

Members

Sen. Brent Steele, Chairperson  
Sen. Susan Glick  
Sen. Karen Tallian  
Sen. Greg Taylor  
Rep. Phyllis Pond  
Rep. Randy Frye  
Rep. Vanessa Summers  
Rep. John Day  
Peter Nugent  
Magistrate Kimberly D. Mattingly  
Kathryn Hillebrands Burroughs  
Bruce Pennamped



# CHILD CUSTODY AND SUPPORT ADVISORY COMMITTEE

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Authority: IC 33-24-11-1

## MEETING MINUTES<sup>1</sup>

Meeting Date: October 26, 2011  
Meeting Time: 10:00 A.M.  
Meeting Place: State House, 200 W. Washington St., Room 431  
Meeting City: Indianapolis, Indiana  
Meeting Number: 1

**Members Present:** Sen. Brent Steele, Chairperson; Sen. Susan Glick; Sen. Greg Taylor; Rep. Phyllis Pond; Rep. Randy Frye; Peter Nugent; Magistrate Kimberly D. Mattingly; Kathryn Hillebrands Burroughs; Bruce Pennamped.

**Members Absent:** Sen. Karen Tallian; Rep. Vanessa Summers; Rep. John Day.

Senator Brent Steele, Chairperson, called the first meeting of the Child Custody and Support Advisory Committee ("Committee") meeting to order at 10:20 A.M.

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<sup>1</sup> These minutes, exhibits, and other materials referenced in the minutes can be viewed electronically at <http://www.in.gov/legislative> Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for hard copies.

## Consideration of Legislation

### PD 3067<sup>2</sup> (Joint legal custody)

The members received a copy of Preliminary Draft 3067, which addresses joint legal custody as follows:

Establishes a rebuttable presumption that an award of joint legal custody is in the best interest of a child. Requires a court, if a party seeks to rebut the presumption, to consider: (1) the fitness and suitability of each of the persons awarded joint legal custody; (2) the ability of the parents to communicate and advance the child's welfare; and (3) whether the child has established a close and beneficial relationship with both of the persons awarded joint legal custody. Repeals certain provisions governing the award of joint legal custody that are being superseded by this bill.

Representative Phyllis Pond, a Committee member, explained the content of PD 3067. She provided members of the Committee with a bill<sup>3</sup> that recently passed in Tennessee concerning determining custody of a child, a spreadsheet<sup>4</sup> concerning child custody laws in each state, and a handout<sup>5</sup> concerning joint custody.

Mr. Bruce Pennamped, a Committee member, stated that he supports PD 3067 as the parties would start out on the same footing. Senator Susan Glick, a Committee member, stated that she has witnessed children being used as weapons in court proceedings. She indicated that if legislation established a presumption of joint legal custody, the parent who wants sole legal custody would likely have to prove the other parent is unfit and that many times the other parent is not unfit but sole legal custody to one parent in certain situations works better. Senator Steele noted that PD 3067 only applies to joint legal custody and does not establish a presumption of joint physical custody.

Magistrate Kimberly Mattingly, a Committee member, said that she sees many parents sharing joint custody by agreement. She stated that those cases where parents are unable to agree are generally not granted joint custody for good reasons. She stated that more presumptions are not needed and that every family is unique. She noted that an increase in litigation is not good for children. She also said that she had concerns applying this to paternity cases. Representative Pond stated that she would be willing to remove the provisions that apply to paternity.

Senator Steele and Magistrate Mattingly discussed whether parties are required to attend mediation before the parties go to court.

Senator Greg Taylor, a Committee member, said that he believes joint legal custody is established at the time a child is born. He stated that requiring a parent to have to justify being able to see his or her child is difficult on the child and that it is best for a

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<sup>2</sup> Exhibit 1

<sup>3</sup> Exhibit 2

<sup>4</sup> Exhibit 3

<sup>5</sup> Exhibit 4

parent to have to prove there should not be joint legal custody. He noted that the court has a limited amount of time to hear from the parties but that the court's decision affects the child for the child's lifetime.

Mr. Peter Nugent, a Committee member, noted that joint legal custody does not include increasing a parent's physical time with a child. In response to a question from Senator Taylor, Mr. Pennamped said that when one parent has to ask for joint legal custody, that parent often has to give up something, such parenting time, in order for the other parent to agree to joint legal custody. Thus, joint legal custody is used as a trading tool against the parent asking for joint legal custody.

The Committee approved PD 3067 in a vote of 6 to 3.

PD 3237<sup>6</sup> (Duty to support) and PD 3266<sup>7</sup> (Duty to support a child)

The Committee members received a copy of Preliminary Draft (PD) 3237, which amends the duty to support provisions as follows:

Provides that the duty to support a child, which does not include support for educational needs, ceases when the child becomes 19 years of age. (Current law provides that the duty to support a child ceases when the child becomes 21 years of age.)

The Committee members also received a copy of PD 3266, which amends the duty to support provisions as follows:

Provides that the duty to support a child, which does not include educational needs, ceases when the child becomes 19 years of age. (Current law provides that the duty to support a child ceases when the child becomes 21 years of age.) Provides that the duty to support a child ceases when the child becomes 21 years of age if the child is enrolled in a secondary school or postsecondary educational institution. Allows the court to order a parent to pay child support for a child until the child becomes 21 years of age if: (1) the parties agree in writing to the payment of child support; or (2) the parent requesting the payment of child support petitions the court before the child becomes 19 years of age and shows that the child is not capable of supporting himself or herself through employment or is unable to find gainful employment. Provides that the duty to support a child ceases if the child marries. Provides that, if the court finds that a child is partially supporting himself or herself or is capable of partially supporting himself or herself, the court may order the parent to pay child support until the child becomes 21 years of age but allows the court to modify the amount of child support.

Senator Steele explained the content of PD 3237 and PD 3266.

Ms. Suzanne O'Malley with the Indiana Prosecuting Attorneys Council (IPAC), stated that PD 3237 is narrow as the language in PD 3237 stops child support when the

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<sup>6</sup> Exhibit 2

<sup>7</sup> Exhibit 3

child becomes 19 years old. She said that PD 3266 is broader in that it allows a custodial parent to petition the court to extend child support until the child becomes 21 years old under certain circumstances. She noted that only three states, including Indiana, have the emancipation age at 21 years of age and that many parents in Indiana think the emancipation age is 18 years of age. She said that many parents are not paying support after their child becomes 18 years of age and custodial parents who are owed the child support are not seeking the support. She said that arrearage is accruing for parents who are not paying and that those parents owe huge child support bills when their children no longer need the child support. As a result, she stated that there is a huge amount of child support owed that is not being collected. She stated that prosecuting attorneys try to collect only for custodial parents who want the prosecuting attorney to pursue unpaid child support. Ms. O'Malley said that IPAC supports PD 3266 which lowers the emancipation age while still allowing a custodial parent to pursue child support until the child becomes 21 years old if the child needs the support and if certain factors are met.

Ms. Karla Mantia with the IPAC said that accruing arrearage on these cases where a parent has stopped paying child support at the time the child becomes 18 years of age affects federal funding. She stated that Indiana competes with other states for federal funding in this area and that in Indiana resources are used to enforce child support for three years longer than a majority of other states that establish emancipation at 18 years of age. She said in competing for funding the federal government looks at how much child support is owed and how much is being collected. She said that prosecuting attorneys are not opposed to collecting child support for individuals who are 18 to 21 years of age but that the prosecuting attorneys have limited resources, and they want to serve people who really need their resources.

In response to a question from Representative Pond, Ms. Mantia explained that a couple of the reasons that an individual 18 to 21 years of age may not need child support is because the individual has a good paying job or gets married.

Ms. Kathy Dvorak, a prosecuting attorney with St. Joseph County Prosecutor's Office, stated that in St. Joseph County only seven percent of the child support owed is collected for children who are between 18 and 21 years of age. In response to a question from Senator Steele, Ms. Dvorak stated that a child support order could not be retroactively modified. In response to questions from Senator Taylor, Ms. Dvorak explained how income withholding orders can be ordered administratively by a Title IV-D agency.

Ms. Octavia Snulligan, an attorney and recent appointee to the parole board, stated that most of her clients believe that child support ceases when the child becomes 18 years old. She stated that many of her clients are low income males who are paying child support for their children who have dropped out of school as early as 15, 16, and 17 years of age. She said that she supports changing the duty to support law to 19 years of age.

Mr. Nugent noted that a bill similar to the language in PD 3237 passed last year out of a committee in the House. Ms. O'Malley said IPAC supports PD 3266 but that their main purpose is to support lowering the age of duty to support to 19.

The Committee approved PD 3237 in a vote of 8 to 0.

### **Other Business**

Mr. Stuart Showalter with the Indiana Custodial Rights Advocates discussed two court of appeals cases involving paternity matters. He requested the legislature to address

issues regarding surrogacy and contracts surrounding sperm donors.

**Final Report**

The Committee received a copy of the draft final report.<sup>8</sup> The Committee approved the final report by consent in a vote of 9 to 0.

Senator Steele adjourned the meeting at 11:30 A.M.

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<sup>8</sup> Exhibit 7



*Child Custody and Support Advisory  
Committee - Oct. 26, 2011*

*Exhibit 1*

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**PRELIMINARY DRAFT  
No. 3067**

**PREPARED BY  
LEGISLATIVE SERVICES AGENCY  
2012 GENERAL ASSEMBLY**

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**DIGEST**

**Citations Affected:** IC 31-9-2-67; IC 31-14-13; IC 31-17-2.

**Synopsis:** Joint legal custody. Establishes a rebuttable presumption that an award of joint legal custody is in the best interest of a child. Requires a court, if a party seeks to rebut the presumption, to consider: (1) the fitness and suitability of each of the persons awarded joint legal custody; (2) the ability of the parents to communicate and advance the child's welfare; and (3) whether the child has established a close and beneficial relationship with both of the persons awarded joint legal custody. Repeals certain provisions governing the award of joint legal custody that are being superseded by this bill.

**Effective:** July 1, 2012.



A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 31-9-2-67, AS AMENDED BY P.L.95-2009,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2012]: Sec. 67. "Joint legal custody", for purposes of  
4 IC 31-14-13, IC 31-17-2-13, ~~IC 31-17-2-14~~, and IC 31-17-2-15, means  
5 that the persons awarded joint custody will share authority and  
6 responsibility for the major decisions concerning the child's  
7 upbringing, including the child's:

- 8 (1) education;
- 9 (2) health care; and
- 10 (3) religious training.

11 **However, the term does not include an award of physical custody**  
12 **of the child.**

13 SECTION 2. IC 31-14-13-2 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. The court shall  
15 determine custody in accordance with the best interests of the child.  
16 **Except as provided in section 2.2 of this chapter**, in determining the  
17 child's best interests, there is not a presumption favoring either parent.  
18 The court shall consider all relevant factors, including the following:

- 19 (1) The age and sex of the child.
- 20 (2) The wishes of the child's parents.
- 21 (3) The wishes of the child, with more consideration given to the  
22 child's wishes if the child is at least fourteen (14) years of age.
- 23 (4) The interaction and interrelationship of the child with:
  - 24 (A) the child's parents;
  - 25 (B) the child's siblings; and
  - 26 (C) any other person who may significantly affect the child's  
27 best interest.
- 28 (5) The child's adjustment to home, school, and community.
- 29 (6) The mental and physical health of all individuals involved.
- 30 (7) Evidence of a pattern of domestic or family violence by either  
31 parent.



