

A PSYCHOLOGICAL PERSPECTIVE ON SHARED CUSTODY ARRANGEMENTS

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The custody arrangement that children live in following parental divorce is not a strong or especially important predictor of children's subsequent mental, emotional, or behavioral well-being. Rather, research repeatedly shows that the best predictors of positive adjustment and psychological well-being for children after divorce have to do first and foremost with the parenting and relationships they experience¹ and secondly with the economic stability of their homes following divorce.² More specifically, children are more likely to thrive psychologically following divorce when they experience a family context characterized by: (a) low or contained and well-handled conflict between parents; (b) ongoing positive relationships with and effective parenting of at least one, preferably both, parents; and (c) economic stability.³ The

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1. Paul R. Amato & Joan G. Gilbreth, *Nonresident Fathers and Children's Well-Being: A Meta-Analysis*, 61 J. MARRIAGE & FAM. 557, 569 (1999); Judy Dunn, Annotation, *Children's Relationships with Their Nonresident Fathers*, 45 J. CHILD. PSYCHOL. & PSYCHIATRY 659, 661–62 (2004); Janet R. Johnston, *Children's Adjustment in Sole Custody Compared to Joint Custody Families and Principles for Custody Decision Making*, 33 FAM. & CONCILIATION CTS. REV. 415, 419 (1995); Marsha Kline Pruett et al., *Family and Legal Indicators of Child Adjustment to Divorce Among Families with Young Children*, 17 J. FAM. PSYCHOL. 169, 170 (2003).

2. ROBERT E. EMERY, MARRIAGE, DIVORCE, AND CHILDREN'S ADJUSTMENT 81–84 (2d ed. 1999); Dunn, *supra* note 1, at 659–60.

3. This point is made in a number of places. See, e.g., Paul Amato, *Divorce and the Well-Being of Adults and Children*, 52 NAT'L COUNCIL ON FAM. REL. REP. F3, F4, F18 (2007); Christy Buchanan & Amber Williams, *Issues of Visitation and Custody*, in CHILDREN'S NEEDS III: DEVELOPMENT, PREVENTION, AND INTERVENTION 759 (George G. Bear & Kathleen M. Minke eds., 2006); Robert E. Emery, Randy K. Otto & William T. O'Donohue, *A Critical Assessment of Child Custody Evaluations: Limited Science and a Flawed System*, 6 PSYCHOL. SCI. PUB. INT. 1, 18 (2005); Joan B. Kelly & Robert E. Emery, *Children's Adjustment*

importance of the parent-child relationship, including continuing involvement on the part of the nonresidential parent (most often the father) has been established for children from newborns⁴ to adolescents.⁵ Furthermore, most children want to maintain relationships with both parents.⁶ Importantly, however, given the special importance to children's well-being of a low conflict environment and effective parenting, many experts qualify the importance of continuing contact with both parents in the following way: contact with both parents (or, alternatively, with a noncustodial parent) is beneficial to children *if* interparental conflict is low and quality of parenting is good.⁷

With respect to economics, it is well known that divorce often leads to a drastic decline in economic circumstances for mothers and children.⁸ Higher payment of child support and higher income predict better adjustment on a range of outcomes for children,⁹ perhaps particularly academic outcomes.¹⁰ Economics affect

Following Divorce: Risk and Resilience Perspectives, 52 FAM. REL. 352, 352-55 (2003). Continuity of care and routines also promote the well-being of children. Bennett Leventhal et al., *Divorce, Custody, and Visitation in Mid-Childhood*, in THE SCIENTIFIC BASIS OF CHILD CUSTODY DECISIONS 205, 205-25 (Robert M. Galatzer-Levy & Louis Kraus eds., 1999); Marsha Kline Pruett, Rachel Ebling & Glendessa Insabella, *Critical Aspects of Parenting Plans for Young Children: Interjecting Data into the Debate About Overnights*, 42 FAM. CT. REV. 39, 46, 53 (2004). But these are thought to be less important than the factors listed here. Often continuity of care is preserved through emphasizing quality of parenting and relationships, but where these factors do not coexist, more emphasis should be placed on quality of parenting and relationships.

4. Pruett et al., *supra* note 1, at 170-71.

5. See generally CHRISTY M. BUCHANAN, ELEANOR E. MACCOBY & SANFORD M. DORNBUSCH, *ADOLESCENTS AFTER DIVORCE* (1996).

6. Michael E. Lamb et al., *The Effects of Divorce and Custody Arrangements on Children's Behavior, Development, and Adjustment*, 35 FAM. & CONCILIATION CTS. REV. 393, 397 (1997). See generally Richard A. Warshak, *Payoffs and Pitfalls of Listening to Children*, 52 FAM. REL. 373 (2003).

7. See, e.g., Emery, Otto & O'Donohue, *supra* note 3, at 18; Kelly & Emery, *supra* note 3, at 354, 356.

8. See, e.g., Judi Bartfeld, *Child Support and the Postdivorce Economic Well-being of Mothers, Fathers, and Children*, 37 DEMOGRAPHY 203 (2000); Richard R. Peterson, *A Re-Evaluation of the Economic Consequences of Divorce*, 61 AM. SOC. REV. 528 (1996); Jay D. Teachman & Kathleen M. Paasch, *Financial Impact of Divorce on Children and Their Families*, FUTURE CHILD., Spring 1994, at 63.

9. SARA McLANAHAN & GARY SANDEFUR, *GROWING UP WITH A SINGLE PARENT: WHAT HURTS, WHAT HELPS* 88-94 (1994); Amato & Gilbreth, *supra* note 1, at 557-58, 567-68.

10. Amato & Gilbreth, *supra* note 1, at 564; John W. Graham et al., *The Effects of Child Support on Educational Attainment*, in CHILD SUPPORT AND

children's well-being through several mechanisms, including its effects on family stress, time with parents (e.g., when mothers must work more, they have less time with children), quality of parenting, and basic resources to meet material needs.¹¹

If the most important predictors of children's well-being after divorce are relational and economic, what are the implications for lawyers, judges, and legal policy makers, who are often called upon to make decisions about or encourage implementation of custody and visitation arrangements for children after divorce? What standards should be used for custody and visitation that might promote the best outcomes for children and families? If a child's best interests are typically served by maintaining relationships with both parents, and assuming that maintaining relationships with both parents requires some sort of shared custody arrangements, what kind of shared custody arrangements are most likely to promote the "best interests of the child"?

