

Do joint custody laws improve family well-being?

Joint child custody laws affect not only divorced families but intact families as well

Keywords: joint custody, marriage, divorce, fertility, suicide, child outcomes

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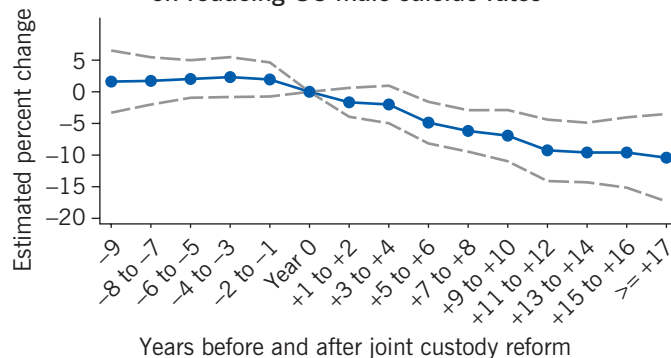
Custody laws governing living arrangements for children following their parents' divorce have changed dramatically since the 1970s. Traditionally, one parent—usually the mother—was assigned sole custody of the child. Today, many divorced parents continue to share parental rights and responsibilities through joint custody arrangements. While joint custody laws have improved the situation of divorced fathers, recent empirical research has documented intended and unintended consequences of joint custody laws for families in such areas as family formation, labor force participation, suicide, domestic violence, and child outcomes.

KEY FINDINGS

Pros

- ⊕ The introduction of joint custody reforms boosts marriage rates, particularly among people with previous divorce experience and those aged 35 or older.
- ⊕ Joint custody reforms have increased overall fertility rates and shifted fertility from outside marriage to inside marriage.
- ⊕ Joint custody reforms have lowered male suicide rates by about 9% over the long term.
- ⊕ Joint custody reforms have reduced the incidence of domestic violence.
- ⊕ Children of divorced parents growing up under joint custody reforms may have higher educational attainment.

Joint custody reforms have a large estimated effect on reducing US male suicide rates



Note: Dotted lines indicate confidence intervals.

Source: Based on regressions analysis presented in Table 6 of [1].

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Cons

- ⊖ The introduction of joint custody reforms reinforces the traditional division of labor within the family and gives men greater bargaining power over the intra-household allocation of resources.
- ⊖ There is some evidence that joint custody reforms increase divorce rates.
- ⊖ Joint custody reforms reduce female labor market participation.
- ⊖ Joint custody reforms have had no robust, long-term effect on female suicide rates.
- ⊖ Children overall and those in intact families growing up in jurisdictions with joint custody laws have lower educational attainment and worse labor market outcomes.

AUTHOR'S MAIN MESSAGE

Joint custody reforms increase the bargaining power of men within marriage and alter the allocation of resources within the household. The empirical evidence suggests that these shifts reinforce the traditional division of household labor, with both positive and negative effects. On the positive side, marriage and fertility rates rise, and male suicides and domestic violence decline. On the negative side, female labor supply drops, and average education and labor market outcomes for children worsen. Policymakers should acknowledge that regulating families' post-divorce life may affect intact families and try to minimize any unintended negative consequences.

MOTIVATION

Many children in industrialized countries live apart from one of their parents. For instance, in 2009, more than a quarter of children in the US lived with only one parent [2]. Numerous empirical studies report a negative association between parental absence and children's economic and emotional well-being. This raises the question of how state policies can improve the outcomes for children. One area for policy attention is the custody of minor children after divorce.

Traditionally, one parent (typically the mother) was assigned sole custody after a divorce. The non-custodial parent (typically the father) was granted certain visitation rights and was obliged to support the child financially. This situation involved a high potential for conflict. Fathers reported mothers denying visitation, and mothers complained about fathers failing to pay child support.