1 (8) Evidence that the child has been cared for by a de facto  
 2 custodian, and if the evidence is sufficient, the court shall  
 3 consider the factors described in section 2.5(b) of this chapter.

4 SECTION 3. IC 31-14-13-2.2 IS ADDED TO THE INDIANA  
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 6 [EFFECTIVE JULY 1, 2012]: **Sec. 2.2. There is a rebuttable  
 7 presumption that an award of joint legal custody is in the best  
 8 interest of the child.**

9 SECTION 4. IC 31-14-13-2.4 IS ADDED TO THE INDIANA  
 10 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 11 [EFFECTIVE JULY 1, 2012]: **Sec. 2.4. If a party seeks to rebut the  
 12 presumption under section 2.2 of this chapter that an award of  
 13 joint legal custody is in the best interest of the child, the court shall  
 14 consider:**

15 (1) the fitness and suitability of each of the persons who would  
 16 be awarded joint legal custody;

17 (2) whether the persons who would be awarded joint legal  
 18 custody are able to communicate and cooperate in advancing  
 19 the child's welfare; and

20 (3) whether the child has established a close and beneficial  
 21 relationship with both of the persons who would be awarded  
 22 joint legal custody.

23 SECTION 5. IC 31-17-2-8 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 8. The court shall  
 25 determine custody and enter a custody order in accordance with the  
 26 best interests of the child. Except as provided in section 13 of this  
 27 chapter, in determining the best interests of the child there is no  
 28 presumption favoring either parent. The court shall consider all  
 29 relevant factors, including the following:**

30 (1) The age and sex of the child.

31 (2) The wishes of the child's parent or parents.

32 (3) The wishes of the child, with more consideration given to the  
 33 child's wishes if the child is at least fourteen (14) years of age.

34 (4) The interaction and interrelationship of the child with:

35 (A) the child's parent or parents;

36 (B) the child's sibling; and

37 (C) any other person who may significantly affect the child's  
 38 best interests.

39 (5) The child's adjustment to the child's:

40 (A) home;

41 (B) school; and

42 (C) community.

43 (6) The mental and physical health of all individuals involved.

44 (7) Evidence of a pattern of domestic or family violence by either  
 45 parent.

46 (8) Evidence that the child has been cared for by a de facto



1           custodian, and if the evidence is sufficient, the court shall  
2           consider the factors described in section 8.5(b) of this chapter.

3           SECTION 6. IC 31-17-2-13 IS AMENDED TO READ AS  
4           FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 13. ~~The court may~~  
5           ~~award legal custody of a child jointly if the court finds that an award of~~  
6           ~~joint legal custody would be~~ **There is a rebuttable presumption that**  
7           ~~an award of joint legal custody is~~ in the best interest of the child.

8           SECTION 7. IC 31-17-2-15, AS AMENDED BY P.L.3-2008,  
9           SECTION 237, IS AMENDED TO READ AS FOLLOWS  
10          [EFFECTIVE JULY 1, 2012]: Sec. 15. ~~In determining whether an~~  
11          ~~award of joint legal custody~~ **If a party seeks to rebut the**  
12          ~~presumption under section 13 of this chapter would be that an award~~  
13          ~~of joint legal custody is~~ in the best interest of the child, the court shall  
14          consider: it a matter of primary, but not determinative, importance that  
15          the persons awarded joint custody have agreed to an award of joint  
16          legal custody. The court shall also consider:

- 17           (1) the fitness and suitability of each of the persons **who would**
- 18           **be awarded joint legal custody;**
- 19           (2) whether the persons **who would be awarded joint legal**
- 20           **custody are willing and able to communicate and cooperate in**
- 21           **advancing the child's welfare; and**
- 22           (3) ~~the wishes of the child; with more consideration given to the~~
- 23           ~~child's wishes if the child is at least fourteen (14) years of age;~~
- 24           (4) ~~(3) whether the child has established a close and beneficial~~
- 25           ~~relationship with both of the persons who would be awarded joint~~
- 26           ~~legal custody.~~
- 27           (5) ~~whether the persons awarded joint custody:~~
- 28           ~~(A) live in close proximity to each other; and~~
- 29           ~~(B) plan to continue to do so; and~~
- 30           (6) ~~the nature of the physical and emotional environment in the~~
- 31           ~~home of each of the persons awarded joint custody.~~

32          SECTION 8. IC 31-17-2-17 IS AMENDED TO READ AS  
33          FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 17. (a) Except:

- 34           (1) as otherwise:
- 35           ~~(A) agreed by the parties in writing at the time of the custody~~
- 36           ~~order; or~~
- 37           **(B) provided in an order by the court; and**
- 38           (2) as provided in subsection (b);

39          the custodian may determine the child's upbringing, including the  
40          child's education, health care, and religious training.

41          (b) If the court finds after motion by a noncustodial parent that, in  
42          the absence of a specific limitation of the custodian's authority, the  
43          child's:

- 44           (1) physical health would be endangered; or
- 45           (2) emotional development would be significantly impaired;
- 46          the court may specifically limit the custodian's authority.



1 SECTION 9. THE FOLLOWING ARE REPEALED [EFFECTIVE  
2 JULY 1, 2012]: IC 31-14-13-2.3; IC 31-17-2-14.



Exhibit 2

HOUSE BILL 2916

By Bell

AN ACT to amend Tennessee Code Annotated, Title 36,  
Chapter 6, Part 1, relative to equal parenting.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-6-101, is amended by deleting subdivision (a)(2)(A)(i) in its entirety and substituting instead the following:

(i) Except as provided in this subdivision (a)(2)(A), the court shall have the widest discretion to order a custody arrangement that is in the best interest of the child. At any hearing to determine custody of a minor child, the court shall order that the child get equal time with each of the child's parents unless the court finds by clear and convincing evidence that one (1) or both of the parents are unfit to care for the child. This section shall not be construed to prohibit both fit parents from voluntarily entering into a parenting plan that does not give the child equal time with each parent. This section shall not be construed to prohibit the court from giving the child less than equal time with a parent that does not seek equal time with the child. For the purpose of assisting the court in making a custody determination when a parent has been proven to be unfit, the court may direct that an investigation be conducted.

SECTION 2. This act shall take effect July 1, 2010, the public welfare requiring it.

Exhibit 3

State	State Custody Law
Alabama	The court may order a form of joint custody without the consent of both parents, when it is in the best interest of the child. If both parents request joint custody, the presumption is that joint custody is in the best interest of the child. Joint custody shall be granted in the final order of the court unless the court makes specific findings as to why joint custody is not granted. <i>Ala. Code § 30-3-152(b) and (c)</i> .
Alaska	The court shall award custody on the basis of the best interests of the child. The court may award shared custody to both parents if shared custody is determined by the court to be in the best interests of the child. An award of shared custody shall assure that the child has frequent and continuing contact with each parent to the maximum extent possible. <i>Alaska Stat. § 25.20.060(c)</i> .
Arizona	In awarding child custody, the court may order sole custody or joint custody. This section does not create a presumption in favor of one custody arrangement over another. The court in determining custody shall not prefer a parent as custodian because of that parent's sex. The court may issue an order for joint custody over the objection of one of the parents if the court makes specific written findings of why the order is in the child's best interests. The court may issue an order for joint custody of a child if both parents agree and submit a written parenting plan and the court finds such an order is in the best interests of the child. The court may order joint legal custody without ordering joint physical custody. <i>Ariz. Rev. Stat. § 25-403.01(A)-(C)</i> . Before an award is made granting joint custody, the parents shall submit a proposed parenting plan. <i>Ariz. Rev. Stat. § 25-403.02(A) and (B)</i> .
Arkansas	When in the best interests of a child, custody shall be awarded in such a way so as to assure the frequent and continuing contact of the child with both parents. To this effect, the circuit court may consider awarding joint custody of a child to the parents in making an order for custody. <i>Ark. Code Ann. § 9-13-101(b)(1)(A)(i) and (ii)</i> .
California	There is a presumption, affecting the burden of proof, that joint custody is in the best interest of a minor child . . . where the parents have agreed to joint custody or so agree in open court at a hearing for the purpose of determining the custody of the minor child. <i>Cal. Fam. Code § 3080</i> . When a request for joint custody is granted or denied, the court, upon the request of any party, shall state in its decision the reasons for granting or denying the request. A statement that joint physical custody is, or is not, in the best interest of the child is not sufficient to satisfy the requirements of this section. <i>Cal. Fam. Code § 3082</i> . On application of either parent, joint custody may be ordered in the discretion of the court. For the purpose of assisting the court in making a determination whether joint custody . . . , the court may direct that an investigation be conducted[.] <i>Cal. Fam. Code § 3081</i> . In making an order of joint physical custody or joint legal custody, the court may specify one parent as the primary caretaker of the child and one home as the primary home of the child, for the purposes of determining eligibility for public assistance. <i>Cal. Fam. Code § 3086</i> .
Colorado	The general assembly finds and declares that it is in the best interest of all parties to encourage frequent and continuing contact between each parent and the minor children of the marriage after the parents have separated or dissolved their marriage. <i>Colo. Rev. Stat. Ann. § 14-10-124(1)</i> . The court, upon the motion of either party or its own motion, shall allocate the decision-making responsibilities between the parties based upon the best interests of the child. In determining decision-making responsibility, the court may allocate the decision-making responsibility with respect to each issue affecting the child mutually between both parties or individually to one or the other party or any combination thereof. <i>Colo. Rev. Stat. Ann. § 14-10-124(b)(I)-(V)</i> .
Connecticut	[T]he court may assign parental responsibility for raising the child to the parents jointly, or may award custody to either parent or to a third party, according to its best judgment upon the facts of the case and subject to such conditions and limitations as it deems equitable. In making or modifying any order . . . , the rights and responsibilities of both parents shall be considered and the court shall enter orders accordingly that serve the best interests of the child and provide the child with the active and consistent involvement of both parents commensurate with their abilities and interests. Such orders may include, but shall not be limited to: (1) Approval of a parental responsibility plan agreed to by the parents . . . (2) the award of joint parental responsibility of a minor child to both parents . . . (3) the award of sole custody to one parent with appropriate parenting time for the noncustodial parent where sole custody is in the best interests of the child; or (4) any other custody arrangements as the court may determine to be in the best interests of the child. <i>Conn. Gen. Stat. Ann. § 46b-56(a) and (b)</i> .