Our aim in this Article is to address these questions. To do so, we first take a close look at joint custody, examining the extent to which joint custody arrangements are associated with positive interparental relationships, parenting, parent-child relationships, and financial well-being. By definition, joint physical custody arrangements provide the most ongoing contact with both parents, and one might presume that they are more likely than sole custody arrangements to promote ongoing relationships with both parents. But it is not as obvious what the effects of joint custody might be on interparental relationships, parenting, the quality of the ongoing parent-child relationship, or child well-being, particularly among those families who end up in the courts. In our examination of joint custody, then, following a brief historical background on joint custody, we review data on the associations between joint custody on the one hand and family relationships, parenting, and financial well-being on the other. After this extensive consideration of joint custody, we briefly comment on whether findings concerning joint custody differ substantially from findings concerning sole physical custody with high visitation.¹² Finally, we reflect on the implications

CHILD WELL-BEING 317, 329–33 (Irwin Garfinkel et al. eds., 1994); Sara S. McLanahan et al., *Child Support Enforcement and Child Well-being: Greater Security or Greater Conflict?*, in CHILD SUPPORT AND CHILD WELL-BEING, *supra*, at 239, 249–50.

11. Shannon M. Greene et al., *Divorce*, in CHILDREN'S NEEDS III: DEVELOPMENT, PREVENTION, AND INTERVENTION, *supra* note 3, at 747–48.

12. The research on sole custody with high visitation primarily addresses sole custody with mothers and visitation with fathers, given that this situation is far more common and extensively researched than is sole custody with

of these findings for policies concerning custody and shared parenting.

I. JOINT CUSTODY

A. *Definition and Historical Trends*

Awards for joint legal custody (awarding decision-making authority to both parents) must be distinguished from awards for joint physical custody (awarding both parents the right to substantial shared time with the child). Furthermore, awards for joint physical custody must be distinguished from actual joint custody, or the actual time sharing that occurs.¹³ Definitions of actual joint physical custody vary, but typically specify that the child has a minimum of twenty-five percent¹⁴ to thirty-three percent¹⁵ of time with each parent. In many jurisdictions, joint physical custody is defined by a minimum number of overnights (e.g., 100) per year with each parent.¹⁶

Joint legal custody is currently much more common than it used to be, having increased steadily since the early 1980s to the point where today it is the most common outcome after divorce in many states.¹⁷ Physical custody awards and arrangements have changed less than awards for legal custody. The predominance of primary mother physical custody that has existed since the late 1800s still holds.¹⁸ Modest increases in joint physical custody have occurred

fathers and visitation with mothers. For more information on father custody, see BUCHANAN, MACCOBY & DORNBUSCH, *supra* note 5, at 58–79 and Buchanan & Williams, *supra* note 3.

13. For evidence that joint physical custody is awarded more often than it is practiced, see ELEANOR E. MACCOBY & ROBERT H. MNOOKIN, *DIVIDING THE CHILD: SOCIAL AND LEGAL DILEMMAS OF CUSTODY* 164–67 (1992).

14. See, e.g., Robert Bauserman, *Child Adjustment in Joint-Custody Versus Sole-Custody Arrangements: A Meta-Analytic Review*, 16 J. FAM. PSYCHOL. 91, 93 (2002).

15. See, e.g., Suzanne Reynolds et al., *Back to the Future: An Empirical Study of Child Custody Outcomes*, 85 N.C. L. REV. 1629, 1642 n.52 (2007).

16. ROBERT E. EMERY, *THE TRUTH ABOUT CHILDREN AND DIVORCE: DEALING WITH THE EMOTIONS SO YOU AND YOUR CHILDREN CAN THRIVE* 175 (2004); Emery, Otto & O'Donohue, *supra* note 3, at 4. For more extensive definitions of legal versus physical custody and sole versus joint custody, see Emery, Otto & O'Donohue, *supra*, at 4 and Joan B. Kelly, *The Determination of Child Custody*, *FUTURE CHILD.*, Spring 1994, at 124.

17. EMERY, *supra* note 2, at 119–20; EMERY, *supra* note 16, at 175; Emery, Otto & O'Donohue, *supra* note 3, at 5; Kelly, *supra* note 16, at 123–24.

18. Emery, Otto & O'Donohue, *supra* note 3, at 5; Kelly, *supra* note 16, at 122, 124.

since the mid-1980s,¹⁹ but in practice, joint custody continues to be rare, constituting about ten percent of cases or less.²⁰ However, many more de facto custody situations can be described as mother primary custody with high levels of nonresidential father visitation,²¹ and, as will be discussed later, these arrangements are similar in many respects to de facto joint custody situations.

B. Parenting and Co-Parenting in Joint Custody

Evidence is reasonably consistent that joint *legal* custody is associated with higher contact with and more involved parenting by nonresidential fathers.²² The effects of legal custody awards appear to be independent of prior family functioning (e.g., levels of marital conflict, quality of the father-child relationship) and thus appear to reflect more than just a selection into joint legal custody by more involved fathers.²³ Joint legal custody thus appears to be an important symbolic statement that serves to preserve and encourage continued commitment to the role of parent and involvement of nonresidential parents (typically fathers) in the lives of their children.²⁴

Joint physical custody by definition preserves connections between a child and both parents; thus, by default, it appears to be a custody arrangement that would best promote close relationships with both parents. In fact, the little research evidence that exists does suggest that children in joint custody feel closer to both parents than do children in sole-custody arrangements²⁵ and that their closeness to both parents predicts more positive adjustment

19. See Emery, Otto & O'Donohue, *supra* note 3, at 5.

20. BUCHANAN, MACCOBY & DORNBUSCH, *supra* note 5, at 31 fig.3.2; *cf.* MACCOBY & MNOOKIN, *supra* note 13, at 166 tbl.8.1 (noting that the northern California joint physical custody rate of 20.2% appears higher than the rest of the country).

21. See BUCHANAN, MACCOBY & DORNBUSCH, *supra* note 5, at 7; MACCOBY & MNOOKIN, *supra* note 13, at 173.

22. Chien-Chung Huang et al., *Child Support Enforcement, Joint Legal Custody, and Parental Involvement*, 77 SOC. SERV. REV. 255, 272 (2003); see also Judith A. Seltzer, *Father by Law: Effects of Joint Legal Custody on Nonresident Fathers' Involvement with Children*, 35 DEMOGRAPHY 135 (1998).