In the 1970s, policies began to shift from sole to joint custody, allowing divorced parents to share the rights and obligations of child-rearing. Under joint custody, children spend a substantial amount of time with each parent (joint physical custody), and parents jointly make important decisions about their children's welfare (joint legal custody). A joint custody regime may include either or both of these dimensions. Another important reform was the replacement of any explicit maternal preference in custody assignment with the "best interests of the child" doctrine [3], [4]. Joint custody does not imply that divorcing parents will automatically share custody. Typically, a judge decides what living arrangement is in the best interest of the child. Depending on the specific regulation, the consent of both parents may or may not be required.

The intent of these reforms is to strengthen families by changing the post-divorce situation. Proponents claim that children benefit from ongoing support and resources from both parents. Opponents object, saying that joint custody is likely to expose children to ongoing parental conflict.

DISCUSSION OF PROS AND CONS

Joint custody agreements are common today

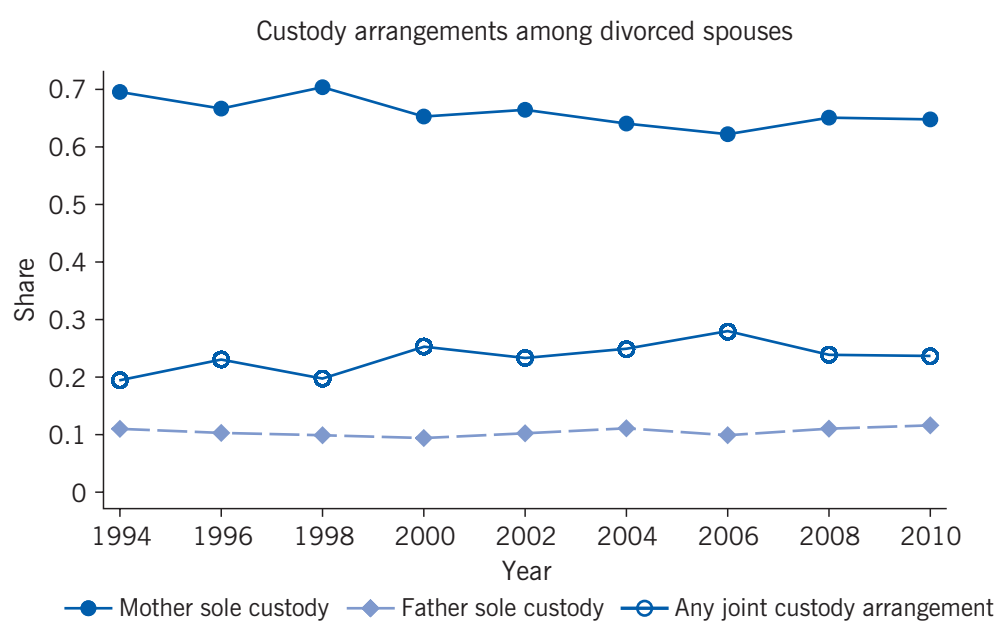
In almost all industrialized countries, divorced parents have the option of some form of joint custody arrangement. In Europe, joint custody was introduced in Sweden in 1976, in Norway in 1981, in Germany in 1997, and in Austria in 2001, among others. The large variation in the timing of reforms may be explained by different views of women's role in child rearing and, more generally, by gender stereotypes. In the US, Indiana was the first state to pass a joint custody regulation, in 1973 [5]. By the early 1990s, more than 80% of the US population lived in states with joint custody laws. Today, all US states have some form of joint custody law.

Detailed statistics are not available on the percentage of divorced parents with a joint custody arrangement (or on the specific conditions). Custody is documented in legal records and typically does not enter into official statistics. The available data are thus usually based on surveys. In some cases, researchers have had access to divorce registers of selected regions [6], [7].

No recent nationally representative data with comprehensive information on custody allocation are available for the US. The best US data source is the Child Support Supplement to the Current Population Survey, a biennial survey (first fielded in 1979) that identifies households with minor children whose biological mother or father lives outside the household. Since

1994, the questionnaire has included two questions on custody. Estimates based on those data indicate that about a quarter of divorced parents in the US have some form of joint custody agreement (Figure 1). The dominant arrangement is still maternal sole custody (about 65%), and the least common is paternal sole custody (about 10%). A majority (about 57%) of parents who have a joint custody agreement share physical and legal custody. This share has risen steadily since 1992 (when it was about 42%). In the remaining cases, the parents share only physical custody (about 34%) or only legal custody (9%). While there is no specific reason to question the accuracy of these estimates, the data source does have two drawbacks: the information on custody is self-reported, and the number of divorced respondents is low, averaging about 1,700.

