

Studies: Public favors equal custody for children of divorce

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The public favors equal custody for children of divorce, according to findings in a pair of studies by Arizona State University researchers that will appear in the May 2011 journal *Psychology, Public Policy, and Law*.

The authors cited polls and ballot initiatives that showed there was great public support for equal custody. But the new research goes further by showing that in a series of hypothetical cases those surveyed had a strong preference for dividing the child's time equally between mother and father, and that was so even when there were high levels of [parental conflict](#) for which both parents were equally to blame.

Equally shared custody arrangements are advocated by most fathers' groups, according to the authors, who concluded: "The striking degree to which the public favors equal custody combined with their view that the current court system under-awards parenting time to fathers could account for past findings that the system is seriously slanted toward mother, and suggests that family law may have a public relations problem."

The lead author, Sanford L. Braver, a professor of psychology in ASU's College of Liberal Arts and Sciences, said the studies were conducted as part of an undergraduate honors thesis in psychology by co-author Ashley M. Votruba, under the director of Braver and the other co-authors, Ira Mark Ellman, a professor in ASU's Sandra Day O'Connor College of Law, and William V. Fabricius, an associate professor of psychology. Votruba is now a graduate student in both psychology and

law at Arizona State University.

Those responding to the surveys in the studies were from a Pima County jury pool in Tucson, Ariz. Of 643 jurors present throughout the times of the two surveys, altogether 367 chose to participate.

Survey participants in the first study were asked to imagine they were a judge deciding a series of hypothetical cases. In one case vignette, the mother provided 75 percent of the couple's pre-divorce [child](#) care-giving duties. In another vignette, the father provided 75 percent of the couple's pre-divorce child care-giving duties. And, in the third vignette, the parental couple was described as having divided the pre-divorce child care 50-50.

"It is important to note that all three vignettes specified that neither parent wanted equal custody, but were instead each requesting 'as much living time with the children' as possible because each now genuinely feels the children would be better off mostly in their care and not so much in the care of the other parent," wrote the authors.

In the scenario where the parental couple split child care 50-50 before the separation or [divorce](#), some 69 percent of respondents thought living time should be divided equally between the parents, and almost all the rest responded: "Live with mother, spend a lot of time with dad."

Braver said he "was surprised that exactly equal time with each parent was also the most preferred alternative in both 75-25 scenarios, selected by just less than half the respondents in each case, and there was no difference between male and female respondents in their judgment of what should happen in these cases."

Respondents also were asked what they thought would happen if the three situations described in the survey questions involved real families

"in today's courts and legal environment." Under those parameters, respondents believed the cases would come out differently than they would prefer. Only 28 percent thought the parents in an actual case would be allocated equal living time, even when they had divided child-care duties equally before the separation or divorce. Most predicted the mother would get most of the time with the child in all three vignettes.

"So, our respondents seemed to believe that the legal system was gender-biased," said Braver.

"This perception of what the legal system would do is important because a party's litigation choices might well be based on what they or their lawyers believe courts will do, regardless of whether those beliefs are accurate," according to the authors.

In the second study, one scenario was described as a fairly amicable divorce, while a second case depicted that both parents became extremely angry at each other after the separation, and remained so.

Imagining they were the judge, some 66 percent of the respondents chose an equally shared living arrangement for children in the low-conflict case, nearly identical to the first study. Yet almost as many, 64 percent, made the same choice in scenarios where there was a mutually high conflict situation. Braver noted that "this is far different than what actually happens. High parental conflict is perhaps the most important circumstance that would keep real decision-makers from awarding equal custody. Instead, they'd try somehow to make a choice between the two parents, and limit the time of the other parent with the child."

According to the authors, "in both studies, the public's inclination to favor equal time custody awards survived factual elaborations that would cause most courts and custody evaluations to reject them."

In the report, titled "Lay Judgments About Child Custody After Divorce," the ASU researchers stated that these studies "yield several findings with important implications for family law," including:

- In most of the custody cases they were asked to decide, the survey respondents made the judgment that equal custody was strongly preferred, a preference that current law does not generally allow unless the two parties agree.
- There apparently is widespread belief that the legal system will fashion custody awards far more favorable to mothers than the respondents believe appropriate.

"Decision-makers need to recognize the widespread opposition to the current standards that award equal custody only rarely. If they think those standards are nonetheless necessary, they need to be more active in defending and justifying their preferences to the public," Braver said.

The studies were conducted in May and June 2008. Females comprised 55 percent of the responding sample, 60 percent were currently married, 36 percent had been divorced, 65 percent had children, and the median age was 51. Some 19 percent of the sample had no more than a high school graduation, while 20 percent had more than a college degree. The median household income was \$45,000.

Provided by Arizona State University

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