23. Seltzer, *supra* note 22, at 144.

24. EMERY, *supra* note 16, at 175-76; see also Marsha Kline Pruett & Kyle D. Pruett, *Fathers, Divorce, and Their Children*, 7 CHILD. ADOLESCENT PSYCHIATRIC CLINICS N. AM. 389, 399 (1998).

25. See, e.g., BUCHANAN, MACCOBY & DORNBUSCH, *supra* note 5, at 264; Deborah Anna Luepnitz, *A Comparison of Maternal, Paternal, and Joint Custody: Understanding the Varieties of Post-Divorce Family Life*, J. DIVORCE, Spring 1986, at 1, 4-5.

outcomes.²⁶ Although concerns have been expressed about joint legal and joint physical custody exacerbating conflict between parents—due to the need to interact with one another more frequently over decision making or shared custody—research does not bear out this concern. In fact, parents who share joint physical custody, on average, report less conflict with one another than do parents in sole custody arrangements.²⁷ Of course, the lower conflict among families who choose, and especially who sustain, joint physical custody over time most likely reflects a selection process whereby parents who are most able and willing to cooperate implement and maintain such arrangements. More interparental conflict predicts lessened father involvement over time.²⁸ But there is little evidence that sharing custody either in the legal or the physical sense leads to increased conflict between divorced parents.

Thus, joint custody is associated, on average, with more positive relationships and effective parenting in the sense of a child experiencing lower levels of conflict and being able to spend the time with each parent that is needed to promote a positive, involved, close relationship with each parent.²⁹ Other aspects of effective parenting, however, include consistency in rules and routines and reasonably close monitoring of a child's activities and whereabouts.³⁰ Are these aspects of effective parenting more difficult to achieve when children—especially older children and adolescents, who have higher levels of personal independence than younger children—spend substantial time in two different homes? There is very limited research evidence on this question, and the evidence that exists concerns adolescents whose parents had been separated or divorced for approximately four years.³¹ In this sample, adolescents who were in joint physical custody reported lower levels of discrepancies between parenting practices (e.g., monitoring, decision making, household organization, rules) than did adolescents in

26. See BUCHANAN, MACCOBY & DORNBUSCH, *supra* note 5.

27. *Id.* at 64–65; see also Bauserman, *supra* note 14.

28. See Pruett et al., *supra* note 1.

29. See Robert F. Kelly & Shawn L. Ward, *Allocating Custodial Responsibilities at Divorce: Social Science Research and the American Law Institute's Approximation Rule*, 40 FAM. CT. REV. 350, 361–62 (2002).

30. See generally Robert D. Laird et al., *Parents' Monitoring-Relevant Knowledge and Adolescents' Delinquent Behavior: Evidence of Correlated Developmental Changes and Reciprocal Influences*, 74 CHILD. DEV. 752 (2003).

31. See, e.g., BUCHANAN, MACCOBY & DORNBUSCH, *supra* note 5; Christy M. Buchanan, Eleanor E. Maccoby & Sanford M. Dornbusch, *Adolescents and Their Families After Divorce: Three Residential Arrangements Compared*, 2 J. RES. ON ADOLESCENCE 261 (1992).

mother or father custody.³² Furthermore, boys and girls in joint custody reported equally high levels of maternal knowledge about their activities and whereabouts as did adolescents in mother custody, and boys in joint custody also reported that their fathers knew as much about their activities as did boys in father custody.³³ Girls in joint custody actually reported higher levels of paternal knowledge than did girls in father custody.³⁴ Thus, with respect to adolescents' perceptions of consistency across homes and of parents' knowledge, joint custody adolescents do not appear disadvantaged. This same study did, however, find some evidence that boys in joint custody experience more freedom in other respects: they made more decisions without parental input and had later curfews in their fathers' homes than did boys in sole custody arrangements.³⁵

In sum, much evidence examining family relationships and parenting suggests that joint legal and joint physical custody are associated with aspects of relationships and parenting that tend to predict positive outcomes for children: lower interparental conflict, parenting that is as or more consistent and attentive than in sole custody arrangements, and closer relationships between children and both parents. In the words of Robert Emery, "In many ways, joint physical custody is the ideal arrangement for children because they still have two parents very much involved in their lives."³⁶

However, as we alluded to earlier, there is a very important caveat when it comes to recommending joint custody on the basis of these data. These studies of joint custody families are based primarily on families who have voluntarily chosen joint custody or who have been successful in sustaining this arrangement over time. These are the families who are most cooperative or most committed to such arrangements. The same benefits are much less likely to accrue if parents are in conflict or cannot persevere in working together. Joint custody, more so than sole custody, requires "a lot of parental cooperation, emotional restraint, and patience for logistical complications."³⁷ Although joint custody can provide a positive developmental context for children following divorce, one should not pretend that making it work will be easy. Parents who are hostile or easily provoked to conflict are not likely to achieve the benefits

32. BUCHANAN, MACCOBY & DORNBUSCH, *supra* note 5, at 237.

33. *Id.* at 76 & tbl.5.2; Buchanan, Maccoby & Dornbusch, *supra* note 31, at 276 & tbl.3.

34. BUCHANAN, MACCOBY & DORNBUSCH, *supra* note 5, at 76 & tbl.5.2.; Buchanan, Maccoby & Dornbusch, *supra* note 31, at 276 & tbl.3.

35. BUCHANAN, MACCOBY & DORNBUSCH, *supra* note 5, at 73-76 & tbl.5.2.

36. EMERY, *supra* note 16, at 176.

37. *Id.*

described, and although research does not generally address the link between joint custody and these relationship and parenting outcomes for parents in high versus low conflict, the research to be reviewed shortly on children's well-being suggests that children's well-being in joint custody very likely differs depending on the level of conflict. Therefore, we turn next to findings on children's psychological well-being in joint custody.

