody decree is an injunctive order, the courts too often fail to apply the principles that are applicable to all other injunctions. In all other situations, the guiding principle is that injunctive relief should be carefully crafted to impose only such minimum restrictions upon the parties' prior freedom as is required to resolve the present dispute. In contrast and largely because of the past swings of the pendulum (automatic father sole custody, automatic mother sole custody), the most common custody decrees issued by the courts today impose maximum rather than minimum change upon the parent-child relationship."

Oddenino, Michael. "Joint Custody As a Child's Constitutional Right", 1994.

Robinson, Holly. "Joint Custody: Constitutional Imperatives", *University of Cincinnati Law Review,* 1985.

Canacakos, Ellen. "Joint Custody as a Fundamental Right", *Arizona Law Review,* v.23 n. 2 (1981). pp. 785-800.

Ohio

PRESS RELEASE

Federal Court Certifies Equal Custody Question in Ohio

September 27, 2002

On Sept. 24, 2002, Federal Magistrate Judge Michael Merz, United States District Court for the Southern District of Ohio, Western Division at Dayton, (*Michael A. Galluzzo vs. Champaign County Court of Common Pleas, et al., Case No. C-3-01-174*) filed an order joining the State of Ohio as a party into a case to defend the constitutionality of Ohio statues that allow courts to deny due process in removing custody from a fit parent in divorce situations without a finding of substantial harm to the child.

On August 12, 2002, Magistrate Judge Merz withdrew his report and recommendations to dismiss the federal question action filed in April 2001 pursuant to Plaintiff Michael Galluzzo's argument that defeated the Rooker-Feldman doctrine. The Rooker-Feldman doctrine is used in a majority of federal cases to dismiss underlying state actions by asserting 'impermissible state appeals to the federal court'.

The court had given the Attorney General 30 days to file her response for intervention, for under the 11th Amendment a state has immunity from federal suit unless the state voluntarily chooses to intervene, at which time the state voluntarily waives its right to immunity from suit. The State failed to respond voluntarily and where a constitutional question was previously certified under federal law to the Attorney General, the 11th Amendment

This is the first time that a federal court has issued a certified question to rule on the merits of a presumption of equal custody in a divorce situation. This is the only case that has ever happened in a federal court that specifically addresses the federal rights of divorcing parents, fitness, the evidentiary standard requi red by federal law to prove unfitness {clear & convincing evidence-which is already part of the juvenile code in Ohio, but not the domestic code} and equal custody.

On April 27, 2001, a complaint was filed in U.S. District Court, Dayton, Ohio against Champaign County Common Pleas Court. The suit filed by Michael Galluzzo (C-3-01-174) claims the court deprived him of his constitutional right to due process in a divorce action that deprived him of custody of his children without a finding of substantial harm to the children. In June of 1993, Mr. Galluzzo was designated a non-custodial parent and ordered to pay child support and his ex-wife was given full custody of the children.

It appears as though this case will move forward on the merits. What are the "merits"? **THAT IN A DIVORCE ACTION, A FIT PARENT MAY NOT BE DENIED EQUAL LEGAL AND PHYSICAL CUSTODY OF A MINOR CHILD WITHOUT A FINDING BY CLEAR AND CONVINCING EVIDENCE OF PARENTAL UNFITNESS AND SUBSTANTIAL HARM TO THE CHILD.** (See also *Santosky v. Kramer (1982).*)

CASE LAW

GEORGIA

Sweat v. Sweat -

"In the interest of A.R.B., a child", Georgia Court of Appeals, Case No. A93A0698, July 2, 1993.

Although the dispute is symbolized by a 'versus' which signifies two adverse parties at opposite poles of a line, there is in fact a third party whose interests and rights make of the line a triangle. That person, the child who is not an official party to the lawsuit but whose well-being is in the eye of the controversy, has a right to shared parenting when both are equally suited to provide it. Inherent in the express public policy is a recognition of the child's right to equal access and opportunity with both parents, the right to be guided and nurtured by both parents, the right to have major decisions made by the application of both parents' wisdom, judgement and experience. The child does not forfeit these rights when the parents divorce.

"In the interest of A.R.B., a child", Georgia Court of Appeals, Case No. A93A0698, July 2, 1993. Subsequently heard by the Supreme Court of Georgia, which upheld the Court of Appeals finding that, according to public policy of Georgia, joint custody was in the best interests of children when both parents are fit.]

MARYLAND

Case 1353.
Wolinski v. Browneller
REPORTED IN THE COURT OF SPECIAL APPEALS OF MARYLAND
No. 1353 September Term, 1996

Case 1466
ROBERT G. BOSWELL v. KIMBERLY BOSWELL Davis..
REPORTED IN THE COURT OF SPECIAL
APPEALS OF MARYLAND
No. 1466 September Term, 1996

Findings:

I. The need for factual finding of actual harm in order for parental visitation to be restricted.

II. The best interests standard does not ignore the interests of the parents and their importance to the child. We recognize that in almost all cases, it is in the best interest of the child to have reasonable maximum opportunity to develop a close and loving relationship with each parent.