State	State Custody Law
Delaware	<p>The Court shall not presume that a parent, because of his or her sex, is better qualified than the other parent to act as a joint or sole legal custodian for a child or as the child's primary residential parent. <i>Del. Code tit. 13 § 722(b)</i>. Whether the parents have joint legal custody or 1 parent has sole legal custody of a child, each parent has the right to receive, on request, from the other parent, whenever practicable in advance, all material information concerning the child's progress in school, medical treatment, significant developments in the child's life, and school activities and conferences, special religious events and other activities in which parents may wish to participate and each parent and child has a right to reasonable access to the other by telephone or mail. The Court shall not restrict the rights of a child or a parent under this subsection. <i>Del. Code tit. 13 § 727</i>. The Court shall encourage all parents and other persons to foster the exercise of a parent's joint or sole custodial authority and the maintenance of frequent and meaningful contact . . . between parents and children. <i>Del. Code tit. 13 § 728(b)</i>.</p>
Florida	<p>There is no presumption for or against the father or mother of the child or for or against any specific time-sharing schedule when creating or modifying the parenting plan of the child. The court shall order that the parental responsibility for a minor child be shared by both parents unless the court finds that shared parental responsibility would be detrimental to the child. <i>Fla. Stat. § 61.13(c)(1) and (2)</i>.</p>
Georgia	<p>[I]n all cases in which the custody of any child is at issue between the parents, each parent shall prepare a parenting plan or the parties may jointly submit a parenting plan. It shall be in the judge's discretion as to when a party shall be required to submit a parenting plan to the judge. A parenting plan shall be required for permanent custody and modification actions and in the judge's discretion may be required for temporary hearings. The final decree in any legal action involving the custody of a child, including modification actions, shall incorporate a permanent parenting plan. <i>Ga. Code Ann. § 19-9-1(a)</i>.</p>
Hawaii	<p>Upon the application of either parent, joint custody may be awarded in the discretion of the court. For the purpose of assisting the court in making a determination whether an award of joint custody is appropriate, the court shall, upon the request of either party, direct that an investigation be conducted . . . For the purposes of this section, "joint custody" means an order awarding legal custody of the minor child or children to both parents and providing that physical custody shall be shared by the parents . . . in such a way as to assure the child or children of frequent, continuing, and meaningful contact with both parents; provided, however, that such order may award joint legal custody without awarding joint physical custody. <i>Haw. Rev. Stat. § 571-46.1(a)-(c)</i>.</p>
Idaho	<p>The court may award either joint physical custody or joint legal custody or both as between the parents or parties as the court determines is for the best interests of the minor child or children. If the court declines to enter an order awarding joint custody, the court shall state in its decision the reasons for denial of an award of joint custody. <i>Idaho Code § 32-717B(1)</i>. Absent a preponderance of the evidence to the contrary, there shall be a presumption that joint custody is in the best interests of a minor child or children. There shall be a presumption that joint custody is not in the best interests of a minor child if one (1) of the parents is found by the court to be a habitual perpetrator of domestic violence. <i>Idaho Code § 32-717B(4) and (5)</i>.</p>
Illinois	<p>There shall be no presumption in favor of or against joint custody. The court may enter an order of joint custody if it determines that joint custody would be in the best interests of the child, taking into account the following: (1) the ability of the parents to cooperate effectively and consistently in matters that directly affect the joint parenting of the child. "Ability of the parents to cooperate" means the parents' capacity to substantially comply with a Joint Parenting Order. The court shall not consider the inability of the parents to cooperate effectively and consistently in matters that do not directly affect the joint parenting of the child; (2) The residential circumstances of each parent; and (3) all other factors which may be relevant to the best interest of the child. Nothing within this section shall imply or presume that joint custody shall necessarily mean equal parenting time. Upon the application of either or both parents, or upon its own motion, the court shall consider an award of joint custody. Joint custody means custody determined pursuant to a Joint Parenting Agreement or a Joint Parenting Order. In such cases, the court shall initially request the parents to produce a Joint Parenting Agreement. <i>Ill. Code tit. 750 § 5/602.1(b)-(d)</i>.</p>
Indiana	<p>The court may award legal custody of a child jointly if the court finds that an award of joint legal custody would be in the best interest of the child. <i>Ind. Code § 31-17-2-13</i>. An award of joint legal custody . . . does not require an equal division of physical custody of the child. <i>Ind. Code § 31-17-2-14</i>. In determining whether an award of joint legal custody . . . would be in the best interest of the child, the court shall consider it a matter of primary, but not determinative, importance that the persons awarded joint custody have agreed to an award of joint legal custody. <i>Ind. Code § 31-17-2-15</i>.</p>

State	State Custody Law
Iowa	<p>The court may provide for joint custody of the child by the parties. The court, insofar as is reasonable and in the best interest of the child, shall order the custody award, including liberal visitation rights where appropriate, which will assure the child the opportunity for the maximum continuing physical and emotional contact with both parents. <i>Iowa Code Ann. § 598.41(1)(a)</i>. On the application of either parent, the court shall consider granting joint custody in cases where the parents do not agree to joint custody. If the court does not grant joint custody under this subsection, the court shall cite clear and convincing evidence, pursuant to the factors in subsection 3, that joint custody is unreasonable and not in the best interest of the child to the extent that the legal custodial relationship between the child and a parent should be severed. <i>Iowa Code Ann. § 598.41(2)(b)</i>.</p>
Kansas	<p>The [court's] order shall provide one of the following legal custody arrangements, in the order of preference: <i>Joint legal custody</i>. The court may order the joint legal custody of a child with both parties. In that event, the parties shall have equal rights to make decisions in the best interests of the child. <i>Sole legal custody</i>. The court may order the sole legal custody of a child with one of the parties when the court finds that it is not in the best interests of the child that both of the parties have equal rights to make decisions pertaining to the child. If the court does not order joint legal custody, the court shall include on the record specific findings of fact upon which the order for sole legal custody is based. <i>Kan. Stat. § 60-1610(4)(A) and (B)</i>. After making a determination of the legal custodial arrangements, the court shall determine the residency of the child [i.e., <i>physical custody</i>] from the following options [based on the best interest of the child standard]. The parties shall submit to the court either an agreed parenting plan or, in the case of dispute, proposed parenting plans for the court's consideration. Such options are: <i>Residency</i>. The court may order a residential arrangement in which the child resides with one or both parents on a basis consistent with the best interests of the child. <i>Divided residency</i>. In an exceptional case, the court may order a residential arrangement in which one or more children reside with each parent and have parenting time with the other. <i>Kan. Stat. § 60-1610(5)(A) and (B)</i>.</p>
Kentucky	<p>The court may grant joint custody to the child's parents, or to the child's parents and a de facto custodian, if it is in the best interest of the child. <i>Ky. Rev. Stat. § 403.270(5)</i>.</p>
Louisiana	<p>In a proceeding in which joint custody is decreed, the court shall render a joint custody implementation order except for good cause shown. The implementation order shall allocate the time periods during which each parent shall have physical custody of the child so that the child is assured of frequent and continuing contact with both parents. To the extent it is feasible and in the best interest of the child, physical custody of the children should be shared equally. The implementation order shall allocate the legal authority and responsibility of the parents. In a decree of joint custody the court shall designate a domiciliary parent except when there is an implementation order to the contrary or for other good cause shown. The domiciliary parent is the parent with whom the child shall primarily reside, but the other parent shall have physical custody during time periods that assure that the child has frequent and continuing contact with both parents. The domiciliary parent shall have authority to make all decisions affecting the child unless an implementation order provides otherwise. <i>La. Rev. Stat. § 9:335(A) – (C)</i>.</p>
Maine	<p>The father and mother are the joint natural guardians of their minor children and are jointly entitled to the care, custody, control, services and earnings of their children. Neither parent has any rights paramount to the rights of the other with reference to any matter affecting their children. When the parents have agreed to an award of shared parental rights and responsibilities or so agree in open court, the court shall make that award unless there is substantial evidence that it should not be ordered. The court shall state in its decision the reasons for not ordering a shared parental rights and responsibilities award agreed to by the parents. If either or both parents request an award of shared primary residential care and the court does not award shared primary residential care of the child, the court shall state in its decision the reasons why shared primary residential care is not in the best interest of the child. <i>Me. Rev. Stat. Ann. tit. 19-A § 1651</i>.</p>
Maryland	<p>If the parents live apart, a court may award custody of a minor child to either parent or joint custody to both parents. Neither parent is presumed to have any right to custody that is superior to the right of the other parent. <i>Md. Code Ann., Fam. Law § 5-203(d)(1) and (2)</i>.</p>
Massachusetts	<p>In making an order or judgment relative to the custody of children, the rights of the parents shall, in the absence of misconduct, be held to be equal, and the happiness and welfare of the children shall determine their custody. When considering the happiness and welfare of the child, the court shall consider whether or not the child's present or past living conditions adversely affect his physical, mental, moral or emotional health. There shall be no presumption either in favor of or against shared legal or physical custody at the time of the trial on the merits. At the trial on the merits, if the issue of custody is contested and either party seeks shared legal or physical custody, the parties, jointly or individually, shall submit to the court at the trial a shared custody implementation plan setting forth the details of shared custody. <i>M.G.L.A. 208 § 31</i>.</p>

State	State Custody Law
Michigan	In custody disputes between parents, the parents shall be advised of joint custody. At the request of either parent, the court shall consider an award of joint custody, and shall state on the record the reasons for granting or denying a request. In other cases joint custody may be considered by the court. If the parents agree on joint custody, the court shall award joint custody unless the court determines on the record, based upon clear and convincing evidence, that joint custody is not in the best interests of the child. During the time a child resides with a parent, that parent shall decide all routine matters concerning the child. <i>Mich. Comp. Laws Ann. § 722.26a(1) – (4).</i>
Minnesota	Upon the request of both parents, a parenting plan must be created in lieu of an order for child custody and parenting time unless the court makes detailed findings that the proposed plan is not in the best interests of the child. If both parents do not agree to a parenting plan, the court may create one on its own motion, except that the court must not do so if it finds that a parent has committed domestic abuse against a parent or child who is a party to, or subject of, the matter before the court. If the court creates a parenting plan on its own motion, it must not use alternative terminology unless the terminology is agreed to by the parties. <i>Minn. Stat. Ann. § 518.1705(3)(a) and (b).</i>
Mississippi	Joint custody may be awarded where irreconcilable differences is the ground for divorce, in the discretion of the court, upon application of both parents. In other cases, joint custody may be awarded, in the discretion of the court, upon application of one or both parents. There shall be a presumption that joint custody is in the best interest of a minor child where both parents have agreed to an award of joint custody. <i>Miss. Code Ann. § 93-5-24(2) – (4).</i>
Missouri	[T]he court shall determine the custody arrangement which will best assure both parents participate in such decisions and have frequent, continuing and meaningful contact with their children so long as it is in the best interests of the child. <i>Mo. Rev. Stat. § 452.375(4) and (8).</i>
Montana	In every dissolution proceeding, proceeding for declaration of invalidity of marriage, parenting plan proceeding, or legal separation proceeding that involves a child, each parent or both parents jointly shall submit to the court, in good faith, a proposed final plan for parenting the child, which may include the allocation of parenting functions. <i>Mont. Code Ann. § 40-4-234(1) and (5).</i>
Nebraska	In determining legal custody or physical custody, the court shall not give preference to either parent based on the sex of the parent and . . . no presumption shall exist that either parent is more fit or suitable than the other. Custody of a minor child may be placed with both parents on a joint legal custody or joint physical custody basis, or both, when both parents agree to such an arrangement in the parenting plan and the court determines that such an arrangement is in the best interests of the child or if the court specifically finds, after a hearing in open court, that joint physical custody or joint legal custody, or both, is in the best interests of the minor child regardless of any parental agreement or consent. <i>Neb. Rev. Stat. § 42-364(2) and (3).</i>
Nevada	There is a presumption, affecting the burden of proof, that joint custody would be in the best interest of a minor child if the parents have agreed to an award of joint custody or so agree in open court at a hearing for the purpose of determining the custody of the minor child or children of the marriage. The court may award joint legal custody without awarding joint physical custody in a case where the parents have agreed to joint legal custody. <i>Nev. Rev. Stat. § 125.490(1) and (2).</i> The court shall award custody in the following order of preference unless in a particular case the best interest of the child requires otherwise: to both parents jointly . . . or to either parent. If the court does not enter an order awarding joint custody of a child after either parent has applied for joint custody, the court shall state in its decision the reason for its denial of the parent's application: To a person or persons in whose home the child has been living and where the child has had a wholesome and stable environment. To any person related within the fifth degree of consanguinity to the child. <i>Nev. Rev. Stat. § 125.480(3)(a) – (c).</i>
New Hampshire	Because children do best when both parents have a stable and meaningful involvement in their lives, it is the policy of this state, unless it is clearly shown that in a particular case it is detrimental to a child, to: (a) Support frequent and continuing contact between each child and both parents. (b) Encourage parents to share in the rights and responsibilities of raising their children after the parents have separated or divorced. (c) Encourage parents to develop their own parenting plan with the assistance of legal and mediation professionals, unless there is evidence of domestic violence, child abuse, or neglect. (d) Grant parents and courts the widest discretion in developing a parenting plan. (e) Consider both the best interests of the child in light of the factors listed in [section] 461-A:6 and the safety of the parties in developing a parenting plan. <i>N.H. Rev. Stat. § 461-A:2(I)(a) – (e) and (II).</i>