C. Children's Psychological Well-Being in Joint Custody

In keeping with the findings reviewed above that generally suggested the existence of positive parenting and relationships in joint legal and physical custody arrangements, research findings also support a generally positive link between joint custody arrangements and children's psychological well being. For example, in one large study, adolescents in joint custody had significantly better scores on an index of emotional, behavioral, and academic functioning than did adolescents in father custody and slightly better scores than did adolescents in mother custody.³⁸ Even more convincingly, a meta-analysis of thirty-three studies conducted between 1982 and 1999 indicated better outcomes on a range of adjustment measures among children in joint custody as compared to sole custody, and similar adjustment of children in joint custody to that of children in always-married families.³⁹ The better outcomes existed for self-esteem, emotional adjustment, behavioral adjustment, and divorce-specific adjustment and for both joint legal and joint physical custody.⁴⁰ Interestingly, the benefit did not extend to academic adjustment,⁴¹ which is consistent with recent findings from a Norwegian sample where young adolescents from families with joint physical custody were functioning similarly to young adolescents from non-divorced families except in the domain of academic achievement.⁴²

In addition to showing positive levels of adjustment, adolescents in joint custody express higher levels of satisfaction with the division of time between parents than do adolescents in sole custody arrangements.⁴³ And contrary to what one might expect, adolescents

38. See Buchanan, Maccoby & Dornbusch, *supra* note 31.

39. See Bauserman, *supra* note 14.

40. *Id.* at 97–98.

41. *Id.* at 97.

42. Kyrre Breivik & Dan Olweus, *Adolescents' Adjustment in Four Post-Divorce Family Structures: Single Mother, Stepfather, Joint Physical Custody and Single Father Families*, J. DIVORCE & REMARRIAGE, May 2006, at 99, 118.

43. BUCHANAN, MACCOBY & DORNBUSCH, *supra* note 5, at 174; Warshak, *supra* note 6, at 378–79. Another study that did not examine joint custody

in joint custody are also, on average, somewhat less likely to feel caught between parents than adolescents in sole custody.⁴⁴

Once again, however, because joint physical custody is rarely forced on parents who do not want it, and even parents who have court orders for joint physical custody often drop out of that arrangement over time,⁴⁵ these data reflect the potential impact of joint custody among those families that have the ability and will to sustain it. Importantly, as noted above, these are families with lower levels of conflict and better relational functioning to begin with. What is the impact of joint physical custody under less ideal circumstances? Does it benefit children even if parents are in high conflict? Answers to these questions are less clear, but most experts believe that the benefits of joint custody are far less likely—and that there is even the potential for harm—when parents are hostile toward one another or simply cannot get along.⁴⁶ Although Bauserman's meta-analysis suggested that the benefits of joint custody on well-being exist independent of interparental conflict,⁴⁷ there is evidence that the degree to which children will benefit varies in high and low conflict situations. For example, although in the Buchanan, Maccoby, and Dornbusch study cited earlier adolescents in joint custody had the lowest levels of loyalty conflicts overall, this was particularly true if parents experienced low discord.⁴⁸ As conflict between the parents rose, the probability of feeling caught between parents went up for all children, but especially so for adolescents in joint custody.⁴⁹ As a result, children who are in joint custody and whose parents are in high conflict are at greatest risk for loyalty conflicts, which, in turn, are linked to poorer psychological functioning.⁵⁰ More generally, joint physical

found a similar result in that young adults who had high levels of contact with their fathers as children were less likely than those who had only occasional contact to express regret and loss over the divorce. Lisa Laumann-Billings & Robert E. Emery, *Distress Among Young Adults from Divorced Families*, 14 J. FAM. PSYCHOL. 671, 678–79 (2000).

44. BUCHANAN, MACCOBY & DORNBUSCH, *supra* note 5, at 221–26; Christy M. Buchanan, Eleanor E. Maccoby & Sanford M. Dornbusch, *Caught Between Parents: Adolescents' Experience in Divorced Homes*, 62 CHILD. DEV. 1008 (1991). Feeling close to both parents, a phenomenon that is more characteristic of adolescents in joint custody than sole custody, predicts fewer rather than more loyalty conflicts. BUCHANAN, MACCOBY & DORNBUSCH, *supra* note 5, at 258.

45. MACCOBY & MNOOKIN, *supra* note 13, at 197.

46. EMERY, *supra* note 16, at 176; Johnston, *supra* note 1, at 420.

47. Bauserman, *supra* note 14, at 97–98.

48. BUCHANAN, MACCOBY & DORNBUSCH, *supra* note 5, at 223–24 & fig.11.3.

49. *Id.* at 224 fig.11.3.

50. *Id.* at 220, 224–26; *see also* Janet R. Johnston, Marsha Kline & Jeanne

custody in situations of high interparental conflict is likely to mean that children are exposed to more conflict, which is likely to interfere with their well-being. Thus, imposing joint physical custody on families who are litigating, particularly if litigation is protracted, is highly unlikely to promote the best interests of children and may in fact do them harm.

Psychological outcomes associated with joint custody, in addition to depending on levels of interparental conflict, also depend on the temperament and age of the child. Children with easygoing, adaptable temperaments are more likely to deal well with the multiple and repeated transitions entailed by joint custody than are children who are less adaptable.⁵¹ Although to our knowledge there is no research on joint physical custody of very young children (i.e., infants and preschoolers), true joint custody is not likely to be a good option for them. Young children thrive when they have the security of a primary attachment figure and consistent routines—outcomes that are typically best promoted with a sole custody arrangement plus visitation.⁵² However, even infants can adjust well to spending regular time in another home (just as many do in day care) and occasional overnights in a nonresidential home (as sometimes occurs with grandparents).⁵³ Pruett and colleagues provide some data consistent with the idea that having some overnights (vs. none) does not hurt children as young as three years of age and is associated with better adjustment of children as young as four to six years of age.⁵⁴ Occasional and regular visits with a nonresidential parent for infants and toddlers can help to preserve a commitment to the child on the part of the parent and an attachment to the parent on the part of the child that can leave the door open for joint physical custody to develop as the child gets older and can tolerate more movement between homes.⁵⁵ Among adolescents, joint custody is likely to work best when it allows some flexibility to accommodate

M. Tschann, *Ongoing Postdivorce Conflict: Effects on Children of Joint Custody and Frequent Access*, 59 AM. J. ORTHOPSYCHIATRY 576 (1989) (finding that among children of parents in high legal conflict, more frequent contact with both parents predicted a higher frequency of children feeling caught and used in the conflict).

51. ELIZABETH M. ELLIS, *DIVORCE WARS: INTERVENTIONS WITH FAMILIES IN CONFLICT* 154–55 (2000); JUDITH S. WALLERSTEIN & SANDRA BLAKESLEE, *SECOND CHANCES: MEN, WOMEN, AND CHILDREN A DECADE AFTER DIVORCE* 267–68 (1989).

52. EMERY, *supra* note 16, at 178–85.

53. *Id.* at 178–80.

