

Child Support

The Economics of Shared Custody and Dual Residence

by Marygold S. Melli and
Patricia R. Brown*

The number of cases in which children live with both their parents after divorce has increased substantially in the last decade. A Wisconsin study, for example, found a steady increase in shared physical custody from 2.2 percent to 14.2 percent between 1980 and 1992.

Child support is important in cases of dual residence because child raising expenses necessarily are a major consideration for parents. But the issue of how parents share the cost of caring for children in dual residence has received relatively little public policy notice. Almost two-thirds of the states either do not mention shared physical custody in their child support guidelines or merely provide that it is a reason for departing from the sole-custody formula.

Faced with this lack of guidance, attorneys for divorcing parents need to understand the economics of shared parenting to be able to advise their clients on whether to pursue dual residence for their children. There are two dimensions of the expense issue: one is the extent to which there may be increased or decreased costs because of shared time; the other is how the costs of child raising (both the increased and regular costs) are distributed between parents when the children spend significant amounts of time with both. There is very little empirical information on these issues, but the following discussion attempts to analyze the problem based on what we know.

Increased Child Raising Costs with Shared Custody

There is general agreement that shared custody is more expensive than sole custody. The major cause of this additional expense is the need to duplicate housing and related costs, such as utilities, furnishings, play and study space, toys, and play equipment. These costs have been estimated to constitute from one-fourth to one-third of

* *Marygold S. Melli and Patricia R. Brown are affiliates with the Institute for Research on Poverty at the University of Wisconsin-Madison where Professor Melli is also with the Law School. They authored an article on the problems states face in constructing a formula guideline for child support in shared parenting cases. It appears in Volume 31 of Houston Law Review on page 543.*

the total child-related expenditures for a child up to age 18. They are not reduced for the primary parent when the child spends considerable time with the other parent. Conversely, the nonprimary parent does not have to provide less in the way of housing for the child because the other parent has already provided it. This type of expense constitutes the largest increase in expenditures when shared custody is chosen as the form of postdivorce custody.

One saving from shared custody may be child care costs.

In the usual postdivorce arrangement which involves sole custody, the child support law assumes that the cost of that household includes provision for a home for the parent and the children that is the same or as close to that provided in the intact family as economically possible. The child support payment is calculated to help cover these costs. But provision for housing when the child visits the noncustodial parent is not considered in allocating costs. It depends on what that parent can afford to provide in addition to contributing to the housing costs in the custodial household. But if the noncustodial parent strives to maintain a stable and meaningful relationship with the children, that parent will need to make substantial provision for the children when they "visit," probably including provision for overnight stays.

The above discussion about housing suggests two things: one is that the increase in housing costs in shared custody should be measured not as a complete replication of the housing already figured in the sole custody award, but in terms of the differences between that considered sufficient for visiting and that necessary for residence; the second point is that this is not an increase in costs to both parents, but only to the parent who is not the primary custodian.

A second category of expense often mentioned as an increased cost in shared custody is transportation. Divorce undoubtedly increases transportation costs of parents, but whether shared custody actually results in additional increased expenses is difficult to assess. There is a significant cost for all divorced parents because of the need to transport children between parental households. This can be a considerable expense depending on how far apart parents live. For example, some parents live so far apart

that visitation requires airplane travel. In dual residence, transporting children will be more frequent than in either intact families or between custodial and "visiting" parents. Shared custody parents, however, usually live closer together than do custodial or "visiting" parents and therefore the cost of transporting the children might well be offset by the shorter distance traveled. Another aspect of increased transportation costs could be a more recent model or a better-maintained automobile on the part of the secondary parent, when that parent has increased responsibility for transporting children. These costs, like increased housing costs, accrue to the non-primary parent.

Decreased Child Raising Costs with Shared Custody

Shared custody may result in some savings. One type of savings that may result is in child care costs. If parents are able to coordinate work schedules and custody arrangements, the need for child care may be reduced. This decreases costs for the primary custodian who would otherwise have to cover the cost of the more extensive child care. In addition, most parents consider it desirable to have children cared for by the other parent.

Distribution of Child Raising Costs in Shared Custody

We also need to look at how the expenses of children in shared custody are distributed between parents. Expenses fall into two categories: those that relate to time with a parent (*i.e.*, to where the child lives); and those that may be paid by either parent, regardless of where the child lives.

Costs that are almost directly proportionate to the amount of time that the child spends with each parent include items such as food, recreation, and some of the transportation costs. These items together are estimated to constitute about 40 percent of the budget for a child under 18. Costs for food and recreation do not increase with shared parenting, and represent the largest reduction for the primary parent. If 40 percent of the costs of a child are directly proportional to where the child stays, then the nonprimary parent who has a child 25 percent of the time will be providing for 10 percent of the total costs of the child for these expenses alone. [25 percent x 40 percent = 10 percent]

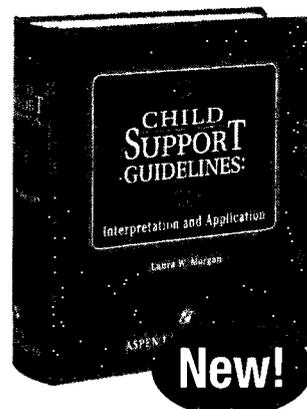
Items that probably do not increase with shared parenting but that are also not necessarily related proportionately to the amount of time spent with each parent include clothing, medical care, child care, and school expenses. These items probably constitute about a quarter of child raising expenses.

Little is known about how these expenses are handled in time-sharing families. There is evidence that mothers are more involved in taking children to purchase clothing but we do not know who pays for the clothing or how medical and child care costs are handled.

Figuring the impact of shared parenting on the shifting of costs between parents is a complex problem. As already pointed out, shared custody does not shift housing costs from one parent to the other. The primary parent must continue to maintain the child's room and other living space even though the other parent is providing duplicate facilities. Food and recreation are closely related to time with the child as noted above. Transportation, another large item, shifts somewhat with residence but, as pointed out earlier, there are also fixed costs, such as owning and maintaining a vehicle, that continue regardless of the child's residence.

Finally, there are the costs that do not necessarily follow the child's residence and may be paid by either parent depending on the circumstances. As a beginning point, it is probably most sensible to assume that these costs are incurred by parents in proportion to the amount of time the parent spends with the child. However, parents and their lawyers should be aware of the fact that the incurring of these expenses is separate from time spent and should make provisions for any variations in their situation.

Are you confident about tackling a child support case under the new guidelines?



Successfully represent your client...

Consult the only guide to interpreting and applying the now mandatory guidelines.

Try it for 30-days RISK-FREE

For more information or to order simply call 1-800-638-8437 and use the following priority code LJF\$H when placing your order. [Product #62830]

 Aspen Law & Business, Formerly Prentice Hall Law & Business