State	State Custody Law
New Jersey	The Legislature finds and declares . . . that it is in the public interest to encourage parents to share the rights and responsibilities of child rearing. In any proceeding involving the custody of a minor child, the rights of both parents shall be equal and the court shall enter an order which may include: (a) Joint custody of a minor child to both parents, which is comprised of legal custody or physical custody which shall include: (1) provisions for residential arrangements so that a child shall reside either solely with one parent or alternatively with each parent in accordance with the needs of the parents and the child; and (2) provisions for consultation between the parents in making major decisions regarding the child's health, education and general welfare; (b) Sole custody to one parent with appropriate parenting time for the noncustodial parent; or (c) Any other custody arrangement as the court may determine to be in the best interests of the child. <i>N.J. Stat. Ann. § 9:2-4.</i>
New Mexico	There shall be a presumption that joint custody is in the best interests of a child in an initial custody determination. An award of joint custody does not imply an equal division of financial responsibility for the child. With respect to any proceeding in which it is proposed that joint custody be terminated, the court shall not terminate joint custody unless there has been a substantial and material change in circumstances affecting the welfare of the child, since entry of the joint custody order, such that joint custody is no longer in the best interests of the child. An award of joint custody means that: (1) each parent shall have significant, well-defined periods of responsibility for the child; (2) each parent shall have, and be allowed and expected to carry out, responsibility for the child's financial, physical, emotional and developmental needs during that parent's periods of responsibility; (3) the parents shall consult with each other on major decisions involving the child before implementing those decisions; that is, neither parent shall make a decision or take an action which results in a major change in a child's life until the matter has been discussed with the other parent and the parents agree. In any case in which the parents agree to a form of custody, the court should award custody consistent with the agreement unless the court determines that such agreement is not in the best interests of the child. When joint custody is awarded, the court shall approve a parenting plan for the implementation of the prospective custody arrangement prior to the award of joint custody. <i>N.M. Stat. Ann. § 40-4-9.1(a) and (j).</i>
New York	In all cases there shall be no prima facie right to the custody of the child in either parent. <i>N.Y. Dom. Rel. Law § 240 (McKinney 2003).</i>
North Carolina	Joint custody to the parents shall be considered upon the request of either parent. An order for custody of a minor child may grant joint custody to the parents, exclusive custody to one person, agency, organization, or institution, or grant custody to two or more persons, agencies, organizations, or institutions. <i>N.C. Gen. Stat. § 50-13.2(a) and (b).</i>
North Dakota	A court issuing an order that deals with parenting rights and responsibilities of a child entered under this chapter shall award the parental rights and responsibilities concerning the child to a person, agency, organization, or institution as will, in the opinion of the court, promote the best interests and welfare of the child. Between the mother and father, whether married or unmarried, there is no presumption as to whom will better promote the best interests and welfare of the child. <i>N.D. Code § 14-09-29(1).</i>
Ohio	[T]he court may allocate the parental rights and responsibilities for the care of the children in either of the following ways: If at least one parent files . . . a plan for shared parenting . . . and if a plan for shared parenting is in the best interest of the children and is approved by the court . . . , the court may allocate the parental rights and responsibilities for the care of the children to both parents and issue a shared parenting order requiring the parents to share all or some of the aspects of the physical and legal care of the children in accordance with the approved plan for shared parenting. <i>Ohio Rev. Code § 3109.04(A)(2).</i>
Oklahoma	There shall be neither a legal preference nor a presumption for or against joint legal custody, joint physical custody, or sole custody. <i>43 Okla. Stat. Ann. § 112(2).</i>
Oregon	Whenever the court renders a judgment of marital annulment, dissolution or separation, the court may provide in the judgment: For the future care and custody, by one party or jointly, of all minor children of the parties born, adopted or conceived during the marriage and for minor children born to the parties prior to the marriage, as the court may deem just and proper. The court may hold a hearing to decide the custody issue prior to any other issues. When appropriate, the court shall recognize the value of close contact with both parents and encourage joint parental custody and joint responsibility for the welfare of the children. <i>Or. Rev. Stat. § 107.105(1)(a).</i>
Pennsylvania	In any action regarding the custody of the child between the parents of the child, there shall be no presumption that custody should be awarded to a particular parent. <i>Pa. Code Ann. Tit. 23 § 5327(a).</i> In ordering any form of custody, the court shall determine the best interest of the child by considering all relevant factors, giving weighted consideration to those factors which affect the safety of the child. <i>Pa. Code Ann. Tit. 23 § 5323(a).</i>
Rhode Island	In regulating the custody of the children, the court shall provide for the reasonable right of visitation by the natural parent not having custody of the children, except upon the showing of cause why the right should not be granted. In regulating the custody and determining the best interests of children, the fact that a parent is receiving public assistance shall not be a factor in awarding custody. <i>R.I. Stat. § 15-5-16(d)(1) and (2).</i>

State	State Custody Law
South Carolina	Joint or divided custody should only be awarded where there are exceptional circumstances. <i>S.C. Code Ann § 63-3-530(42)</i> . Joint custody is not favored in South Carolina law. Joint custody agreements may be approved only upon a showing of exceptional circumstances. <i>Mixson v Mixson</i> , 253 S. C. 436, 443, 171 S. E. 2d 581, 586 (1969). See <i>Courie v Courie</i> , 288 S. C. 163, 341 S. E. 2d 646 (Ct. App. 1986).
South Dakota	In any custody dispute between parents, the court may order joint legal custody so that both parents retain full parental rights and responsibilities with respect to their child and so that both parents must confer on, and participate in, major decisions affecting the welfare of the child. <i>S.D. Code § 25-5-7.1</i> .
Tennessee	[N]either a preference nor a presumption for or against joint legal custody, joint physical custody or sole custody is established, but the court shall have the widest discretion to order a custody arrangement that is in the best interest of the child. Unless the court finds by clear and convincing evidence to the contrary, there is a presumption that joint custody is in the best interest of a minor child where the parents have agreed to joint custody or so agree in open court at a hearing for the purpose of determining the custody of the minor child. <i>Tenn. Code Ann § 36-6-101(2)(A)(i)</i> .
Texas	It is a rebuttable presumption that the appointment of the parents of a child as joint managing conservators is in the best interest of the child. A finding of a history of family violence involving the parents of a child removes the presumption under this subsection. <i>Tex. Fam. Code § 153.131(a) and (b)</i> .
Utah	The court shall, in every case, consider joint custody but may award any form of custody which is determined to be in the best interest of the child. <i>Utah Code Ann § 30-3-10(1)(b)</i> . This section establishes neither a preference nor a presumption for or against joint legal custody, joint physical custody or sole custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child. <i>Utah Code Ann § 30-3-10(5)</i> .
Vermont	The court may order parental rights and responsibilities to be divided or shared between the parents on such terms and conditions as serve the best interests of the child. When the parents cannot agree to divide or share parental rights and responsibilities, the court shall award parental rights and responsibilities primarily or solely to one parent. <i>Vt. Stat. Ann. tit. 15 § 665(a)</i> . Any agreement between the parents which divides or shares parental rights and responsibilities shall be presumed to be in the best interests of the child. <i>Vt. Stat. Ann. tit. 15 § 666(a)</i> .
Virginia	In determining custody, the court shall give primary consideration to the best interests of the child. The court shall assure minor children of frequent and continuing contact with both parents, when appropriate, and encourage parents to share in the responsibilities of rearing their children. As between the parents, there shall be no presumption or inference of law in favor of either. The court shall give due regard to the primacy of the parent-child relationship but may upon a showing by clear and convincing evidence that the best interest of the child would be served thereby award custody or visitation to any other person with a legitimate interest. The court may award joint custody or sole custody. <i>Va. Code Ann § 20-124.2(B)</i> .
Washington	The state recognizes the fundamental importance of the parent-child relationship to the welfare of the child, and that the relationship between the child and each parent should be fostered unless inconsistent with the child's best interests. Residential time and financial support are equally important components of parenting arrangements. The best interests of the child are served by a parenting arrangement that best maintains a child's emotional growth, health and stability, and physical care. Further, the best interest of the child is ordinarily served when the existing pattern of interaction between a parent and child is altered only to the extent necessitated by the changed relationship of the parents or as required to protect the child from physical, mental, or emotional harm. <i>Wash. Rev. Code § 26.09.002</i> . The legislature reaffirms the intent of the current law as expressed in [section] 26.09.002. However, after review, the legislature finds that there are certain components of the existing law which do not support the original legislative intent. In order to better implement the existing legislative intent the legislature finds that incentives for parties to reduce family conflict and additional alternative dispute resolution options can assist in reducing the number of contested trials . . . . [w]hen judicial officers have the discretion to tailor individualized resolutions, the legislative intent expressed in [section] 26.09.002 can more readily be achieved. Judicial officers should have the discretion and flexibility to assess each case based on the merits of the individual cases before them. <i>Wash. Rev. Code § 26.09.003</i> .
West Virginia	If the parents agree to one or more provisions of a parenting plan, the court shall so order, unless it makes specific findings that: The agreement is not knowing or voluntary; or The plan would be harmful to the child. <i>W. Va. Code § 48-9-201(a)(1) and (2)</i> . A party seeking a judicial allocation of custodial responsibility or decision-making responsibility under this article shall file a proposed parenting plan with the court. Parties may file a joint plan. <i>W. Va. Code § 48-9-205(a)</i> .