54. Pruett, Ebling & Insabella, *supra* note 3, at 54–55. The number of overnights did not matter, only existence of overnights. *Id.*

55. EMERY, *supra* note 16, at 181–82; Kelly & Ward, *supra* note 29, at 359.

increasing peer and extracurricular activities, as well as accommodation for the child's increasing need to have a say in the amount and timing of contact.⁵⁶

D. Economic Security in Joint Custody

Because in most families fathers earn more income than mothers—and because it is typically mothers and children who experience dramatic declines in economic well-being following a divorce—enhancing fathers' financial contributions to their children is of great concern. Payment of child support by fathers enhances the economic well-being of children after divorce and reduces the economic discrepancies between households.⁵⁷ Therefore, in this section, we examine whether joint custody achieves the end of enhancing children's economic well-being by examining how it is associated with fathers' financial contributions to their children.

Joint legal custody is associated with increased financial contributions to children by fathers. In one large and early study examining custody awards and child support, families who were awarded joint legal custody were also more likely to have child support awards requiring fathers to pay child support, although the amount of that award was not related to legal custody.⁵⁸ In more recent and nationally representative studies, joint legal custody also predicted more payment of child support,⁵⁹ although the cause of the relationship remains unclear.⁶⁰

The association of joint physical custody with child support is more complex. Fathers who have at least some contact with their children pay more child support than fathers who have no or rare contact,⁶¹ and fathers with a joint physical custody award are more

56. BUCHANAN, MACCOBY & DORNBUSCH, *supra* note 5, at 151–54; James H. Bray, *Psychosocial Factors Affecting Custodial and Visitation Arrangements*, 9 BEHAV. SCI. & L. 419, 426–27 (1991).

57. Bartfeld, *supra* note 8.

58. MACCOBY & MNOOKIN, *supra* note 13, at 116–17 & fig.6.1.

59. Huang et al., *supra* note 22, at 267–69 & tbl.5, 272; Seltzer, *supra* note 22, at 141–42 & tbl.4.

60. In the 1998 Seltzer study, the association between joint legal custody and more child support was accounted for by the higher socioeconomic status (“SES”) of fathers with joint legal custody; once SES was controlled, the legal custody decree did not predict the amount of award. Seltzer, *supra* note 22, at 141–42. In the 1998 Huang et al. study, joint legal custody awards were more common in states with stricter child support enforcement, suggesting that courts may award joint legal custody more often when they also make serious demands for financial accountability of fathers. Huang et al., *supra* note 22, at 267.

61. MACCOBY & MNOOKIN, *supra* note 13, at 116–20; Judith A. Seltzer,

likely to have child support ordered than are fathers with no regular contact.⁶²

However, among fathers who have regular contact with their children, increasing amounts of contact predict lesser likelihood of a child support award, lower amounts of child support awarded, and lower amounts of child support paid, even though fathers who get joint custody generally have higher incomes than fathers whose children are in sole mother custody.⁶³ In fact, in the large California study in which this was demonstrated, the “probability of an award [for child support] dropped by 4.4 percentage points for each additional overnight spent with the father.”⁶⁴ Similarly, over the first three years following the divorce, if fathers’ time with children increased, child support paid dropped off; alternatively, if fathers’ time with children decreased, child support increased.⁶⁵ Fathers with no contact paid the least child support.⁶⁶ But considering those fathers who had regular contact with their children, increased contact predicted lower child support awarded and paid.⁶⁷ This sort of tradeoff between more time with children and less child support paid has been documented in other studies⁶⁸ and is written into some state statutes.⁶⁹

Yet when fathers care more often for their child, they also incur more costs of their own for such care. As Maccoby and Mnookin note:

To the extent that [a father] incurs costs related to visitation and child care, he is less likely to want to provide for child-rearing expenses incurred by the mother as well. On the other hand, fathers who spend more time with their children may care more about the children and may be more willing to pay

Relationships Between Fathers and Children Who Live Apart: The Father's Role After Separation, 53 J. MARRIAGE & FAM. 79, 87–89 (1991); Linda Jacobsen & Brad Edmondson, *Father Figures*, AM. DEMOGRAPHICS, Aug. 1993, at 22, 62.

62. MACCOBY & MNOOKIN, *supra* note 13, at 120.

63. *Id.* at 117–20.

64. *Id.* at 119.

65. *Id.* at 13, 253–54.

66. *Id.* at 256.

67. *Id.* at 253.

68. *See, e.g.*, Jessica Pearson & Nancy Thoennes, *Supporting Children After Divorce: The Influence of Custody on Support Levels and Payments*, 22 FAM. L.Q. 319, 321 (1988).

69. EMERY, *supra* note 2, at 114; Robert E. Emery, *Changing the Rules for Determining Child Custody in Divorce Cases*, 6 CLINICAL PSYCHOL.: SCI. & PRAC. 323 (1999); Emery, Otto & O'Donohue, *supra* note 3, at 4.

support.⁷⁰

Thus, fathers who are more involved with their children—including fathers in joint custody—might pay less in formal child support awards than do fathers who are less involved with their children. However, because the children are more often in the care of the joint custody father, and because more time together typically increases emotional ties, such fathers are potentially more likely to contribute to daily expenses and other financial needs of the children. In support of this possibility, Pearson and Thoennes found that the more contact nonresidential fathers had with their children, the more supplementary and in-kind payments they made outside of their child support payments.⁷¹

Because both child support and other income are important to the post-divorce welfare of the child,⁷² it might be that children's economic well-being is as good or better when they have high levels of regular contact with fathers (who pay less child support but provide more income through other means) than when they have less regular contact. However, debate remains about the appropriateness of reducing child support awards with joint custody and high visitation.⁷³ Income discrepancies continue to exist between mothers' and fathers' homes following divorce,⁷⁴ and concerns have been expressed that the overall financial well-being of children should not be sacrificed in pursuit of increasing contact with a father.⁷⁵ Child support elevates the child's financial situation in the mother's home, and this is an important predictor of the child's well-being.⁷⁶ Thus, child support dollars have a powerful

70. MACCOBY & MNOOKIN, *supra* note 13, at 120.

71. Pearson & Thoennes, *supra* note 68, at 335.

72. *Id.* at 337.

73. See, e.g., EMERY, *supra* note 2, at 114–15; William V. Fabricius & Sanford L. Braver, *Non-child Support Expenditures on Children by Nonresidential Divorced Fathers*, 41 FAM. CT. REV. 321 (2003); Irwin Garfinkel, Sara McLanahan & Judith Wallerstein, *Visitation and Child Support Guidelines: A Comment on Fabricius and Braver*, 42 FAM. CT. REV. 342, 348 (2004).