Figure 1. The distribution of custody arrangements in the US has remained fairly consistent since 1994



Note: Figures are based on the sample of divorced respondents who indicate that they have a biological child (21 years of age or younger) living with them and whose biological mother or father lives outside the household.

Source: Calculated based on data from the Child Support Supplement to the US Current Population Survey for 1994, 1996, 1998, 2000, 2002, 2004, 2006, 2008, and 2010 provided by King, M., S. Ruggles, J. T. Alexander, S. Flood, K. Genadek, M. B. Schroeder, B. Trampe, and R. Vick. *Integrated Public Use Microdata Series, Current Population Survey: Version 3.0. (Machine-Readable Database)*. Minneapolis, MN: University of Minnesota, 2010 [8].

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Joint custody agreements are correlated with socio-economic characteristics

To explore the determinants of joint custody agreements, the micro-level data from the Child Support Supplement to the US Current Population Survey were augmented by socio-economic information on the adult respondents from the basic Current Population Survey questionnaire. Some interesting regularities emerge in correlations between socio-economic characteristics and joint custody. For instance, white spouses are 13 percentage points more likely than non-white spouses to have a joint custody arrangement (Figure 2). All else being equal, the likelihood of a joint custody arrangement increases with the spouses' age at divorce and the duration of the marriage. The economic situation is also decisive. A joint custody arrangement is more likely among respondents who were employed before divorce and who

Figure 2. Correlations between socio-economic characteristics and joint custody arrangements

<i>Explanatory variable</i>	<i>Percentage point change in likelihood of joint custody due to a one unit change in explanatory variable</i>	<i>Standard error (measure or precision)</i>
Male respondent	7.7*	(1.1)
White respondent	13.0*	(1.1)
Duration of previous marriage (in years)	0.4*	(0.1)
Annual property taxes (in \$ thousands)	0.7*	(0.2)
<i>Labor market status before divorce (base group: not working)</i>		
Worked part time	8.3*	(1.7)
Worked full time	4.6*	(1.0)
<i>Age at divorce (base group: 20 years or younger)</i>		
Aged 21–30 years	2.9	(2.2)
Aged 31–40 years	8.4*	(2.3)
Aged 41–50 years	8.6*	(2.6)
Aged 51 years and older	−0.7	(3.8)
<i>Year of divorce (base group: before 1975)</i>		
1976–1980	6.1	(4.0)
1981–1985	12.1*	(3.7)
1986–1990	13.5*	(3.5)
1991–1995	18.0*	(3.4)
1996–2000	19.4*	(3.5)
2001–2005	22.5*	(3.7)
2006–2010	22.5*	(4.0)
Number of observations	15,231	

Notes: *Statistically significant. Data are for the sample of divorced respondents who indicate that they have a biological child (aged 21 years or younger) living with them and that the other biological parent lives outside the household. Regression (linear probability model) includes survey year fixed effects and state fixed effects.

Source: Estimation is based on responses to the Child Support Supplement of the US Current Population Survey for 1994, 1996, 1998, 2000, 2002, 2004, 2006, 2008, and 2010. Online at: <http://www.census.gov/cps/about/supplemental.html>

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pay a higher property tax. Spouses who divorced in 2000 or later are 23% more likely to share custody than spouses who divorced before 1976. These findings are in line with those reported in [1] on the determinants of joint physical custody based on micro-level divorce certificate data for 1989–1995 from the US National Vital Statistics System. (These data were no longer collected after 1995.) The study found that the probability of a joint physical custody award increases by about three percentage points each year after joint custody is introduced, all else being equal [1].