State	State Custody Law
Wisconsin	<p>[B]ased on the best interest of the child . . . the court may give joint legal custody or sole legal custody of a minor child. [T]he court shall presume that joint legal custody is in the best interest of the child. [T]he court may give sole legal custody only if it finds that doing so is in the child's best interest and that either of the following applies: (1) Both parties agree to sole legal custody with the same party. (2) The parties do not agree to sole legal custody with the same party, but at least one party requests sole legal custody and the court specifically finds any of the following: (A) One party is not capable of performing parental duties and responsibilities or does not wish to have an active role in raising the child. (B) One or more conditions exist at that time that would substantially interfere with the exercise of joint legal custody. (C) The parties will not be able to cooperate in the future decision making required under an award of joint legal custody. <i>Wis. Stat. 767.41(2)(am) and (b)</i>. Unless the court orders otherwise, in an action for annulment, divorce, or legal separation . . . in which legal custody or physical placement is contested, a party seeking sole or joint legal custody or periods of physical placement shall file a parenting plan with the court . . . Unless the court orders otherwise, the parenting plan shall be filed within 60 days . . . Except for cause shown, a party required to file a parenting plan . . . who does not timely file a parenting plan waives the right to object to the other party's parenting plan. <i>Wis. Stat. 767.41(1m)</i>. The court shall set a placement schedule that allows the child to have regularly occurring, meaningful periods of physical placement with each parent and that maximizes the amount of time the child may spend with each parent, taking into account geographic separation and accommodations for different households. A child is entitled to periods of physical placement with both parents unless, after a hearing, the court finds that physical placement with a parent would endanger the child's physical, mental or emotional health. No court may deny periods of physical placement for failure to meet, or grant periods of physical placement for meeting, any financial obligation to the child or, if the parties were married, to the former spouse. <i>Wis. Stat. 767.41(4)(2)(b) and (c)</i>.</p>
Wyoming	<p>In granting a divorce, separation or annulment of a marriage or upon the establishment of paternity . . . the court may make by decree or order any disposition of the children that appears most expedient and in the best interests of the children. <i>Wyo Stat. Ann. § 20-2-201(a)</i>.</p>

## Exhibit A

# Joint Custody

## Child Custody & Supports Advisory Committee

Indiana General Assembly  
Interim Study Committee, 2011

## The Issue of Custody

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- “The ‘average’ American family no longer exists in its idealized 1950’s form.
  - Once defined by marriage or biology, families have changed dramatically due to a steady divorce rate, a growing number of out-of-wedlock births, and the volume of children living with persons outside the traditional nuclear family.”

Source: American Bar Association, *Family Law Quarterly* (Fall 2008): Paradigm Shifts and Pendulum Swings in Child Custody: The Interests of Children in the Balance; Linda D. Elrod and Milfred D. Dale.

# The Issue of Custody

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- In 1978 only three states had statutes pertaining to joint custody; today joint custody is the most popular form of parenting arrangement.
- Joint custody may be the ideal arrangement for well-functioning, flexible parents who put their child's needs first and can effectively co-parent.
- The adversarial system has proven to be poorly equipped to handle the complexities of interpersonal relationships in the custody context.
  - A divorce legally ends a relationship between people who may not have separated emotionally and who must continue to interact as long as there are minor children.

Source: Reforming the System to Protect Children in High Conflict Custody Cases, William Mitchell Law Review (2001); Linda D. Elrod, Professor of Law, Washburn University School of Law.

## What is “Custody”?

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- **Custody**
  - The general term that identifies the legal and physical relationship that exists between the child and his parents.
- **Joint Custody** (two separate components):
  - *Legal Custody*
    - Refers to a parent’s legal right to make certain decisions on behalf of his or her children.
  - *Physical Custody*
    - Refers to a parent’s legal right over the physical control of his or her children.
- Joint custody does not necessarily mean equal custody.
  - It means custody co-exists between the parents with the physical arrangements determined (oftentimes by the courts) using the “*best interests of the child*” standard.

# Custody Arrangements

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- There are a number of custody regimes in place throughout the U.S.
- Broadly speaking, most state statutes provide for custody arrangements in one, or both, of two ways:
  - **Sole Custody**
    - All states allow a determination of sole custody
  - **Joint Custody**
    - Most states expressly provide for joint custody arrangements in child custody disputes.
- Examples of possible custody arrangements allowed in most states (oftentimes at the discretion of the court, and based upon the “best interests of the child” standard) include:
  - Sole Legal & Sole Physical Custody
  - Sole Legal & Joint Physical Custody
  - Joint Legal & Sole Physical Custody
  - Joint Legal & Joint Physical Custody

# Indiana Custody Laws

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- **Ind. Code § 31-17-2-13 et seq.**
  - The court may award legal custody of a child jointly if the court finds that an award of joint legal custody would be in the best interest of the child.
  - An award of joint legal custody . . . does not require an equal division of physical custody of the child.
  - In determining whether an award of joint legal custody . . . would be in the best interest of the child, the court shall consider it a matter of primary, but not determinative, importance that the persons awarded joint custody have agreed to an award of joint legal custody.

# Judicial Application of Indiana's Current Custody Laws

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- In determining whether an award of joint legal custody would be in the best interest of the child, Indiana courts must consider it a matter of primary, but not determinative, importance that the persons awarded joint custody have agreed to an award of joint legal custody.
- In addition to all relevant statutory criteria, courts must also consider each of the following in making a joint custody determination:
  - The fitness and suitability of each of the persons awarded joint custody;
  - Whether the persons awarded joint custody are willing and able to communicate and cooperate in advancing the child's welfare;
  - The wishes of the child, with more consideration given to the child's wishes if the child is at least 14 years of age;
  - Whether the child has established a close and beneficial relationship with both of the persons awarded joint custody;
  - Whether the persons awarded joint custody live in close proximity to each other, and plan to continue to do so; and
  - The nature of the physical and emotional environment in the home of each of the persons awarded joint custody.

Source: Indiana Law Encyclopedia, Divorce; § 127. Joint Custody

## Joint Legal Custody Presumption

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- 44 states expressly provide for joint custody arrangements in child custody disputes.
- 24 states have codified a state policy to assure that minor children have “frequent and continuing contact” with both parents.
  - Most of these states have taken it a step further and created either a “presumption” or a “preference” in favor of joint custody.
- Some states limit joint custody awards to situations in which the parents agree to a joint custody arrangement.

Source: Child Custody and Visitation; Chapter 2, § 13.05.

# Joint Custody Based on Parental Agreement

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- At least 10 states permit a court to order joint custody only if the parents agree.
  - Colorado, Nebraska, Ohio, Vermont, and Wisconsin impose this limitation by statute.
  - The courts of Massachusetts, New York, Oregon, Texas, Utah and Mississippi have often taken this general position when interpreting their statutes.
- This is the most restrictive approach to joint custody; it is based on the premise that shared parenting requires cooperation and mutual commitment.
- Even with parental agreement, joint custody remains subject to the “best interests of the child” standard and is, therefore, subject to court approval or disapproval.

Source: Child Custody and Visitation; Chapter 2, § 13.05.

# Joint Custody Presumptions & Preferences

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- State statutes creating a “*preference*” for or “*presumption*” of joint custody represent the strongest legislative support for shared parenting.
  - Under *preference statutes*, the court must give joint custody first consideration, provided that an award of joint custody is not contrary to the child's best interests.
  - Under *presumption statutes*, joint custody is presumed to be in the child's best interests under some or all circumstances and will be ordered absent rebutting evidence.
    - In other words, courts are required to award joint custody unless a party provides evidence sufficient to rebut (i.e., overcome) the presumption.

Source: Child Custody and Visitation; Chapter 2, § 13.05.

# Joint Custody Presumptions & Preferences in Other States

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- Twenty-three states have taken an approach favoring joint custody with either a preference, a presumption, or both in 3 states.
  - Nebraska, Ohio, Pennsylvania, Virginia, and Wyoming, declare a general preference for joint custody.
  - Hawaii, Illinois, and Iowa, require the court to consider joint custody if at least one parent requests it.
  - 15 states have created a presumption in favor of Joint Custody.
    - California, Connecticut, Maine, Michigan, Mississippi, Nevada, Vermont, and Washington limit the application of the presumption to cases in which the parents agree.
    - In Minnesota and Montana, the trial court presumes that joint custody is in the child's best interests if one parent makes a request.
    - The remaining five states, Florida, Idaho, Louisiana, New Hampshire, and New Mexico require that joint custody be presumed to be in the best interests of the child regardless of whether any parent requests it.
  - California, Louisiana, and Nevada also provide a general preference in favor of joint custody, when custody is disputed, as an alternative to the presumption that applies when there is parental agreement or, in Louisiana, no dispute.
- Most states require a preponderance of evidence to rebut the presumption in favor of joint custody; a minority of states require "substantial" or "clear and convincing evidence" to successfully rebut the presumption.

Source: Child Custody and Visitation; Chapter 2, § 13.05.

## Court Application of Presumed Joint Custody Statutes

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- Trial courts faced with parental arguments for and against joint custody continue to consider all factors when exercising their discretion under the presumption statutes.
- When the evidence establishes that joint custody would not be in the "best interests of the child," trial courts are not hesitant to find that the presumption has been overridden.
  - An especially compelling factor in the trial court's assessment is evidence that one parent has not been actively involved in meeting his or her responsibilities as a parent during the recent past.
  - Abuse by one parent of the other parent, or abuse of a child, is a sufficient basis for finding that joint custody is not in the child's best interests whether the conclusion is authorized by statute or by judicial decision.

Source: Child Custody and Visitation; Chapter 2, § 13.05.

# Child Custody – A Psychological Perspective

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- Children are more likely to thrive psychologically following divorce when they experience a family context characterized by:
  - Low or contained and well-handled conflict between parents;
  - Ongoing positive relationships with and effective parenting of at least one, preferably both, parents; and
  - Economic stability.
- *Joint Legal Custody* 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.
- 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.
- There is little evidence that sharing custody either in the legal or the physical sense leads to increased conflict between divorced parents.

Source: A Psychological Perspective on Shared Custody Arrangement; Wake Forest Law Review, Summer 2008; Christy M. Buchanan & Parissa L. Jahromi.

## Parenting Plans

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- Currently, 14 states require submission or approval of a specific plan for joint custody (i.e., a “Parenting Plan”).
  - These states are:
    - Arizona, Colorado, Illinois, Kansas, Louisiana, Massachusetts, Missouri, Montana, New Mexico, Ohio, Oklahoma, Pennsylvania, Vermont, and Washington.

Source: Child Custody and Visitation; Chapter 2, § 13.05.

## Cases in which Joint Custody is not Recommended

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- There are cases in which joint custody, either legal or physical, should not be awarded. Examples include:
  - Intense anger at the spouse
  - Inability to cooperate
  - Evidence of spousal or child abuse
  - Threats of parental kidnapping
  - If the parties are unable to communicate or cooperate and cannot make shared decisions concerning their children's welfare
  - When parents with fixed and divergent views on childrearing who are unwilling to compromise may be denied joint custody.
  - Where the label of "joint custody" would enable one parent to continue a pattern of harassment against the other parent, sole custody in the other parent may be more appropriate.

Source: Child Custody Practice & Procedure § 5:13, Contraindications for Joint Custody

## Father-Care Rate

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- More than 50% of the children who experience divorce are age six or younger, and 75% of those children are younger than age three.
- The rate of care by fathers was between 15% and 16% in 1985 and 1988.
  - It increased to 20% in 1991, and settled between 16% and 18% from 1993 to 2005.
- By 2010, the father-care rate was 19%.

Source: U.S. Census Bureau, Survey of Income and Program Participation (<http://www.childstats.gov/americaschildren/famsoc3.asp>).

# Custodial Parent Statistics

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- In 2007, of the 19 million marital children under the age of eighteen that live with one parent, only 12.5% of them live with their father.
  - U.S. Census Bureau, *Child Mothers and Fathers and Their Support: 2003 (July 2006)*.
- In the spring of 2004, on a national basis, 83.1% of "custodial parents" were mothers and 16.9% were fathers. These proportions had not changed significantly since 1994.
  - U.S. Census Bureau, *Child Mothers and Fathers and Their Support: 2003 (July 2006)*.
- Of the 7.5 million non-marital children that live with an unmarried parent, only 7% reside with their father.
  - U.S. Census Bureau, *Living Arrangements of Children Under 18 Years (2007)*.
- In the vast majority of cases, the mother is the primary physical custodian of the child.
  - U.S. Census Bureau, *Living Arrangements of Children Under 18 Years (2007)*.