74. Bartfeld, *supra* note 8, at 203.

75. EMERY, *supra* note 2, at 114; Garfinkel, McLanahan & Wallerstein, *supra* note 73, at 348.

76. See EMERY, *supra* note 2, at 112. This Article cites research supporting transfer of income to the residential home because of benefits of income in the residential home to children's well-being. Most residential parents are mothers. Therefore, although there is not one "residential home" in situations of joint custody, this research supports the importance of transferred income from fathers' homes to mothers' so that the child is not financially disadvantaged in mothers' homes, even when the child spends high amounts of time with the

influence on children's well-being after divorce, more powerful than income from other sources.⁷⁷ Menning found that adolescents were more likely to graduate from high school and attend college when they had both contact *and* financial support from their fathers (over having only one or the other).⁷⁸ Both economics and relationships are important to children's well-being, and policies should encourage fathers to contribute time and income to *both* households in which the child resides.

In sum, it seems likely that children in joint custody experience the financial benefits of more child support than is had by children who have no or irregular contact with their fathers, as well as more financial contributions outside of child support than children with less father contact. It also seems likely, given a legal tendency to trade off child support money for residential time together even though there are continuing disparities between household incomes, that there may be room to improve fathers' child support contributions for children in this arrangement.

II. SOLE CUSTODY WITH LEVELS OF HIGH VISITATION

Consistent with findings on joint custody, research on levels of visitation among children in sole custody (primarily concerning visitation with fathers for children in mother custody) suggests that higher levels of visitation in and of themselves are weak but positive predictors of interparental relationships, parent-child relationships, and financial contributions from fathers. Also as with joint custody, this certainly reflects "selection effects" to some degree (e.g., parents in high conflict are less likely to maintain high levels of visitation,⁷⁹ and fathers who are committed to their children are likely to continue to see them and support them financially⁸⁰) but possibly also reflects benefits of continued contact (e.g., when fathers continue to see their children, they maintain emotional ties and

father.

77. See, e.g., Virginia W. Knox & Mary Jo Bane, *Child Support and Schooling*, in CHILD SUPPORT AND CHILD WELL-BEING, *supra* note 10, at 20, 285–316.

78. Chadwick L. Menning, *Nonresident Parenting Beyond Child Support: Parenting Practices, Gender, and Adolescent Well-Being* (May 6, 2003) (unpublished Ph.D. dissertation, Indiana University).

79. Pruett et al., *supra* note 1, at 176; Mary F. Whiteside & Betsy Jane Becker, *Parental Factors and the Young Child's Postdivorce Adjustment: A Meta-Analysis with Implications for Parenting Arrangements*, 14 J. FAM. PSYCHOL. 5, 18 (2000).

80. IRWIN GARFINKEL, SARA S. MCLANAHAN & PHILIP K. ROBINS, CHILD SUPPORT AND CHILD WELL-BEING 21 (1994).

commitments). Family functioning and child adjustment often look very similar among children in joint custody and in mother custody with high father visitation.⁸¹

Here again, however, direct links between levels of contact with aspects of family functioning or child well-being are small and inconsistent,⁸² and the quality of family relationships (e.g., closeness of the relationship between child and nonresidential parent) is a better direct predictor of child adjustment than is amount of contact per se.⁸³ More contact with fathers does increase the chances of a close and effective parent-child relationship,⁸⁴ but of course does not guarantee such a relationship. Some adolescents who see their fathers relatively little (e.g., for two weeks in the summer) nonetheless still feel emotionally connected to them, and this connection predicts better psychological functioning.⁸⁵ Nonetheless, higher levels of contact between children and both parents—whether in joint custody or in sole custody with high visitation—can provide more opportunities for a continued and positive relationship with both parents that subsequently predicts better psychological functioning among those children.⁸⁶ As stated earlier, children are most likely to achieve such benefits from contact with both parents *if* interparental conflict is low and quality of parenting is good;⁸⁷ if conflict is high, more frequent visitation is likely to be associated with poorer psychological functioning.⁸⁸

III. IMPLICATIONS FOR CUSTODY STANDARDS

Children's adjustment following divorce is dependent on a myriad of factors ranging from their own temperament to characteristics of the family, neighborhoods, and historical contexts

81. See, e.g., BUCHANAN, MACCOBY & DORNBUSCH, *supra* note 5, at 80–107.

82. Buchanan & Williams, *supra* note 3; Kelly & Ward, *supra* note 29, at 362.

83. See, e.g., Amato & Gilbreth, *supra* note 1, at 568.

84. William V. Fabricius, *Listening to Children of Divorce: New Findings that Diverge from Wallerstein, Lewis, and Blakeslee*, 52 FAM. REL. 385, 389 (2003); Whiteside & Becker, *supra* note 79, at 20.

85. BUCHANAN, MACCOBY & DORNBUSCH, *supra* note 5, at 262–63.

86. *Id.* at 143–58; Marcia J. Carlson, *Family Structure, Father Involvement, and Adolescent Behavioral Outcomes*, 68 J. MARRIAGE & FAM. 137, 150 (2006); Valarie King, *Parental Divorce and Interpersonal Trust in Adult Offspring*, 64 J. MARRIAGE & FAM. 642, 650, 654 (2002); Pruett, Ebling & Insabella, *supra* note 3, at 39, 46 & 53–54.

87. See, e.g., E. MAVIS HETHERINGTON & JOHN KELLY, FOR BETTER OR FOR WORSE: DIVORCE RECONSIDERED 136–40 (2002); Emery, Otto & O'Donohue, *supra* note 3, at 2; Kelly & Emery, *supra* note 3, at 356.

88. Johnston, Kline & Tschann, *supra* note 50, at 576.

in which they develop.⁸⁹ In the overall scheme of things, the custody arrangement that exists on paper or the actual division of time with each parent is a relatively weak predictor of adjustment. Although continued contact with both parents in the form of joint custody or sole custody with high visitation appears, on average, to have benefits for the families that use these arrangements, there is no “one size fits all” solution to custody after divorce, making it difficult to say what the legal policy should be with respect to custody or visitation arrangements.⁹⁰ No doubt, this is the reason for reliance in most jurisdictions on a standard that emphasizes the “best interests of the child” rather than a particular custody or visitation arrangement.⁹¹ The best interests of the child standard does not impose one specific custody solution on everyone, but rather allows individual families, lawyers, and judges to determine what is best for a particular child in a particular family.