Theoretical evidence on the effect of the introduction of joint custody

Joint custody laws affect children in intact and non-intact families

Theoretically, the introduction of joint custody laws may alter the behavior not only of divorcing parents (as intended) but also the lives of intact families. To see why, it is useful

to consider that a father's situation improves on average after a divorce in a joint custody regime compared with the situation before the reform. On average, fathers lose a large share of their parental rights after divorce under sole custody rules, while they still have a good chance of being involved in their children's upbringing under joint custody rules. This change can affect married parents' behavior through two channels. First, through a redistributive effect, fathers are likely to have greater control over the allocation of tangible and intangible household resources. Second, through an investment effect, fathers' incentive to invest in their children should rise because they can expect to spend a substantial amount of time with their children even after a divorce. Conversely, mothers' incentive to invest in marriage and family should decline if they perceive the introduction of joint custody as a loss for them [1].

The redistribution effect of joint custody laws

The introduction of joint custody improves divorce as an option for men and potentially worsens it for women. The change to joint custody strengthens the bargaining position of men within marriage, according to models that assume that a spouse's relative bargaining power within marriage is determined by each spouse's option of divorce. Consequently, intact families under a joint custody regime are expected to allocate household resources in a way that reflects male preferences more strongly than under a sole custody regime. This shift in allocation power should increase the well-being of men and potentially lower it for women. How this differential allocation affects child outcomes is harder to assess. Some scholars predict that a strengthened bargaining position for fathers leads to lower investment in children [9]. If this holds, then children growing up under a joint custody regime would be expected to have worse outcomes. This effect could be reinforced or attenuated by other changes in household resource allocation due to increased male bargaining power. For instance, men could influence a division of labor with reduced female labor force participation, which could affect child outcomes.

The investment effect of joint custody laws

On top of this redistribution effect is another potential behavioral effect through changes in investment incentives. A father's incentive to invest in his children should rise, since fathers can expect to spend more time with their children in the case of a divorce. This increased paternal investment should improve child outcomes. The opposite effect is likely for mothers, who may be expected to invest less in their children. However, if mothers prefer to share parental rights and obligations with the fathers rather than being sole custodian, mothers' investment in their children may rise. In addition, fathers could also increase their investment in their marriage and in other "marriage-specific capital" (such as more children, homes, or a family business). This kind of investment could increase marital stability and marital fertility and could increase the well-being of all parties concerned.

The expected effect of joint custody laws on family well-being

Theoretically, then, joint custody motivates a series of behavioral adjustments within marriage. Intact families are affected through two main channels—the redistribution effect and the investment effect. While it seems plausible that the introduction of joint custody laws will improve the well-being of fathers, it is harder to predict how the well-being of mothers and children will change. That depends largely on the family members' preference structure. Whether the overall effect is positive or negative is ultimately an empirical question.

The effect of joint custody on the well-being of non-intact families is even harder to assess because of selection effects. The introduction of joint custody has the potential to alter the formation and dissolution of families, which means that intact and non-intact families in joint custody regimes are not comparable to families in single custody regimes. In addition, joint custody is correlated with socio-economic characteristics, as shown above in Figure 2, which affect which types of couples obtain a joint custody arrangement.

Empirical evidence on the effect of joint custody laws on family well-being

Recent economic research suggests that the introduction of joint custody laws affects not only parental behavior in the case of divorce, but also alters behavior within marriage. This empirical evidence comes almost exclusively from US studies. The US offers good conditions for natural experiments, since different states have introduced joint custody at different times. This staggered introduction allows researchers to compare the outcomes for families in states that had introduced joint custody with the outcomes for families in states that had not yet done so. Estimated effects come from difference-in-differences estimations, which aim to disregard any other differences between families in adopting and non-adopting states. The information on family outcomes is derived from official state-level vital statistics data and individual-level data sets (such as the Current Population Survey, US Census, or smaller surveys). The outcomes under consideration are marriage and divorce, fertility, female labor supply, suicide, domestic violence, and children's educational and labor market outcomes.

Because it takes some time after the reform is introduced before joint custody arrangements are implemented, any effect on outcomes will not kick in immediately. Families need time to observe divorced couples that share custody to learn whether this is a good option [1].