## Custodial Parent Statistics (cont.)

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- While 40% of children whose fathers live outside the home have no contact with their father, the other 60% had contact an average of 69 days in the last year.
  - U.S. Department of Health and Human Services, (<http://fatherhood.hhs.gov/charting02/executive.htm>)
- In 2010, 66% of children ages 0 – 17 lived with two married parents, down from 77% in 1980.
  - U.S. Census Bureau, Current Population Survey, Annual Social and Economic Supplements (<http://www.childstats.gov/americaschildren/famsoc1.asp>).
- In 2010, 23% of children lived with only their mothers, 3% lived with only their fathers, and 4% lived with neither of their parents.
  - U.S. Census Bureau, Current Population Survey, Annual Social and Economic Supplements (<http://www.childstats.gov/americaschildren/famsoc1.asp>).
- In 2010, there were about 75 million children ages 0 – 17. 69% of them lived with two parents (66% with two married parents and 3% with two biological/adoptive cohabiting parents), 23% lived with only their mothers, 3% lived with only their fathers, and 4% lived with neither of their parents.
  - U.S. Census Bureau, Current Population Survey, Annual Social and Economic Supplements (<http://www.childstats.gov/americaschildren/famsoc1.asp>).

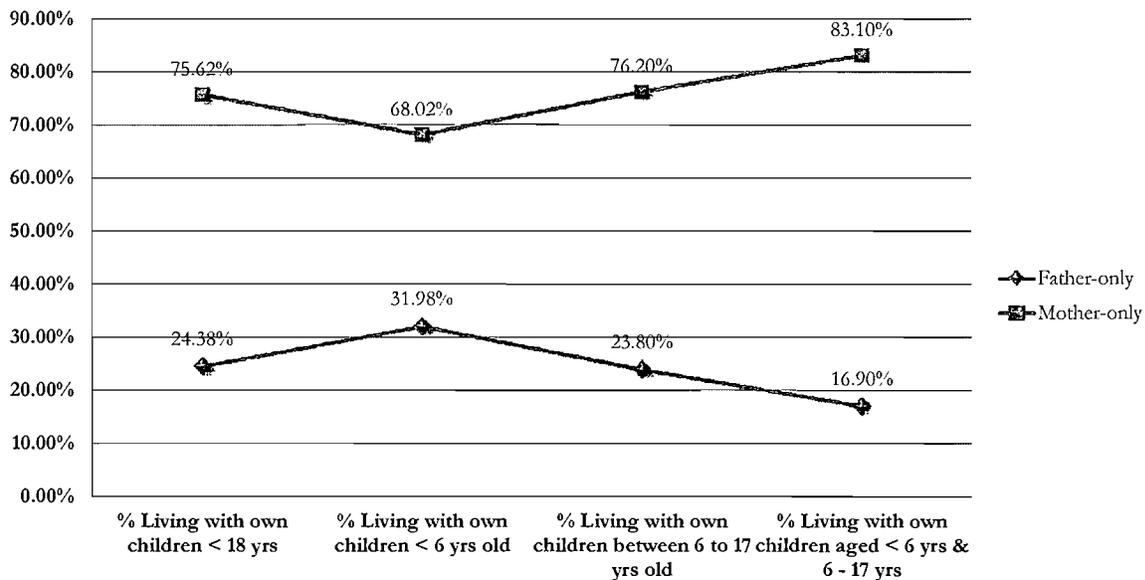
# Indiana (2010) – Single Parent Households

Indiana Estimates (2010)	Living with own children < 18 yrs	% Living with own children < 18 yrs	Living with own children < 6 yrs old	% Living with own children < 6 yrs old	Living with own children between 6 to 17 yrs old	% Living with own children between 6 to 17 yrs old	Living with own children aged < 6 yrs & 6 - 17 yrs	% Living with own children aged < 6 yrs & 6 - 17 yrs
Total single parent households, parents living with own children	249,416		59,335		141,571		48,570	
Father-only	60,819	24.38%	18,976	31.98%	33,694	23.80%	8,211	16.90%
Mother-only	188,597	75.62%	40,360	68.02%	107,877	76.20%	40,360	83.10%

Source: 2010 American Community Survey; U.S. Census Bureau; Form S1101: Households and Families

# Indiana (2010) – Single Parent Households

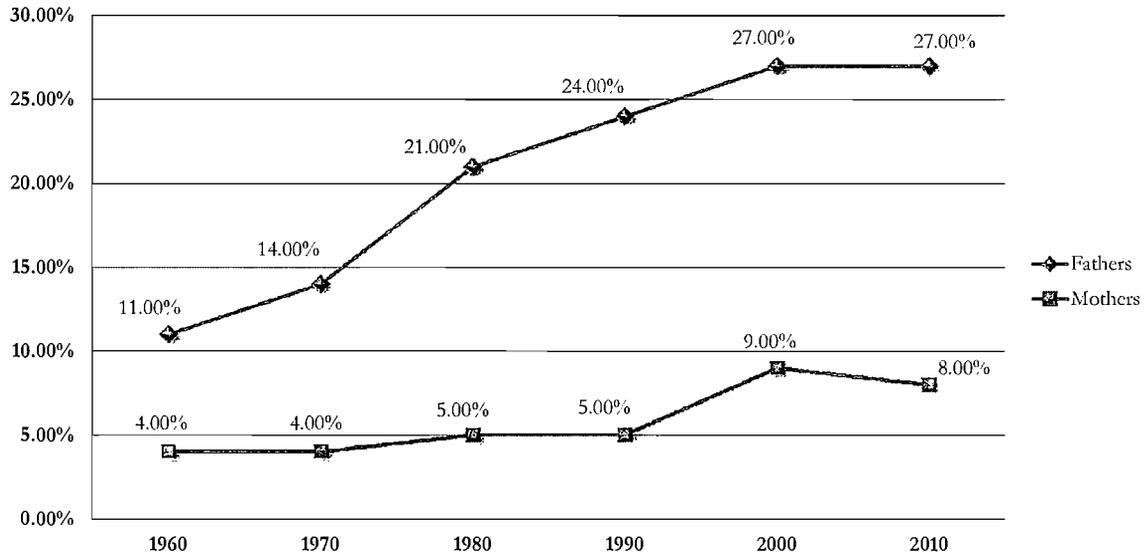
Indiana Distribution of Single Parent Households (2010 est.)



Source: 2010 American Community Survey; U.S. Census Bureau; Form S1101: Households and Families

# Children Living Apart from Parents

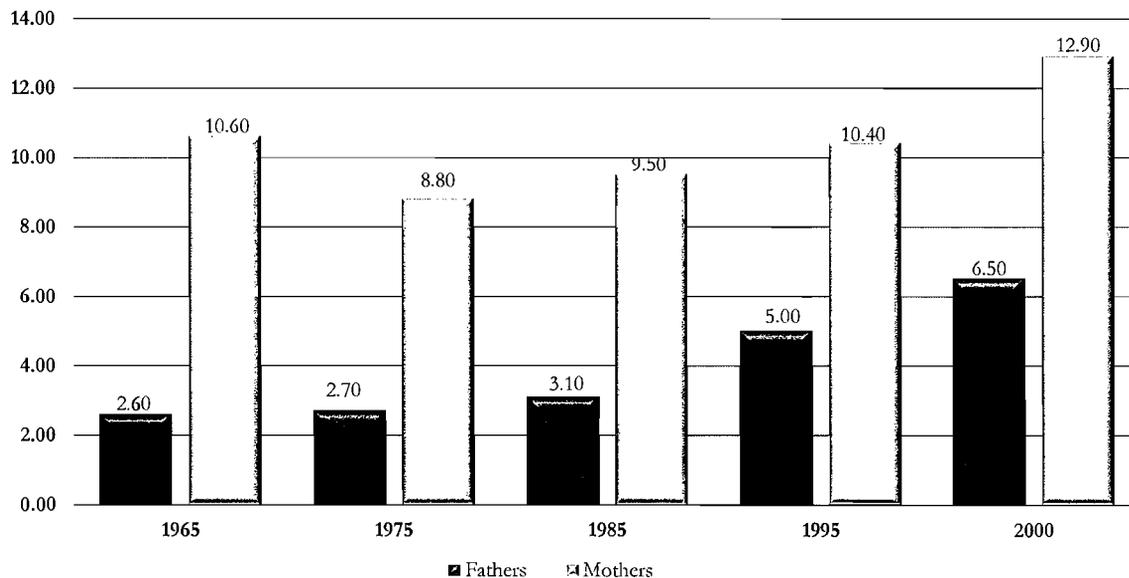
Percent of Children Younger than 18 yrs Living Apart from Father/Mother



Source: Pew Research Center – Social & Demographic Trends; A Tale of Two Fathers-More are Active, but More are Absent; June 15, 2011.

# Parental Time with Children

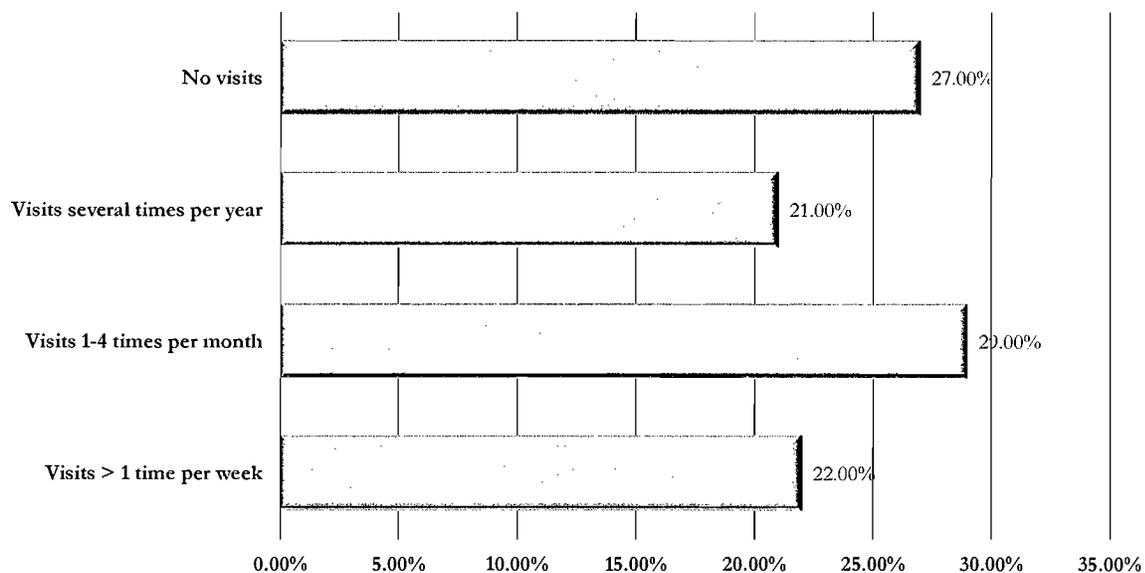
Average Weekly Hours Spent with Children



Source: Pew Research Center – Social & Demographic Trends; A Tale of Two Fathers-More are Active, but More are Absent; June 15, 2011.