As articulated elsewhere, the problem with the “best interests of the child” standard is that it leaves a high level of discretion to individual judges, and therefore creates much ambiguity for parents who negotiate in “the shadow of the law.”⁹² This ambiguity may encourage litigation (and associated conflict) by parents who cannot agree on their own, as each hopes that a particular judge will grant his or her own wishes as in the best interests of the child. Thus, experts have sought a solution that would provide predictability for parents but also serve the child’s best interests in a wide variety of complex real-life situations.

This solution is not a presumption for joint custody. Although the research data reviewed earlier suggests that joint custody might benefit families and children in those situations where parents can cooperate and have patience and persistence in the face of logistical complications, there is no evidence whatsoever that it will help families and children if forced upon parents who cannot otherwise

89. See, e.g., Christy M. Buchanan, *Girls’ Adjustment to Divorce and Remarriage*, in HANDBOOK OF BEHAVIORAL AND EMOTIONAL PROBLEMS IN GIRLS 415–38 (Debra J. Bell et al. eds., 2005); Christy M. Buchanan, *The Impact of Divorce on Adjustment During Adolescence*, in RESILIENCE ACROSS CONTEXTS: FAMILY, WORK, CULTURE, AND COMMUNITY 179–216 (Ronald D. Taylor & Margaret C. Wang eds., 2005).

90. Amato, *supra* note 3.

91. Kelly, *supra* note 16, at 128–29.

92. These concerns are articulated in more detail by Emery, *supra* note 69, at 323–27 and Emery, Otto & O’Donohue, *supra* note 3, at 1, 5–6, 19. See Robert H. Mnookin & Lewis Kornhauser, *Bargaining in the Shadow of the Law: The Case of Divorce*, 88 YALE L.J. 950, 969–70 (1979), for a discussion of how legal policies influence parental bargaining.

agree. Joint custody is an especially bad option if conflict is extreme or there is a history of domestic violence.⁹³ Lawyers and other professionals working with divorcing parents should thus be encouraged to promote arrangements that involve high levels of contact with both parents when they see that their clients are able to cooperate for the benefit of the children.⁹⁴ But data support the conclusion drawn by Emery et al. that joint physical custody “seems to be a workable arrangement only for a minority of parents and should not be encouraged as the fair solution for parents who dispute custody or otherwise are in high conflict.”⁹⁵

Arguably, one better legal policy solution would be to use the approximation rule.⁹⁶ The approximation rule would assign residential time to each parent according to the division of caretaking time and duties that existed before parental separation. This standard is a “hybrid” of a primary caretaker standard and presumption for joint custody.⁹⁷ It is not exactly the same as a primary caretaker standard, which would award the bulk of children’s residential time to the parent who did more caretaking, without consideration for the amount of caretaking done by the secondary caregiver. The approximation rule, in contrast, would automatically award more time to secondary caretakers who were highly involved in caregiving than to secondary caretakers who were less involved.

As argued eloquently by Kelly and Ward, the approximation rule has several potential benefits for children, including continued contact with both parents (subsequently allowing the maintenance of important attachment relationships with both parents), and predictability for parents of a likely court outcome, which ought to reduce conflict between divorcing parents.⁹⁸ This standard would achieve the additional benefit of consistency in routines and relationships to which the child is accustomed.⁹⁹

Using the approximation rule would undoubtedly lead to mothers being awarded more custodial time than fathers because mothers continue to be responsible for more child care than fathers

93. Johnston, *supra* note 1, at 420–21.

94. Emery, Otto & O’Donohue, *supra* note 3, at 16, 17.

95. *Id.* at 17.

96. *Id.* at 22; Kelly & Ward, *supra* note 29, at 350, 352; Eleanor E. Maccoby, *A Cogent Case for a New Child Custody Standard*, 6 PSYCHOL. SCI. PUB. INT. i, i–ii (2005).

97. Emery, Otto & O’Donohue, *supra* note 3, at 23.

98. Kelly & Ward, *supra* note 29, at 352–53.

99. *Id.* at 353.

in American society.¹⁰⁰ But the rule allows for fathers' continued involvement approximate to their involvement in the past, and also allows for fathers to receive more custodial time than mothers in those rarer situations where he does more of the caretaking than she does.¹⁰¹ Although the approximation rule might not seem fair to parents (typically fathers) who have spent substantial time contributing to the financial well-being of the family at the expense of involvement in caregiving, the benefits to the child of continuity in care of the primary caregiver and lower conflict between parents are arguably more important considerations in the ultimate aim to serve the best interests of the child. Yet much research suggests that even in these situations children will benefit from opportunities for continuing relationships with fathers, which requires time.¹⁰² Thus, proposals for the approximation rule should allow for at least some residential time with each parent, barring extreme hostility or abuse.¹⁰³ In fact, some proposals for the approximation rule include qualifications that a minimum amount of custodial responsibility be assigned to each parent.¹⁰⁴ Given the potential dangers of high contact with both parents in situations of extreme conflict, an additional qualification would be to adjust residential time downward for secondary caregivers in very high conflict divorces.¹⁰⁵ However, the clarity and inherent fairness of assigning post-divorce caretaking time in accordance with pre-divorce caretaking would hopefully have the effect of cutting short such disputes, even among parents likely to challenge one another.

100. Daniel N. Hawkins, Paul R. Amato & Valarie King, *Parent-Adolescent Involvement: The Relative Influence of Parent Gender and Residence*, 68 J. MARRIAGE & FAM. 125, 125, 133 (2006); Maccoby, *supra* note 96, at i.

101. At least some proposals for use of the approximation rule contain a list of concrete caretaking activities that could be used to define caretaking time. See, e.g., Kelly & Ward, *supra* note 29, at 352. This sort of approach would seem important in order to reduce conflict between parents that might arise over ambiguous definitions of caretaking time or responsibility.

102. E.g., Paul R. Amato, *The Consequences of Divorce for Adults and Children*, 62 J. MARRIAGE & FAM. 1269, 1280 (2000).

103. Any proposals for shared parenting typically exempt families in which extreme conflict, domestic violence, or abuse are or have been present. Kelly & Ward, *supra* note 29, at 363–64.

104. See *id.* at 352 (stating as one important qualification of an approximation rule the existence of a guarantee of minimum custody for parents “who had performed a reasonable share of *parenting responsibilities* without regard to time spent providing *caretaking functions*”).