Difference-in-differences estimation

When an experimental research design is not possible, difference-in-differences estimation can be used to study observational data to estimate the effect of a treatment (e.g. the introduction of joint custody) on an outcome by comparing the relative average change over time in the outcome variable for the treatment group to the average change over time for the control group. The change in the control group is considered to reflect the change that would have occurred in the treatment group had there been no intervention.

Joint custody increases marriage rates but has an ambiguous effect on divorce

The introduction of joint custody in US states had no immediate impact on marriage rates [1]. However, after about five years, a significant positive effect on marriage appears, and the effect increases over time. The average effect over 18 years is about a 5% increase in marriage rates—and the increase is larger for spouses with a prior divorce and spouses aged 35 or older, who are likely to be more familiar with the implications of prevailing custody law. Older partners may decide to marry in order to legitimize children who were born outside of marriage [1].

The same qualitative effect is found in a study of the effect of the introduction of joint custody in Austria in 2001 [10]. This difference-in-differences framework exploits the fact that couples without dependent children and women who are beyond child-bearing age should not be affected by the reform. The study finds a 4% increase in marriage rates among couples affected by the reform (younger couples and older couples with minor children).

The effect on divorce is less clear. For the US study, the estimated effects are consistently positive but are significant only for spouses aged 35–44 [1]. The Austrian study, which uses couples without dependent children as a control group, estimates a negative effect of the introduction of joint custody.

Joint custody increases marital fertility

In line with the effect on marriage, joint custody exerts a positive effect on marital fertility [1]. The effects are most pronounced for women aged 35–44. The average increase for this group following introduction of the reform is about 8% over 18 years and about 14% over the longer term. There is also some evidence of a decline in non-marital fertility, suggesting that some couples who married and had children would have had children outside of marriage had joint custody not been introduced [1]. However, the estimated effects are less precise. Since the increase in marital fertility is greater than the decrease in non-marital fertility, the outcome is a significant increase in total fertility [1].

Qualitatively similar effects are found in a comparison of fertility rates in Austria and Germany, which introduced joint custody at different times [10].

Joint custody reduces female labor force participation

Female labor force participation may change after the introduction of joint custody reforms for at least three reasons. First, the increase in marriage and marital fertility rates may lead directly to lower labor force participation by married women. Second, the increase in male household bargaining power may provoke a change, though it is unclear a priori whether reduced female bargaining power will increase or decrease female labor force participation. Third, under a joint custody regime, the labor force participation of divorced spouses may change as a result of a redistribution of childcare responsibilities: divorced mothers should spend on average less time on parenting and more time in the labor market [1].

A micro-level analysis of US Current Population Survey data of all women (whatever their family status) shows a significant reduction in female labor force participation as a response to joint custody reforms [1]. The average effect over 18 years following the reform is a decline of four percentage points [1]. As with other outcomes discussed above, the effect of the reform grows over time. The decline is evident for all age groups except women aged 45 years or older. Older women may have invested in human capital for a longer period before the introduction of joint custody and their childcare responsibilities may be lighter [1].

In Austria, the introduction of joint custody resulted in an estimated two percentage point decline in female employment [10].

Joint custody reduces the incidence of suicide

Joint custody laws result in a decline in suicide rates among both women and men, and the decline is greater as more time elapses after the reform [1]. For men, the results are robust and the timing evidence supports a causal interpretation (see the illustration on p.1). Male suicide rates declined about 9% over the long term in states that adopted joint custody laws. For women, the estimated effects are quantitatively similar to those for men, but they are sensitive to different specifications of the econometric model and so are less robust and stable.

Joint custody reduces the incidence of domestic violence

The effect of joint custody on domestic violence in the US was examined using data from the cross-sectional survey Physical Violence in American Families, which provides self-reported information on domestic violence between married partners over 1976–1985 [1]. Joint custody laws reduce domestic violence by husbands against wives by about 2.7 percentage points, from an average rate of 11.7%—a decline of about one-fifth in states with joint custody laws.