# Fathers' Visit of Nonresident Children

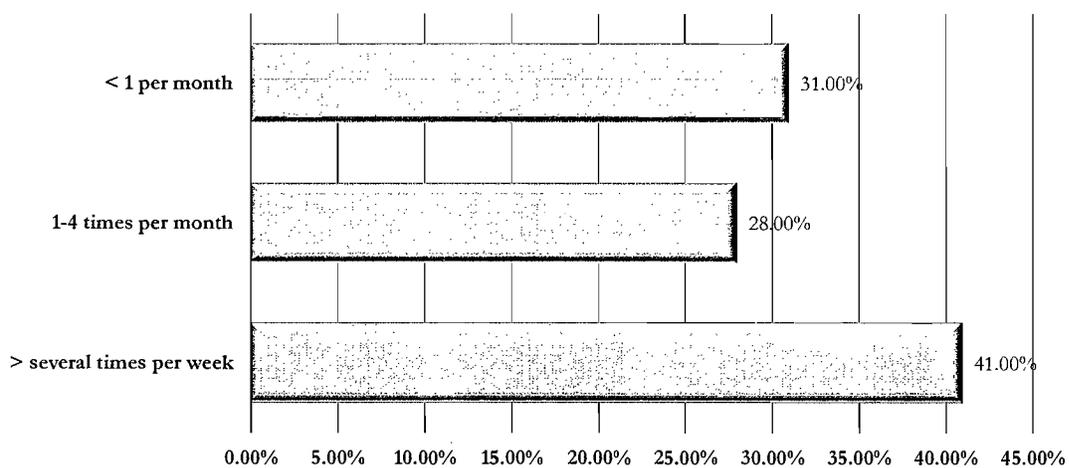
Frequency of Visits, Fathers Who Live Apart from Their Children



Source: Pew Research Center – Social & Demographic Trends; A Tale of Two Fathers-More are Active, but More are Absent; June 15, 2011.

# Fathers' Communication with Nonresident Children

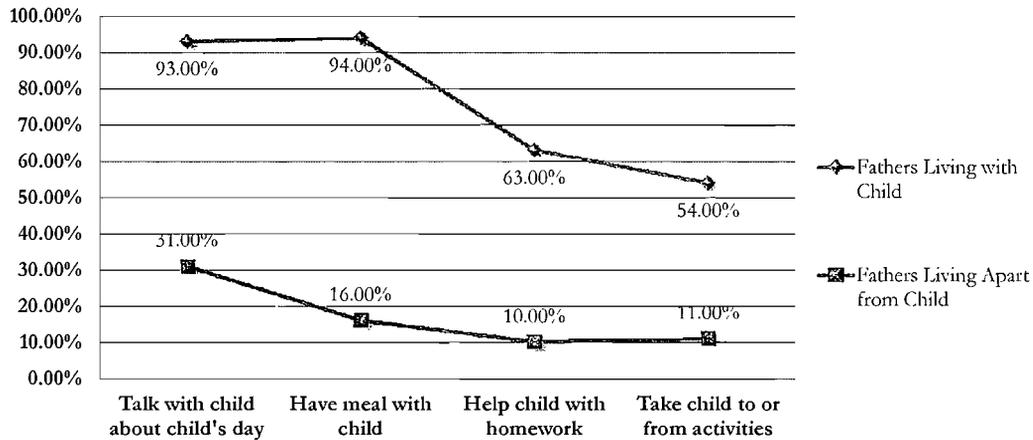
Frequency of Calls and Emails, Fathers Who Live Apart from Their Children



Source: Pew Research Center – Social & Demographic Trends; A Tale of Two Fathers-More are Active, but More are Absent; June 15, 2011.

# Father Participation in Childs' Life - 5 to 18 years old

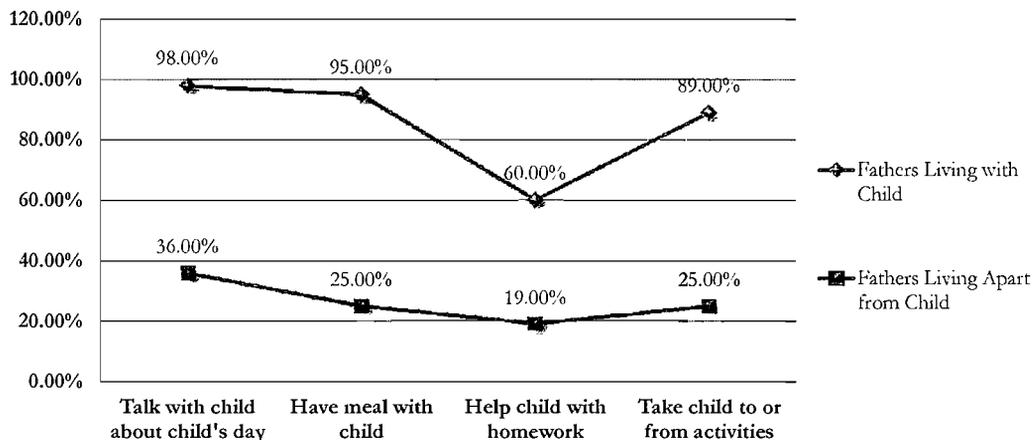
Percent of Fathers with Children ages 5-18 yrs saying they participated in each activity at least several times per week over the past month



Source: Pew Research Center – Social & Demographic Trends; A Tale of Two Fathers-More are Active, but More are Absent; June 15, 2011.

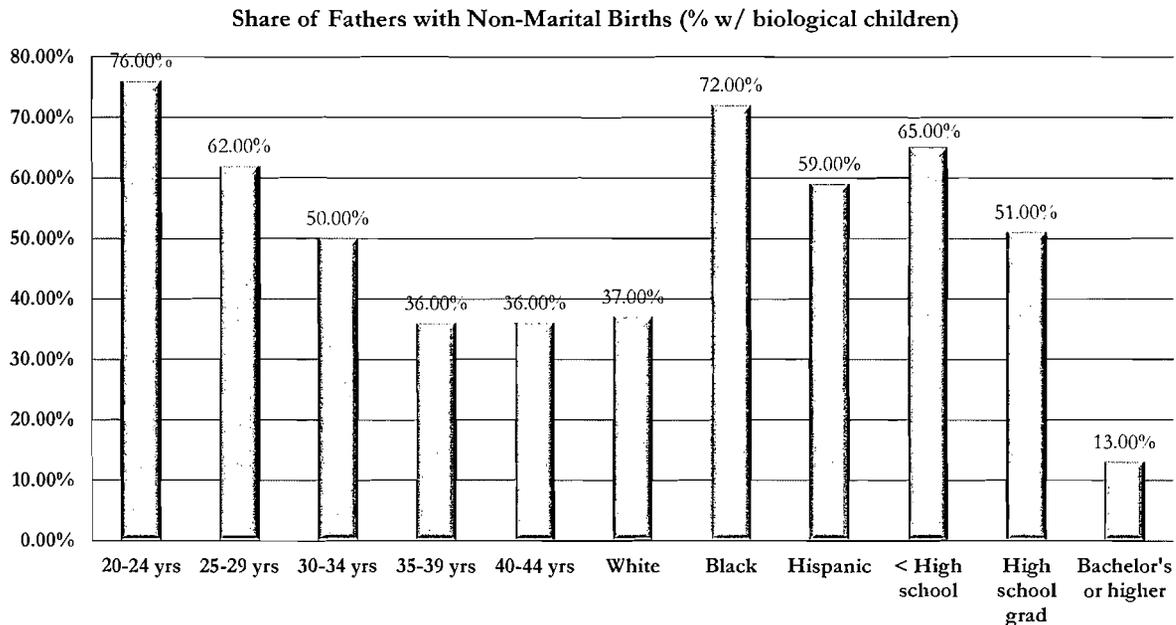
# Father Participation in Childs' Life - less than 5 yrs old

Percent of Fathers with Children aged < 5 yrs saying they participated in each activity at least several times per week over the past month



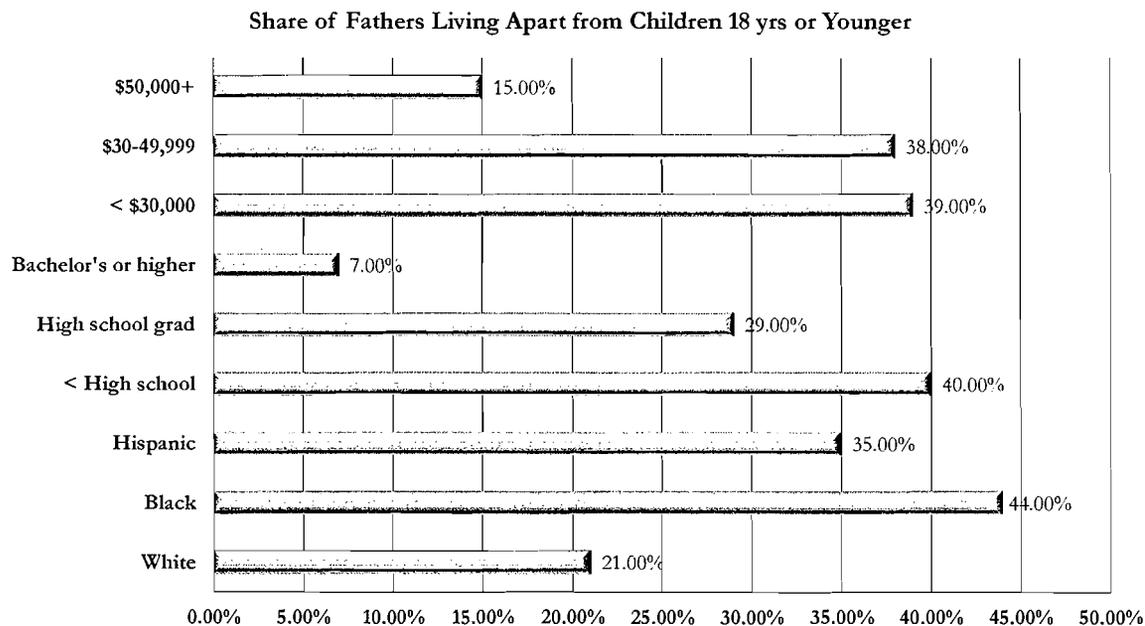
Source: Pew Research Center – Social & Demographic Trends; A Tale of Two Fathers-More are Active, but More are Absent; June 15, 2011.

# Non-Marital Births Among Fathers



Source: Pew Research Center – Social & Demographic Trends; A Tale of Two Fathers-More are Active, but More are Absent; June 15, 2011.

# Fathers Living Apart from Children - Demographics



Source: Pew Research Center – Social & Demographic Trends; A Tale of Two Fathers-More are Active, but More are Absent; June 15, 2011.



Child Custody and Support Advisory  
Committee - Oct. 26, 2011

Exhibit 5

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**PRELIMINARY DRAFT**  
**No. 3237**

**PREPARED BY**  
**LEGISLATIVE SERVICES AGENCY**  
**2012 GENERAL ASSEMBLY**

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DIGEST

**Citations Affected:** IC 31-14-11-18; IC 31-16-6-6.

**Synopsis:** Duty to support. Provides that the duty to support a child, which does not include support for educational needs, ceases when the child becomes 19 years of age. (Current law provides that the duty to support a child ceases when the child becomes 21 years of age.)

**Effective:** July 1, 2012.



A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 31-14-11-18 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 18. The duty to support  
3 a child under this article (or IC 31-6-6.1 before its repeal), **which does**  
4 **not include support for educational needs**, ceases when the child  
5 becomes ~~twenty-one (21)~~ **nineteen (19)** years of age unless either of  
6 the following conditions occurs:

7 (1) The child is emancipated before the child becomes ~~twenty-one~~  
8 ~~(21)~~ **nineteen (19)** years of age. If this occurs, the child support,  
9 except for educational needs, terminates at the time of  
10 emancipation. However, an order for educational needs may  
11 continue in effect until further order of the court.