105. For additional suggestions on how to handle transitions and visitation best in situations where parents in high conflict continue to share custody, see Johnston, *supra* note 1, at 422–23.

In addition to using the approximation rule, courts could also serve the best interests of children by promoting other policies and programs likely to encourage lower conflict and resolution of custody disputes out of court. These include mediation programs, collaborative lawyering, parenting support and education programs, and use of parenting coordinators.¹⁰⁶ Although some have worried that use of alternative dispute resolution (“ADR”) strategies such as mediation and collaborative lawyering will harm women by reducing their power and taking advantage of their relational orientation in bargaining,¹⁰⁷ the research available does not appear to bear out this concern.¹⁰⁸ For example, in North Carolina, use of mediation did not lead to increased awarding of joint custody or father custody; in fact, mothers received primary custody more often in mediated settlements than in lawyer-negotiated settlements.¹⁰⁹ Although mediators, collaborative lawyers, and parent coordinators should seriously consider and remain firmly aware of the possibility that women might be coerced by ex-spouses and legal professionals to agree to poor settlements (e.g., lesser child support or lesser custody) in order to preserve relationships with their children, it does not appear that mothers are automatically disadvantaged by ADR approaches. In fact, with competent professional help, they may be advantaged.

Furthermore, efforts such as mediation appear to have the potential to benefit all involved: mothers, fathers, and children. For example, in an impressive long-term study, Emery, Sbarra, and Grover demonstrated the positive impact of a five-hour custody mediation program (compared to adversarial settlement) twelve years after divorce!¹¹⁰ Parents randomly assigned to mediation were more likely to settle outside of court, to settle in less time, to be more compliant in child support payments, to use court services more often following settlement (indicative of updating agreement

106. For extensive discussions of various alternative dispute resolution programs, see Emery, Otto & O’Donohue, *supra* note 3, at 20–21; Robert E. Emery, David Sbarra & Tara Grover, *Divorce Mediation: Research and Reflections*, 43 FAM. CT. REV. 22 (2005); Eileen Pruett & Cynthia Savage, *Statewide Initiatives to Encourage Alternative Dispute Resolution and Enhance Collaborative Approaches to Resolving Family Issues*, 42 FAM. CT. REV. 232, 232–38 (2004); Pauline H. Tesler, *Collaborative Law: A New Paradigm for Divorce Lawyers*, 5 PSYCHOL. PUB. POL’Y & L. 967, 974–79 (1999).

107. Penelope Eileen Bryan, “*Collaborative Divorce*”: *Meaningful Reform or Another Quick Fix?*, 5 PSYCHOL. PUB. POL’Y & L. 1001, 1014–15 (1999).

108. Kelly, *supra* note 16, at 125–26.

109. Reynolds et al., *supra* note 15, at 1668–69.

110. Emery, Sbarra & Grover, *supra* note 106, at 30–31.

as children grew older and circumstances changed), and to express satisfaction with the settlement and process.¹¹¹ Children in these families had more contact (both physical and telephone) with their nonresidential parents over the long term, and there were no increases in interparental conflict coinciding with the increased contact.¹¹² The authors call benefits of mediation “surprisingly large,” especially given the brevity of the program.¹¹³ However, they also point out that the mediation provision together with other interventions such as support groups might have an even larger impact, particularly on the parents’ or children’s eventual mental health outcomes, which were not affected by this program.¹¹⁴

Other research suggests benefits of other interventions in reducing parental conflict and increasing fathers’ involvement.¹¹⁵ The most effective interventions are likely to have multiple components¹¹⁶ and be available over time as children develop and family circumstances change.

IV. CONCLUSION

We began this Article by asking: “If the most important predictors of children’s well-being after divorce are relational and economic, what are the implications for lawyers, judges, and legal policy makers, who are often called upon to make decisions about or encourage implementation of custody and visitation arrangements for children after divorce? What standards should be used for custody and visitation that might promote the best outcomes for children and families?” Given data suggesting that joint custody arrangements are associated with many positive relational and parenting outcomes for children, lawyers and judges could encourage a high level of shared parenting when parents seem able to put aside conflicts and work cooperatively for the sake of their children. However, a presumption or undue pressure for joint

111. *Id.* at 26–28.

112. *Id.* at 30–31.

113. *Id.* at 23.

114. *Id.* at 31–32.

115. *See, e.g.,* Ron Neff & Kat Cooper, *Parental Conflict Resolution: Six-, Twelve-, and Fifteen-Month Follow-Ups of a High-Conflict Program*, 42 *FAM. CT. REV.* 99, 100–02 (2004); Marsha Kline Pruett, Glendessa M. Insabella & Katherine Gustafson, *The Collaborative Divorce Project: A Court-Based Intervention for Separating Parents with Young Children*, 43 *FAM. CT. REV.* 38, 40–41 (2005).

116. Pruett, Insabella & Gustafson, *supra* note 115, at 42 (exemplifying an intervention that included mediation, parenting education, and therapeutic intervention).

physical custody is not appropriate in the courts. This is because the data on joint custody are based on a small number of families in which parents are relatively cooperative and committed to joint custody, whereas the courts are more likely to deal with parents experiencing high levels of conflict and hostility, and less able to work together in the close and cooperative way that successful joint custody demands. Although there appear to be potential benefits of and little harm from presumptions for joint *legal* custody, a presumption for joint *physical* custody in high conflict cases would not serve children well.

Instead, we conclude that legal policies and judicial actions promoting alternative dispute resolution and predictable court outcomes are in children's best interests because such policies are likely to reduce conflict between parents. One legal standard that might increase the predictability of likely custody outcomes is the "approximation rule." An "approximation" standard would also serve to promote continued contact with both parents and even joint custody among those parents who had shared caretaking responsibilities at a high level prior to separation. The continued contact and relationships with both parents that would result, particularly in situations where conflict is minimized, should benefit children. Based on the data available at present, use of mediation or other ADR programs should be encouraged, and more of these programs should be available to parents on an ongoing basis. Furthermore, promotion of or requirements to attend parenting support and education programs could enhance effective parenting, which is of utmost importance to children's development. Finally, child support should be awarded generously, even in situations where custody arrangements with high levels of shared parenting (akin to joint custody or sole custody with high visitation) are implemented. Children benefit after divorce when parents have little or well-handled conflict, parent effectively, and where children have economic security in whichever households they spend time. To achieve that end, child support should not be unduly sacrificed to residential time. If the child's best interest is the goal, both are needed.