Joint custody reduces investment in children and leads to worse child outcomes

Identifying any effects of joint custody on children is more difficult. The introduction of joint custody changes the formation and dissolution of families, so the composition of children may have changed in adopting states compared with non-adopting states. Thus, whether any estimated effects on children are driven by the introduction of joint custody laws themselves or by compositional effects due to joint custody is unclear. In addition, any long-term child outcomes (measured when children are adults) are potentially affected by joint custody through two channels: their parents' reaction to joint custody and their own reaction as a (potential) parent. Thus, any effect measured in the data is the sum of different potential effects and has to be interpreted in that, so-called, reduced form way.

The study of joint custody effects on investment in children's education and on their long-term human capital accumulation, based on US Census and Current Population Survey data, finds that children in states with joint custody laws are about 1.5 percentage points less likely to attend a private school [12], 1.4 percentage points more likely to drop out of high school, and 1.0 percentage point less likely to graduate from college [13]. The effects on educational attainment are more pronounced for boys than for girls.

A distinction between children from intact and non-intact families reveals an asymmetric effect of the introduction of joint custody reforms on children's educational attainment across these two groups [11]. For children of intact families, the effect of joint custody on educational attainment is negative and significant, as it is for the entire sample. These children have on average 0.034 of a year less education. Children from non-intact families have higher educational attainment if they grew up in states that adopted joint custody reforms (about 0.022 of a year of additional education). While this finding is intriguing, it is hard to interpret, since family status is endogenous.

In line with the average negative effect of joint custody on children's education, growing up in a state with joint custody laws also has a negative effect on labor market outcomes [13]. No evidence on other types of investment in children other than education is available.

LIMITATIONS AND GAPS

A clear limitation of this literature is that the empirical evidence is almost exclusively based on US data. The only notable exception is the study using Austrian data that confirms the effects of joint custody laws on marriage, fertility, and female labor force participation [10]. To guide policy, it would be useful to see whether estimates of the effect of joint custody laws in other countries and different settings corroborate these findings.

Another gap is the limited understanding of the precise sources of the adverse effects of joint custody on average child outcomes. The reduced-form nature of the existing empirical estimates impedes identification of the specific causal channel. It is possible that the increased

male bargaining position due to joint custody reduces investment in child development, which leads to weaker human capital outcomes. Alternatively, under joint custody regimes, children may exhibit worse outcomes because families in joint custody regimes are systematically different to families in single custody regimes. More theoretical guidance could help to uncover the exact mechanisms at work.

It would be useful to analyze the effect of joint custody on other child outcomes (such as test scores and measurements of soft skills).

Finally, the limited availability of data on custody arrangements impedes sound empirical work. It would be helpful if custody arrangements were universally documented in vital statistics. Custody arrangements should at least be captured in nationally representative surveys.

SUMMARY AND POLICY ADVICE

Joint custody laws affect both intact and non-intact families in substantial ways. A very crude description is that joint custody improves men's bargaining position within marriage, enforces traditional gender roles, and leads on average to worse outcomes for children. A more detailed account would contrast these clearly negative and unintended effects with positive effects on other outcome variables (such as lower male suicide rates and less domestic violence). This asymmetry makes it hard to assess the overall effect of joint custody on families' well-being.

Despite the negative effects of joint custody on some family outcomes, abolishing it may not be a desirable policy option. Divorce is now a widespread phenomenon, so policymakers should retain or improve legal frameworks that promote the active participation of both parents after divorce. Still, the adverse effects of joint custody laws on children are worrisome. Further research is required to uncover the exact mechanisms. Once those are known, policymakers may be able to adjust the legal framework to minimize these unintended consequences.

The more general lesson is to bear in mind that policy interventions affecting family life after divorce can also affect intact families. Thus, the group facing unintended consequences is likely much larger than the targeted group. To predict the effects of a planned reform, it would be important to assess how the relative bargaining positions of spouses will be affected. This can be approximated by checking how the reform affects the well-being of each partner in the case of a potential divorce. The party who will benefit from the reform will gain power within the marriage.

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Competing interests

The IZA World of Labor project is committed to the *IZA Guiding Principles of Research Integrity*. The author declares to have observed these principles.

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Further reading

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