12 (2) The child is incapacitated. If this occurs, the child support  
13 continues during the incapacity or until further order of the court.

14 SECTION 2. IC 31-16-6-6, AS AMENDED BY P.L.80-2010,  
15 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
16 JULY 1, 2012]: Sec. 6. (a) The duty to support a child under this  
17 chapter, **which does not include support for educational needs**,  
18 ceases when the child becomes ~~twenty-one (21)~~ **nineteen (19)** years of  
19 age unless any of the following conditions occurs:

20 (1) The child is emancipated before becoming ~~twenty-one (21)~~  
21 **nineteen (19)** years of age. In this case the child support, except  
22 for the educational needs outlined in section 2(a)(1) of this  
23 chapter, terminates at the time of emancipation, although an order  
24 for educational needs may continue in effect until further order of  
25 the court.

26 (2) The child is incapacitated. In this case the child support  
27 continues during the incapacity or until further order of the court.

28 (3) The child:

29 (A) is at least eighteen (18) years of age;

30 (B) has not attended a secondary school or postsecondary  
31 educational institution for the prior four (4) months and is not



1 enrolled in a secondary school or postsecondary educational  
2 institution; and  
3 (C) is or is capable of supporting himself or herself through  
4 employment.

5 In this case the child support terminates upon the court's finding  
6 that the conditions prescribed in this subdivision exist. However,  
7 if the court finds that the conditions set forth in clauses (A)  
8 through (C) are met but that the child is only partially supporting  
9 or is capable of only partially supporting himself or herself, the  
10 court may order that support be modified instead of terminated.

11 (b) For purposes of determining if a child is emancipated under  
12 subsection (a)(1), if the court finds that the child:

13 (1) is on active duty in the United States armed services;

14 (2) has married; or

15 (3) is not under the care or control of:

16 (A) either parent; or

17 (B) an individual or agency approved by the court;

18 the court shall find the child emancipated and terminate the child  
19 support.





Child Custody and Support Advisory  
Comm. Hec - Oct. 26, 2011

Exhibit 6

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**PRELIMINARY DRAFT**  
**No. 3266**

**PREPARED BY**  
**LEGISLATIVE SERVICES AGENCY**  
**2012 GENERAL ASSEMBLY**

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DIGEST

**Citations Affected:** IC 31-14-11-18; IC 31-16-6-6.

**Synopsis:** Duty to support a child. Provides that the duty to support a child, which does not include educational needs, ceases when the child becomes 19 years of age. (Current law provides that the duty to support a child ceases when the child becomes 21 years of age.) Provides that the duty to support a child ceases when the child becomes 21 years of age if the child is enrolled in a secondary school or postsecondary educational institution. Allows the court to order a parent to pay child support for a child until the child becomes 21 years of age if: (1) the parties agree in writing to the payment of child support; or (2) the parent requesting the payment of child support petitions the court before the child becomes 19 years of age and shows that the child is not capable of supporting himself or herself through employment or is unable to find gainful employment. Provides that the duty to support a child ceases if the child marries. Provides that, if the court finds that a child is partially supporting himself or herself or is capable of partially supporting himself or herself, the court may order the parent to pay child support until the child becomes 21 years of age but allows the court to modify the amount of child support.

**Effective:** July 1, 2012.



A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 31-14-11-18 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 18. **(a) Except as**  
3 **provided in subsection (b), the duty to support a child under this**  
4 **article (or IC 31-6-6.1 before its repeal), which does not include**  
5 **support for educational needs, ceases when the child becomes**  
6 **~~twenty-one (21)~~ nineteen (19) years of age unless either of the**  
7 **following conditions occurs:**

8 (1) The child is emancipated before the child becomes ~~twenty-one~~  
9 ~~(21)~~ **nineteen (19)** years of age. If this occurs, the child support,  
10 except for educational needs, terminates at the time of  
11 emancipation. However, an order for educational needs may  
12 continue in effect until further order of the court.

13 (2) The child is incapacitated. If this occurs, the child support  
14 continues during the incapacity or until further order of the court.

15 (3) **The child marries. The duty to support a child ceases at**  
16 **the time the child marries.**

17 **(b) The duty to support a child under this chapter ceases when**  
18 **the child becomes twenty-one (21) years of age if the child is**  
19 **enrolled in a secondary school or postsecondary educational**  
20 **institution. However, the court may modify the amount of child**  
21 **support a parent is required to pay after considering the amount**  
22 **of the child's income while enrolled in secondary school or**  
23 **postsecondary school.**

24 **(c) A court may order a parent to pay child support for a child**  
25 **until the child becomes twenty-one (21) years of age if:**

26 (1) the parties agree in writing to the payment of child  
27 support; or

28 (2) the parent requesting the payment of child support:

29 (A) petitions the court, before the child becomes nineteen  
30 (19) years of age, requesting the court to order that the  
31 payment of child support continue after the child becomes



1           nineteen (19) years of age; and  
 2           **(B) shows that the child is not capable of supporting**  
 3           **himself or herself through employment or is unable to find**  
 4           **gainful employment.**

5           **(d) If a court finds that a child is partially supporting himself or**  
 6           **herself or is capable of partially supporting himself or herself**  
 7           **under subsection (c)(2), the court may order a parent to pay child**  
 8           **support until the child becomes twenty-one (21) years of age.**  
 9           **However, the court may modify the amount of child support a**  
 10           **parent is required to pay.**

11           SECTION 2. IC 31-16-6-6, AS AMENDED BY P.L.80-2010,  
 12           SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13           JULY 1, 2012]: Sec. 6. (a) **Except as provided in subsection (b), the**  
 14           **duty to support a child under this chapter, which does not include**  
 15           **support for educational needs, ceases when the child becomes**  
 16           **twenty-one (21) nineteen (19) years of age unless any of the following**  
 17           **conditions occurs:**

18           (1) The child is emancipated before becoming ~~twenty-one (21)~~  
 19           **nineteen (19) years of age.** In this case the child support, except  
 20           for the educational needs outlined in section 2(a)(1) of this  
 21           chapter, terminates at the time of emancipation, although an order  
 22           for educational needs may continue in effect until further order of  
 23           the court.

24           (2) The child is incapacitated. In this case the child support  
 25           continues during the incapacity or until further order of the court.

26           ~~(3) The child:~~

27           ~~(A) is at least eighteen (18) years of age;~~

28           ~~(B) has not attended a secondary school or postsecondary~~  
 29           ~~educational institution for the prior four (4) months and is not~~  
 30           ~~enrolled in a secondary school or postsecondary educational~~  
 31           ~~institution; and~~

32           ~~(C) is or is capable of supporting himself or herself through~~  
 33           ~~employment.~~

34           **In this case the child support terminates upon the court's finding**  
 35           **that the conditions prescribed in this subdivision exist. However,**  
 36           **if the court finds that the conditions set forth in clauses (A)**  
 37           **through (C) are met but that the child is only partially supporting**  
 38           **or is capable of only partially supporting himself or herself, the**  
 39           **court may order that support be modified instead of terminated:**

40           **(3) The child marries. The duty to support a child ceases at**  
 41           **the time the child marries.**

42           **(b) The duty to support a child under this chapter ceases when**  
 43           **the child becomes twenty-one (21) years of age if the child is**  
 44           **enrolled in a secondary school or postsecondary educational**  
 45           **institution. However, the court may modify the amount of child**  
 46           **support a parent is required to pay after considering the amount**



1 of the child's income while enrolled in secondary school or  
2 postsecondary school.

3 (c) A court may order a parent to pay child support for a child  
4 until the child becomes twenty-one (21) years of age if:

5 (1) the parties agree in writing to the payment of child  
6 support;

7 (2) the parent requesting the payment of child support:

8 (A) petitions the court, before the child becomes nineteen  
9 (19) years of age, requesting the court to order that the  
10 payment of child support continue after the child becomes  
11 nineteen (19) years of age; or

12 (B) shows that the child is not capable of supporting  
13 himself or herself through employment or is unable to find  
14 gainful employment.

15 (d) If a court finds that a child is partially supporting himself or  
16 herself or is capable of partially supporting himself or herself  
17 under subsection (c)(2), the court may order a parent to pay child  
18 support until the child becomes twenty-one (21) years of age.  
19 However, the court may modify the amount of child support a  
20 parent is required to pay.

21 (b) (e) For purposes of determining if a child is emancipated under  
22 subsection (a)(1), if the court finds that the child:

23 (1) is on active duty in the United States armed services; or

24 ~~(2) has married; or~~

25 ~~(3) (2) is not under the care or control of:~~

26 (A) either parent; or

27 (B) an individual or agency approved by the court;

28 the court shall find the child emancipated and terminate the child  
29 support.



Exhibit 7

**Child Custody and Support Advisory Committee**

**Membership Roster**

**Senators**

**Representatives**

**PAM LANDWER WILL INSERT THESE NAMES**

**Legislative Services Agency Staff**

**PAM LANDWER WILL INSERT THESE NAMES**

**November 1, 2011**

A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at <http://www.in.gov/legislative/>

## FINAL REPORT

### **Child Custody and Support Advisory Committee**

#### **I. STATUTORY DIRECTIVE**

The Indiana General Assembly enacted legislation directing the Committee to review custody and educational expenses and other items related to the welfare of a child of a family that is no longer intact. Specifically, the Committee is to consider the following in studying the child support guidelines:

- (1) The mathematics pertaining to the child support guideline chart.
- (2) The actual costs of supporting a child.
- (3) Whether it is appropriate to calculate child support guideline amounts based primarily upon the ability of the parent to pay rather than the financial needs of the child.
- (4) Equality of child support awards for the children of the parties, regardless of birth order.
- (5) A mechanism that may be employed to modify the amount of support to be paid due to a change in financial circumstances or a change in the number of children being supported by either parent.
- (6) The age of a child to the extent that the child may require different amounts of support at different ages.
- (7) Clarification regarding under what circumstances, if any, support may be abated.
- (8) A mechanism that may be employed to ensure that the guidelines are applied flexibly.
- (9) The application of the guidelines to a split custody situation.
- (10) Whether it is appropriate to base child support guidelines upon the premise that the child should enjoy the same standard of living that the child would have enjoyed if the family remained intact.

#### **II. SUMMARY OF WORK PROGRAM**

The Committee met one time during the 2011 interim, on October 26. The meeting was held at the State House in Indianapolis.

### **III. SUMMARY OF TESTIMONY**

For a more detailed account, minutes from the Committee can be accessed from the General Assembly Homepage at <http://www.in.gov/legislative/>

The first reference to a witness includes the name of the witness and the person or organization the witness represents. For brevity, any subsequent reference includes only the name of the witness. A witness list is included at the end of the report.

Discussion and consideration of Preliminary Draft 3067 concerning joint legal custody

**[Insert testimony and discussion on Preliminary Draft 3067 from the October 26th meeting.]**

Discussion and consideration of Preliminary Draft 3237 concerning duty to support

**[Insert testimony and discussion on Preliminary Draft 3237 from the October 26th meeting.]**

Discussion and consideration of Preliminary Draft 3266 concerning duty to support a child

**[Insert testimony and discussion on Preliminary Draft 3266 from the October 26th meeting.]**

### **IV. COMMITTEE RECOMMENDATIONS**

**[The Committee made the following recommendations/did not make recommendations. Insert recommendations if any are made.]**

WITNESS LIST

**[Insert names of witnesses]**