III. A parent .....has a right of access to the child at reasonable times. The right of visitation is an IMPORTANT, NATURAL, AND LEGAL RIGHT, although it is not an absolute right, but is ONE WHICH MUST YIELD TO THE GOOD OF THE CHILD.

IV. Any limitations placed on visitation must also be reasonable. In examining the reasonableness of a visitation restriction, courts will look to see if the child is endangered by spending time with the parent:"VISITATION RIGHTS, HOWEVER, ARE NOT TO BE DENIED EVEN TO AN ERRANT PARENT .....

V. A court is to consider the factors stated "supra" and then make findings of fact in the record stating the particular reasons for its decision

Notes:
1. Court rejected trial court's best interest finding and said that trial court did not define any actual harm to the children from overnight visits
2. Court noted previous decisions declaring recent trend to using same criteria in visitation and custody claims.

The Boswell case was appealed from the COSA, resulting in the following decision by the COA:

Boswell v. Boswell
COURT OF APPEALS
September Term, 1998

This is a VERY IMPORTANT case, because it considers what should be considered in determining "reasonable" visitation. The court makes the following statement:

"Ms. Boswell claims the "best interests of the child" standard should apply and that the Court of Special Appeals erred in applying an "actual harm" standard. Mr. Boswell contends that the Court of Special Appeals did apply the best interests of the child standard, correctly coupling this standard with the need for an evidentiary showing of actual harm in order for parental visitation to be restricted. In affirming the Court of Special Appeals' judgment, we want to clarify that the Court of Special Appeals' judgment should not be interpreted as articulating an "actual harm" standard that is separate and distinct from the best interests of the child standard. We seek to clarify that only one standard is used in determining whether to restrict parental visitation in the presence of non-marital partners, bests interests of the child, but **we also want to emphasize that when a court is engaging in a best interests analysis, reasonable maximum exposure to each parent is presumed to be in the best interests of the child."**

VIRGINIA

Supreme Court of Virginia

THOMAS O. WILLIAMS, III, ET AL. v. THOMAS O. WILLIAMS, IV, ET AL.

Record No. 971616 June 5, 1998
OPINION BY JUSTICE A. CHRISTIAN COMPTON

Excerpt: "In other words, the Court of Appeals said, "For the constitutional requirement to be satisfied, before visitation can be ordered over the objection of the child's parents, a court must find an actual harm to the child's health or welfare without such visitation." Id. at 784-85, 485 S.E.2d at 654. **A court reaches consideration of the "best interests" standard in determining visitation only after it finds harm if visitation is not ordered. Id. at 785, 485 S.E.2d at 654.** The Court of Appeals held that the circuit court failed to make the required finding of harm if visitation were denied, reversed the circuit court, and remanded the case for reconsideration of visitation in accord with the standard it set forth. Id. We agree with the Court of Appeals' discussion holding there is no

Third and Final Comment:

Overnights need to be eliminated when taking into consideration on the amount of child support in the formula. If you start with shared parenting this formula on its basis has no meaning.

If you start with shared parenting you get each parent forced to get along being on their best behavior. If one party is acting bad than take the shared parenting time away from that parent. It takes two to make a child then it should take two to raise the child.

Here is a contact schedule that some courts are using in shared parenting cases.

Contact Schedule

It is important for children, especially young children, to have the emotional bonds that can only develop by spending time with parents. In general, the younger the child, the less time that should elapse without seeing both parents. Ideally, time should be balanced between parents, and all children, including infants, should have overnights with both parents. The table below is based on recommendations from a variety of experts, but it should not be interpreted as a hard and fast schedule. Children develop and mature at different rates, and parents are best equipped to develop a schedule that provides their children time with both parents.

Age	Recommended contact with both parents
Under 1 year old	Part of each day.
Age 1 to 2 years	Every other day.
Age 2 to 5 years	Not more than two days without seeing each parent.
Age 5 to 9 years	Alternate weeks, with the "off duty" parent getting a mid-week visitation for his/her off duty week.
Over 9 years	Alternating weeks.

The people in the system know about the days and try to stop one parent from having that golden number of overnights.

Each parent needs to have a home to raise their children. The costs of children are free when they sleep. It is when they are awake, playing sports, eating, and at school when they costs come into play.

I could go on for days, but I just wanted to address a couple of key issues.

I know there is a lot of information to read, but I pray that this Honorable Court and Honorable Supreme Court Justices will seek Justice for the children of the State of Michigan.

In Gods Name I Pray.

Sincerely,

Robert J. Roach

(Father, Husband, and a Wonderful Dad)

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